



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

EMS v HEALTH PROFESSIONS COUNCIL OF SA

The Supreme Court of Appeal (SCA) today dismissed an appeal by Emergency Medical Supplies (EMS) against an order of the Western Cape High Court dismissing its appeal in terms of s 20 of the Health Professions Act 56 of 1974 (the Act). The s 20 appeal was against a decision of the Professional Board for Emergency Care Practitioners (the Board) withdrawing the EMS's accreditation to provide training in certain emergency care courses.

EMS had applied for and been granted accreditation to provide training in a limited number of courses. However, it later emerged that EMS was also providing training in courses for which it had not received accreditation, contrary to section 16(1) of the Act which prohibited it from doing so. EMS persisted in offering training in those courses despite being informed of this fact by the Board. It also emerged that EMS's equipment was insufficient; that it failed to keep logbooks and that the training it provided was of general poor quality – EMS's students lacked a deep understanding of theoretical knowledge, their

grasp of the subjects was superficial and they had performed poorly in the November 2006 examination. It was for these reasons that the Board withdrew EMS's accreditation. EMS then unsuccessfully appealed against this decision to the high court. Aggrieved by the order of the high court, it then appealed to the SCA.

Before the SCA the first issue was whether the s 20 appeal was a wide appeal or a narrow appeal. If it was a wide appeal, the SCA said, then the court could consider the review grounds relied on by EMS. However, if it was a narrow appeal the court would be confined to the merits of the matter and not be entitled to consider the review grounds. The SCA held that the s 20 appeal was a narrow appeal and that it was, therefore, confined to the merits. The second issue related to the November 2006 examination, with EMS contending that the Board, in setting the question paper, had intended to fail its students. On this issue, the SCA held that the first respondent, the Health Professions Council of South Africa, is the moral custodian of the medical profession and that it had considerable advantages over a court in the consideration and evaluation of standards sought to be maintained. Therefore, the SCA held, the Board's assessment of the examination had to carry the day.