

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

JAMES B. HANKS, MPH

- PETITIONER

V.

ARKANSAS DEPARTMENT OF HEALTH,
Office of Emergency Medical Services &
Trauma Systems

RESPONDENTS

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

The three-member Hearing Committee of the Arkansas State Board of Health, consisting of Dr. Larry Fritchman, Chairman, Dr. Karen Konarski-Hart and Don Phelan, conducted an Administrative Hearing on October 30, 2003. After hearing testimony from several witnesses and after receiving and reviewing numerous documents, the Committee made the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. James B. Hanks (Petitioner) received training through UAMS and was permitted to take the practical skill examination conducted by UAMS at the Department of Health on May 23, 2003.
2. The Department of Health follows the National Registry guidelines for Emergency Medical Technicians which recommends the Department sign off that the Petitioner must first pass the practical skills examination before he can sit for the written examination.
3. In order to be certified as an Emergency Medical Technician-Ambulance, the Petitioner must successfully complete both the Arkansas practical skills examination and the National

Registry of EMT's written examination. *Rules and Regulations for Emergency Medical Services* § VII, B {c}(2).

4. On May 23, 2003, the Petitioner was tested by UAMS for (a) Patient Assessment, (b) Splinting Skills and (c) Spinal Immobilization. The Petitioner passed only the Splinting Skills and failed the other two parts of the test. (Respondent Exhibit Number 3)
5. On July 30, 2003, the Petitioner took the first retest for patient Assessment and Spinal Immobilization both of which he failed. The Department of Health, at the same location Freeway Medical Towers Building, conducted this skills examination. (Respondent Exhibit Number 3)
6. Prior to taking the examination, the Petitioner was informed that he could file a Grievance or complaint if he felt he had been discriminated against or if there had been some equipment malfunction. The Petitioner was informed prior to the examination that any complaints would not be valid after he learned the results of the examination and would not be accepted after he left the site of the examination. The Petitioner did not file a grievance or complaint regarding the results of the examination either before he learned the results or prior to leaving the site of the examination. (Respondent Exhibit 2)
7. The Petitioner later complained that he was discriminated against during the examination. He requested that the decision of the Office of Emergency Medical Service & Trauma Systems be overturned and that he be allowed to proceed to the written examination.
8. The Petitioner was offered a re-test by the department on September 24, 2003, with an independent medical observer, that he declined, and subsequently requested an administrative hearing of the Respondent's decision. (Respondent's Exhibit 5)

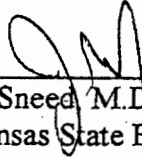
CONCLUSIONS OF LAW

1. The Arkansas Department of Health complied with Ark. Code Ann. § 20-13-200 and the *Rules and Regulations for Emergency Medical Services* of the Arkansas State Board of Health effective December 6, 2001.
2. The decision of the Arkansas Department of Health finding that the Petitioner did not pass the practical skills examination for patient assessment and spinal immobilization should be upheld.
3. The examination was conducted in accordance with Ark. Code Ann. § 20-13-200 and the *Rules and Regulations for Emergency Medical Services* of the Arkansas State Board of Health.

ORDER

WHEREFORE, the Arkansas Board of Health unanimously accepts the recommendations of the Subcommittee to adopt the Findings of Fact, Conclusions of Law and Order, and orders that the Petitioner be given an opportunity to re-test with a neutral observer agreed upon by the parties.

IT IS SO ORDERED this 22nd day of January 2004.



Jane Sneed, M.D., President
Arkansas State Board of Health