



(1) provides a copy of such military orders to the licensing

authority in the jurisdiction in which the new residency is located;

(2) remaining in good standing with

(A) the licensing authority that issued the covered

license; and

(B) every other licensing authority that has issued to the servicemember or the spouse of a servicemember a license valid at a similar scope of practice and in the discipline applied in the jurisdiction of such licensing authority;

(3) submits to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice,

...

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process of relocating to South Carolina and desire to work in a licensed profession or occupation after relocating. They, however, do not currently qualify, or do not intend to meet the qualifications, for a South Carolina license either under the

~~South Carolina Code of Laws~~

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Law/Analysis

The resolution of a conflict between federal law and state law turns on application of the

has previously opined on the circumstances where federal law is found to displace state law.

Although the Tenth Amendment to the United States Constitution states that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it

to the States, are reserved to the States respectively, or to the people,” see Gregory

as an obstacle to the accomplishment and execution of the full objectives of Congress.

Louisiana Public Service v. FCC, 476 U.S. 355, 368-69 (1986).

Op. S.C. Att’y Gen., 2011 WL 6959373, at 2-3 (December 9, 2011). The South Carolina Supreme Court explained, however, that the Supremacy Clause does not act to supersede a State’s power without clear evidence of Congressional intent to do so.

This Court has recognized that “[f]ederal legislation threatening to trench on the States’ arrangements for conducting their own governments should be treated with great skepticism, and read in a way that preserves a State’s power, in the absence of the plain statement in the language of the legislation of Congress’ intent to alter the usual constitutional balance of state and federal powers.” Edwards v. State, 383 S.C. 82, 92, 678 S.E.2d 412, 417 (2009) (quoting Nixon v. Mo. Mun. League, 541 U.S. 125, 140, 124 S.Ct. 1555, 158 L.Ed.2d 291 (2004) (citing Gregory v. Ashcroft, 501 U.S. 452, 460–61, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991))). “This plain statement rule is nothing more than an acknowledgement that the States retain substantial sovereign powers under our constitutional scheme.”

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presents the first conflict with 50 U.S.C. § 4025a where it states, “Nothing in this section should be construed as requiring a board or commission to grant licensure to the spouse of an active duty member of the United States Armed Forces absent evidence that all state law requirements for licensure have been met.” S.C. Code § 40-1-630(A) (Supp. 2023) (emphasis added). The emphasized language demonstrates the Legislature intended to allow a licensing board to require that an applicant demonstrate compliance with “state law requirements” before issuing a temporary license. Id. Subsection (B)(1)(d) then requires an applicant to submit “a fingerprint-based background check conducted by the State Law Enforcement Division.”

has a criminal history in this State and a fingerprint-based background check conducted by the Federal Bureau of Investigation to determine if the person has other criminal history.” S.C. Code § 40-1-630(B)(1)(d)(i). However, 50 U.S.C. § 4025a(a) states “[i]n any case ... such covered license shall be considered valid until ...”



