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**AB-2119 Veterans: Medical Foster Home Program.** (2021-2022)

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**Assembly Bill No. 2119**

**CHAPTER 381**

An act to add Chapter 3.15 (commencing with Section 1568.21) of Division 2 of the Health and Safety Code, relating to veterans.

[ Approved by Governor September 17, 2022. Filed with Secretary of State September 17, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2119, Flora. Veterans: Medical Foster Home Program.

Existing law establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans. Existing law, the California Community Care Facilities Act, provides for the licensure of residential care facilities for the elderly, community care facilities, and residential care facilities for persons with chronic, life-threatening illness by the State Department of Social Services.

This bill would authorize the State Department of Social Services to establish a program, no sooner than July 1, 2024, to issue licenses to medical foster homes for veterans. The bill would require a medical foster home for veterans, as defined, established pursuant to this program to meet specified requirements and would prohibit a person from operating, establishing, managing, conducting, or maintaining a medical foster home for veterans without a license. To apply for a license, the bill would require a person to submit an application that includes, among other things, evidence of the applicant's ability to comply with statutory requirements and other information the department may require. The bill would require the department to charge an application fee of \$88, review applications within a specified timeframe, and conduct a precensure inspection, as specified. The bill also requires applicants, adults residing or regularly present in an applicant's or licensee's home, and other individuals who have contact with a client to be subject to a background check.

This bill would authorize the department to deny a license if an applicant has, among other things, violated statutory requirements or engaged in acts of financial malfeasance. The bill would allow a person who is denied a license to appeal the department's decision through the defined appeals process. The bill would also permit the department to prohibit a person from being licensed or employed by a licensee and would require the department to exclude individuals from licensed facilities under certain circumstances. The bill would specify circumstances in which a license is forfeited as a matter of law, including if the licensee surrenders the license or dies. The bill would permit the department to suspend or revoke a license under certain conditions and would require the department to issue civil penalties, as specified. The bill would require revenues received by the department from payment of civil penalties to be deposited into the Technical Assistance Fund. The bill would also require the department to periodically inspect and evaluate licensees, as specified, and make preliminary reviews of complaints.

This bill would require the department to adopt regulations to implement this chapter and would authorize the department, until regulations are adopted, to implement and administer the program through written directives.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** (a) It is the intent of the Legislature to require medical foster homes authorized by the United States Department of Veterans Affairs to be licensed as medical foster homes for veterans by the State Department of Social Services.

(b) It is the intent of the Legislature that the department implement a licensing structure to support and ensure safety standards and safeguards adhere to existing federal approval processes for medical foster homes for veterans in California.

(c) It is the intent of the Legislature that the department work collaboratively with the United States Department of Veterans Affairs in overseeing medical foster homes for veterans in California. Where appropriate, to avoid unnecessary disruption to veteran residents, the department shall coordinate visits to align with the United States Department of Veterans Affairs' interdisciplinary inspection team.

**SEC. 2.** Chapter 3.15 (commencing with Section 1568.21) is added to Division 2 of the Health and Safety Code, immediately following Chapter 3.1, to read:

**CHAPTER 3.15. Medical Foster Homes for Veterans**

**1568.21.** The following definitions shall apply for purposes of this chapter:

(a) "Activities of daily living" has the same meaning as that term is defined in Section 17.62 of Title 38 of the Code of Federal Regulations.

(b) "Care and supervision" means the medical foster home for veterans licensee assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which a veteran resident's physical health, mental health, safety, or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

(c) "Department" means the State Department of Social Services.

(d) "License" means a basic permit to operate a medical foster home for veterans.

(e) "Medical foster home for veterans" has the same meaning as medical foster home as defined in Section 17.73 of Title 38 of the Code of Federal Regulations.

(f) "Medical foster home caregiver" means the primary person who provides care to a veteran resident in a medical foster home for veterans. The licensee, applicant, and the medical foster home caregiver shall be the same person. This definition does not include other individuals who provide relief care services to the veteran resident.

(g) "Relief caregiver" means a person who provides relief care services to the veteran resident on behalf of the medical foster home caregiver. This person may be employed by the medical foster home caregiver.

(h) "Veteran resident" has the same meaning as that term is defined in Section 17.73 of Title 38 of the Code of Federal Regulations.

**1568.22.** (a) The department may establish a medical foster home for veterans program in California pursuant to this chapter no sooner than July 1, 2024.

