

1973 S.C. Op. Atty. Gen. 204 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3561, 1973 WL 21018

Office of the Attorney General

State of South Carolina

Opinion No. 3561

July 3, 1973

**\*1 RE: Nursing certificates**

The Honorable Paul M. Moore  
Senator  
District No. 4  
251 Magnolia Street  
Spartanburg, South Carolina 29301

Dear Senator Moore:

Your recent letter to the Attorney General questioning the applicability of Section 56–983, S. C. Code of Laws, as amended, to resident aliens has been referred to me for answer.

Section 56–983, specifying the preliminary qualifications required of an applicant for a license to practice nursing in this State, provides:

Each applicant shall furnish evidence satisfactory to the Board that he . . . is a citizen of the United States or has legally declared his intention of becoming a citizen . . .

The question presented is as to the application of the law to resident aliens.

The most fundamental principle of statutory construction is that the intent of the Legislature controls. E.g. [McGlohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753 (1970). The foremost aid to determining legislative intent is the legal proposition holding that statutory language which is free of ambiguity must be given a literal interpretation and applied accordingly. E.g. [Wynn v. Doe](#), 255 S.C. 509, 180 S.E.2d 95 (1971). Only where there is ambiguity in the language used, or where the language produces an absurd result or conflicts with other statutes will other indicia of intent be resorted to. See [Timmrs v. Tricentennial Comm.](#), 254 S.C. 378, 175 S.E.2d 805 (1970).

Viewing then the language of Section 56–983 pertaining to the citizenship of a nursing applicant, it appears that the scope of this law regarding aliens depends on the interpretation of two phrases. First to be considered is the phrase is a citizen of the United States. This language appears clear and unambiguous on its face, contemplating either a native-born citizen or a naturalized citizen. See [U. S. Const.](#) art XIV, § 1. It is the opinion of this office that an alien, even though a resident of the United States, is by definition without this class of persons.

Second to be considered is the phrase ‘has legally declared his intention of becoming a citizen.’ This phrase is not clear and plain on its face and requires a determination of how an alien might legally make such a declaration. In this respect, of consequence is Section 1445(f) of [Title 8 of the United States Code](#). [Section 1445\(f\)](#) provides:

Any alien over eighteen years of age who is residing in the United States pursuant to lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe.

Inasmuch as the legality of ones United States citizenship is a matter of federal law, in the opinion of this office the menner in which one may 'legally declare his intention to become a United States citizen is also a matter of federal law. Accordingly, it is the opinion of this office that an unnaturalized foreign national, be he a resident or otherwise, must complete and file the prescribed form, an Immigration Service Form N-315 entitled 'Declaration of Intent,' in order to meet this requirement placed by the South Carolina Legislature upon aliens wishing to apply to practice nursing in this State.

\*2 With best wishes, I am  
Sincerely,

John B. Grimball  
Assistant Attorney General

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