

1981 WL 158137 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 6, 1981

*1 Mr. John F. Hamilton
Secretary-Treasurer
South Carolina State Board of Examiners for Nursing Home Administrators
Post Office Box 11477
Columbia, South Carolina 29211

Dear Mr. Hamilton:

You have recently asked the opinion of this office as to whether [§ 40-35-100, Code of Laws of South Carolina \(1976\)](#), as amended, authorizes issuance of a license to an applicant whose original license from another state was issued at a time when the standards for licensure were less than those currently required by § 40-35-30. Both states now maintain substantially equivalent standards.

All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used and that language must be construed in light of its intended purpose. [McMillen Feed Mills, Inc. v. Moyer, 265 S.C. 500, 220 S.E.2d 221 \(1975\)](#). It appears from the language of the statute that the legislative intent of this section was to carve out an exception to the requirements of § 40-35-30 in order to provide a method for admission to those persons holding a current license in good standing from another jurisdiction if: (a) 'it finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this State,' (b) 'if the applicant has passed the South Carolina portion of the licensure examination,' (c) 'is otherwise qualified.' See, [§ 40-35-100](#).

As the statute sets out the prerequisites for triggering the Board's discretion in allowing a person who holds a current license from another jurisdiction, it appears to be that an individual who holds a current license from another jurisdiction does not have to meet the qualification criteria outlined by § 40-35-30. Only the prerequisites outlined within [§ 40-35-100](#) appear to be applicable. Clearly, however, a great deal of discretion is vested in the Board by this statute.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

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