

1973 WL 26898 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1973

**\*1 re: Examination of Aliens**

State Board of Nursing for South Carolina  
2711 Middleburg Drive  
Suite 216  
Columbia, South Carolina 29204

Dear Board Members:

This office has in recent weeks been contacted on several occasions by persons concerned with the provisions of Section 56-983, S. C. Code of Laws, as amended, which requires that aliens file a legal declaration of intent to become a United States citizen prior to be able to stand the nursing licensure examination. This office has responded by formal letter to these inquiries for multiple occasions, copies having been sent to the Board.

Nonetheless, further inquiries to this office questioning the constitutionality of Section 56-983 have prompted further research. Of importance is the recent United States Supreme Court case of In Re Griffiths, ?? L.Ed.2d. 910 (1973), striking down a Connecticut law which totall excluded resident aliens from admission to the practice of law in that state. An examination of this case reveals some support for an argument that refusal to permit a resident alien to take the nursing licensure examination is a violation of the Equal Protection Clause of the Fourteenth Amendment. This case provides little or no support in support of a right of any non-resident alien to come into this State and stand the nursing licensure examination when the Legislature has by law clearly prohibited it. The overall effect of this decision on Section 56-483 is less than clear. Nor is there other authority which would compel this office to find Section 56-983 constitutionally defective.

In conclusion, the State Board of Nursing should continue to comply with the directives of Section 56-983, and should continue to require aliens to provide proof of filing a Declaration of Intent with the U. S. Immigration Service prior to permitting them to stand the nursing licensure examination.

If there are questions, please correspond.

Sincerely,

John B. Grimball  
Assistant Attorney General

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