

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 2119 (Flora) – As Introduced February 14, 2022

Policy Committee: Military and Veterans Affairs

Vote: 8 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill establishes the Medical Foster Home Pilot Program to provide medical foster homes (MFH) for older veterans, not subject to licensure or regulations under the California Residential Care Facilities for the Elderly Act. Specifically, this bill:

- 1) Establishes, beginning June 1, 2024, and until January 1, 2027, the Medical Foster Home Pilot Program under which a US Department of Veterans Affairs (USDVA) facility may establish a MFH for older and medically frail veterans not subject to licensure or regulation as a residential care facility for the elderly (RCFE), a community care facility or a residential care facility for persons with chronic, life-threatening illness, provided specified federal requirements are satisfied, and:
 - a) The USDVA facility establishing the home agrees to be subject to the jurisdiction of the California State Auditor for the purpose of evaluating the program.
 - b) Caregivers and specified individuals residing in the home register as independent home care aides pursuant to state law and regulations.
- 2) States legislative intent that the California State Auditor conduct an audit no sooner than January 1, 2025, evaluating the success of the pilot program and making recommendations to the Legislature regarding continuation of the program.

FISCAL EFFECT:

Onetime State Auditor costs in the range of \$250,000 to \$300,000 (General Fund) to evaluate the MFH program and prepare an audit.

COMMENTS:

- 1) **Purpose.** This bill seeks to provide an additional housing option for elderly and frail veterans by authorizing MFHs that provide 24-hour care for up to three veterans in private homes. According to the author:

[This bill] 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 California State Auditor.

- 2) **Background.** The USDVA oversees the Medical Foster Home program. MFHs are private homes in which a trained caregiver provides services, primarily activities of daily living such as bathing, dressing, cooking, etc., to a few individuals, some, but not all of whom are veterans. The USDVA approves and inspects MFHs, but does not provide funding. MFHs often serve as an alternative to a nursing home for veterans who require nursing home care but prefer a non-institutionalized setting with fewer residents.

MFHs are distinguished from other typical residential care homes because an MFH caregiver is required to reside in their own private home while providing 24-hour personal care and supervision to the residents. Under existing state laws and regulations an MFH would fall under the jurisdiction of the California Department of Social Services (CDSS) and most likely operate as a Residential Care Facility for the Elderly (RCFE). This would require a potential MFH caregiver to have their personal home licensed through CDSS, become a certified administrator, and incur costs associated with training and licensure.

CDSS's Community Care Licensing Division, not the State Auditor, provides regulatory oversight of RCFEs to ensure the facilities operate according to applicable laws and regulations and corrective action is taken when a licensee fails to protect the health, safety, and personal rights of individuals in care. This bill allows the MFH program to operate under federal rules, outside of California regulations.

AB 550 (Flora), of the 2019-20 Legislative Session, was nearly identical to this bill. AB 550 was vetoed by Governor Newsom whose veto message stated in part:

The state should maintain oversight of the operation of the homes proposed under this bill to ensure that California veterans in these homes do not have fewer safety protections than residents in other community care settings.

Therefore, I am directing the California Health and Human Services Agency and [CDSS] to explore a workable regulatory model, including any necessary statutory changes, to allow such a pilot program to move forward.

CDSS indicates it is engaged both internally and with the author's office, per this directive.

3) **Additional Prior Legislation.**

AB 2607 (Berman), of the 2017-18 Legislative Session, was substantially similar to this bill. That bill was held on this committee's suspense file.

AB 1821 (Gordon), Chapter 650, Statutes of 2014, established the original Medical Foster Home Pilot Program under substantially similar requirements. The pilot was never used, in part, because of complications at the federal level relating to the background check process. Subsequent bills use California's existing home care aide background check and registration process, eliminating the role of the USDVA in facilitating background checks.