

Secretary Wilzack of the Department of Health and Mental Hygiene, in consultation with the sponsor of House Bill 573 and the various Health Boards and Commissions, to evaluate the extent to which oral competency is a problem in all the health occupations and to develop appropriate statutory guidelines designed to minimize the possibility for disparate application of this requirement. In so doing, I note that because House Bill 573 would not take effect until July 1, 1986, it is possible to enact appropriate legislation at the next Session without interrupting the proposed implementation schedule contained in House Bill 573.

Therefore, for the above reasons, I have decided to veto House Bill 573.

Sincerely,
Harry Hughes
Governor

May 25, 1985

The Honorable Harry Hughes
Governor of Maryland
State House
Annapolis, Maryland 21404

Re: House Bill 573

Dear Governor Hughes:

We have reviewed for constitutionality and legal sufficiency House Bill 573, which requires applicants for a license to practice certain health occupations to demonstrate "oral competency" in the English language and provides that graduation from a "recognized, English-speaking, professional school" is acceptable proof of proficiency. In reviewing the bill, we have considered whether it violates the Equal Protection Clause of the Fourteenth Amendment and we have concluded that while the bill is facially constitutional it will almost inevitably be administered so as to invidiously discriminate against the foreign-born and the disabled.

It has been held that classifications on the basis of language, without more, do not identify members of a suspect class of foreign-born persons, Soberal-Perez v. Heckler, 717 F.2d 36, 41 (2d Cir. 1983) cert. den. 104 S.Ct. 1713 (1984). See also Frontera v. Sindell, 522 F.2d 1215 (6th Cir. 1975); Cormona v. Sheffield, 475 F.2d 738 (9th Cir. 1973). 1/ Thus, before a statute which involves classification on the basis of language will be found to violate Equal Protection, an intent to discriminate against a suspect class, such as the foreign-born, must be shown. A showing of intent requires more than a showing that the Legislature knew that the statute would have a disparate