Date of Hearing: March 26, 2019

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS
Jacqui Irwin, Chair
AB 550 (Flora) – As Introduced February 13, 2019

SUBJECT: Veterans: Medical Foster Home Pilot Program

SUMMARY: Re-establishes the Medical Foster Home Pilot Program, under substantially similar requirements as a pilot program established under previous legislation, which has since expired. Specifically, **this bill**:

1) States the intent of the Legislature to expand the United States Department of Veterans Affairs (USDVA) medical foster home program in California by authorizing the USDVA to establish medical foster homes that are exempt from state regulation under the Residential Care Facilities for the Elderly Act, the California Community Care Facilities Act, and Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code;

2) Defines "medical foster home" to have the same meaning as it is defined in Section 17.73 of Title 38 of the Code of Federal Regulations;

3) Defines "medical foster home caregiver" as the primary person who provides care to a veteran resident in a medical foster home;

4) Defines "USDVA facility" as a United States Department of Veterans Affairs facility;

5) States that no sooner than June 1, 2020 a USDVA facility may establish in this state a medical foster home program that is not subject to licensure or regulation under the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code), the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), or Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code if all of the following requirements are satisfied:

a) The medical foster home meets the requirements of Sections 17.73 and 17.74 of Title 38 of the Code of Federal Regulations.

b) The USDVA facility submits or has submitted a proposal to establish a medical foster home program to the Director of Home and Community-Based Care in Geriatrics and Extended Care Services in the Central Office of the USDVA and that director authorizes or has authorized the program.

c) The USDVA facility establishing the foster home agrees to be subject to the jurisdiction of the California State Auditor for the purpose of evaluating the program created under this chapter. Consistent with this agreement, the USDVA facility shall provide data, information, and case files as requested by the California State Auditor to perform all of the California State Auditor's duties in evaluating the program created under this chapter.

d) A medical foster home caregiver or an individual, other than a veteran resident, who is over 18 years of age and is residing in the medical foster home shall be a registered

independent home care aide, pursuant to Chapter 13 of Division 2 of the Health and Safety Code (commencing with Section 1796.10).

6) States the intent of the legislature that the California State Auditor, upon a request to the Joint Legislative Audit Committee, conduct an audit no sooner than January 1, 2021 that assesses and evaluates the pilot program created in this bill, and that the audit evaluate the success of the pilot program by confirming that the USDVA facilities are meeting their goals and standards, and make recommendations to the legislature regarding the continuation of the program, including but limited to recommendations regarding changes or reforms needed for improvement of the program.

7) Is repealed as of January 1, 2023.

EXISTING LAW:

1) Establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans.

2) Provides for the licensure of residential care facilities for the elderly (RCFEs), community care facilities, and residential care facilities for persons with chronic, life-threatening illness by the California State Department of Social Services.

3) Exempts from the application of these provisions specified facilities, including general acute care hospitals and clinics.

4) Authorizes the California State Auditor, upon the request by the Joint Legislative Audit Committee and to the extent funding is available, to audit a state or local governmental agency, as defined, or any other publicly created entity.

FISCAL EFFECT: This bill has not been analyzed in a fiscal committee.

COMMENTS:

According to the author:

"AB 550 establishes the Medical Foster Home pilot program and gives veterans options on how and where they would like to age. The integrity of the program and the safety of the participants would be upheld through the strict oversight of the USDVA and the jurisdiction of the California State Auditor.

California families are ready and willing to open their homes to veterans, giving them the option to live out the rest of their days in a family setting rather than that of an institution. They are ready to serve those who have served, and AB 550 will make this possible."

Background:

The U.S. Department of Veterans Affairs oversees the Medical Foster Home (MFH) program. According to the USDVA, MFHs are private homes in which a trained caregiver provides services to a few individuals. Some, but not all residents are veterans. USDVA inspects and approves all MFHs, but does not actually provide or pay for the homes.

MFHs often serve as an alternative to a nursing home. They may be appropriate for veterans who require nursing home care but prefer a non-institutional setting with fewer residents.

MFHs have a trained caregiver on duty 24/7. This caregiver can help the veteran carry out activities of daily living (e.g., bathing and getting dressed). The USDVA ensures that the caregiver is well-trained to provide USDVA planned care.

To be eligible for a MFH, a veteran must be enrolled in Home Based Primary Care, a USDVA program through which health care services are provided to veterans in their homes. Veterans must pay for the MFH themselves or rely on other insurance. The charge for a MFH is about $1500 to $3000 each month based on income level and level of care required.

MFHs are only able to operate in California as Residential Care Facilities for the Elderly.

Residential Care Facilities for the Elderly:

The Community Care Licensing (CCL) division of the Department of Social Services develops and enforces regulations designed to protect the health and safety of individuals in 24-hour residential care facilities and day care. These facilities include child care centers, RCFEs, and foster family homes and group homes.

The approximately 7,500 RCFEs in California are licensed to provide housing and a range of supportive services, such as assistance with activities of daily living, for up to 175,000 people annually.

Traditionally, RCFEs have been used as nonmedical placements for individuals with less acute medical needs than those who qualify for skilled nursing home placement, with some exceptions.

Nearly 80% of California's RCFEs are licensed for four to six beds.

Previous legislation:

AB 1821 (Gordon), Chapter 650, Statutes of 2014, established the Medical Foster Home Pilot Program from June 1, 2015, until January 1, 2018, which authorized a USDVA facility to establish a medical foster home that is not subject to licensure or regulation as a residential care facility for the elderly, a community care facility, or a residential care facility for persons with chronic, life-threatening illness, pursuant to specified federal requirements. Existing law required the USDVA facility establishing the home to agree to be subject to the jurisdiction of the California State Auditor, and further required the USDVA to obtain criminal background information for caregivers and specified individuals residing in the home.

The authority granted by AB 1821 was never exercised, however, and so no audit was conducted. Assembly Bill 2607 (Berman), 2018, would have re-authorized the Medical Foster Home Pilot Program. In background materials, Berman cited "complications at the federal level relating to the background check process" as a principle reason for the program's failure to launch. The provisions in AB 2607 governing background checks were therefore different from those in its predecessor legislation. Rather than requiring the USDVA to collect fingerprints from MFH caregivers and other non-veteran residents living in the home, and submit them to the Department of Justice for background checks, this bill piggybacked on the existing independent home care aide background check and registration provisions in Division 2 Chapter 13 Article 4

of the Health and Safety Code, by requiring MFH caregivers to be registered independent home care aides. This eliminated the role of the U.S. Department of Veterans Affairs in processing background checks. However, AB 2607 died in the Assembly Committee on Appropriations.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Health Services at Home

Opposition

None on file.

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