

1973 WL 26638 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 1, 1973

***1 Re: Mrs. Delores B. Wallace/State Board of Nursing**

Honorable Samuel B. Fewell, Jr.
Attorney at Law
Box 929-CSS
Rock Hill, South Carolina 29730

Dear Mr. Fewell:

As counsel for the State Board of Nursing, your letter of February 22, 1973, to Miss Ira Dean Lane concerning the above individual has been referred to me for answer. In your letter, you state that Mrs. Wallace, even though unlicensed, has been practicing nursing since 1948, and you ask to be fully advised as to her status as a candidate for licensure in South Carolina.

As you know, South Carolina Code Sections 56-951 to 1018 control. More particularly, Section 56-983 states the qualifications which are prerequisites to becoming licensed. And additionally, Section 56-982 requires that an applicant satisfactorily stand a state examination. Of particular note is the requirement of Section 56-983 that the applicant have completed a course of study in an accredited school of nursing. (A misprint exists in the 1971 Cumulative Supplement and I enclose a xerox copy of the original Act.) Section 56-984 was the grandfather clause provided by the Legislature in 1969 to protect practicing nurses from having to meet this formal education requirement, but you will note that its shield extended only to June 30, 1970.

In light of these sections Mrs. Wallace's status appears to be as follows. First, if she has been practicing nursing since 1948 she appears in violation of the law. See Section 56-953. Secondly, at this time, in order to be able to stand her qualifying examination, Mrs. Wallace must first satisfy the formal education standards currently established for registered nurses by accredited nursing schools in this State. Thirdly, Mrs. Wallace must then pass her state examination in order to become licensed to practice nursing in South Carolina.

In closing, I note that the State Board of Nursing, above all others, recognizes the need for trained nurses in South Carolina. However, as an executive arm of the State it is bound to its statutory standards. The Legislature has clearly placed the burden of evidencing qualifications on the applicant, Section 56-983, and, moreover, this burden is compounded by Section 56-1003 when an applicant has failed the state licensing examination twice. Records of the Board show Mrs. Wallace to have graduated from St. Francis Xavier hospital over twenty-four years ago, in 1948, and that she thereafter failed the state licensing examination in November, 1948, and again in June, 1949. Accordingly, at this time, Mrs. Wallace lacks the necessary qualifications to become licensed.

If you have further questions, please let me know. With best wishes, I am
Sincerely,

John B. Grimball
Assistant Attorney General

1973 WL 26638 (S.C.A.G.)