(b) A medical foster home for veterans established pursuant to that program is subject to licensure and regulation by the department and shall satisfy all of the following requirements:

(1) Comply with Sections 17.61 to 17.74, inclusive, of Title 38 of the Code of Federal Regulations.

(2) Meet the licensing standards set forth in this chapter, comply with the rules, regulations, and written directives adopted pursuant to this chapter, and comply with other applicable laws to maintain licensure.

(3) Agree to be subject to the jurisdiction of the department for the purpose of evaluating the program created under this chapter. Consistent with this agreement, the medical foster home for veterans licensee shall provide data, information, and case files to the department upon request.

(c) The department shall develop criteria to evaluate how the medical foster home benefits veteran residents.

**1568.23.** (a) No person shall operate, establish, manage, conduct, or maintain a medical foster home for veterans in this state without a current valid license, as provided in this chapter.

(b) A license is not transferable. No license issued pursuant to this chapter shall have any property value for sale or exchange purposes, and no person, including any owner, agent, or broker, shall sell or exchange any license for any commercial purpose.

(c) A medical foster home for veterans shall not be licensed to operate a community care facility, as defined in Section 1502, a residential care facility for the elderly, as defined in Section 1569.2, a residential care facility for persons with chronic life-threatening illnesses, as defined in Section 1568.01, or a child day care facility, as defined in Section 1596.750, on the same premises used as the residence of the medical foster home for veterans.

(d) This chapter applies only to community residential care facilities for veterans that have been approved by the United States Department of Veterans Affairs in accordance with Section 17.63 of Title 38 of the Code of Federal Regulations.

(e) Whether unrelated persons are living together, a medical foster home for veterans shall be considered a residential use of property for the purposes of this chapter. In addition, the veteran residents and licensee of the home shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this chapter.

(f) No conditional use permit, zoning variance, or other zoning clearance shall be required of a medical foster home for veterans that is not required of a family dwelling of the same type in the same zone.

**1568.24.** (a) A person seeking a license for a medical foster home for veterans under this chapter shall file with the department, pursuant to rules, regulations, and written directives, an application that shall include, but not be limited to, all of the following:

(1) Evidence satisfactory to the department of the applicant's ability to comply with this chapter and the rules, regulations, and written directives adopted pursuant this chapter.

(2) Evidence satisfactory to the department that the applicant remains in good standing with the United States Department of Veterans Affairs.

(3) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance, employment history, and character references.

(4) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by the rules, regulations, and written directives adopted pursuant to this chapter.

(5) Disclosure of the applicant's prior or present service as a licensee, administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in a residential care facility or in a clinic or facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.3 (commencing with Section 1570), or Chapter 3.4 (commencing with Section 1596.70).

(6) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in paragraph (5).

(7) Disclosure of any revocation, or any revocation action in process, against a license or certification previously held or held by a licensed or certified health care professional.

(8) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(b) Failure of the applicant to cooperate with the department in the completion of the application may result in the denial of the application. Failure to cooperate means that the information described in this section and in the rules, regulations, and written directives adopted pursuant to this chapter has not been provided or has not been provided in the form requested by the department.

(c) The information required by this section shall be provided to the department upon initial application for licensure, and a change in the information shall be provided to the department within 30 calendar days of that change unless a shorter timeframe is required by the department.

(d) The department may deny an application for licensure or may subsequently revoke a license issued under this chapter if the applicant knowingly withheld material information or made a false statement of material fact with regard to information that was required by the application for licensure.

(e) The department shall notify the applicant in writing of its decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the department for the rendering of a decision pursuant to this section.

(f) The department may cease further review of an application if, after written notice to the applicant, the applicant fails to complete an application without good faith effort and within 30 days of the date of the notice, as specified in the rules, regulations,

and written directives adopted pursuant to this chapter.

(g) An applicant who withdraws an application prior to its approval or denial may resubmit the application within 12 months after the withdrawal. The cessation of an application review pursuant to this section shall not constitute a denial of the application for purposes of this section or any other law.

(h) An application fee of eighty-eight dollars (\$88) shall be charged by the department for the issuance of a license. The fees are for the purpose of financing the activities specified in this chapter.

(i) Upon the complete filing of the application for issuance of a license, the department shall contact the applicant to arrange a time for the department to conduct a preclosure inspection.

(j) Upon the complete filing of the application for issuance of a license and substantial compliance with this chapter and the rules, regulations, and written directives adopted pursuant to this chapter, the department may issue a license to the applicant to operate a medical foster home for veterans. If the department finds that the applicant is not in compliance with this chapter or the rules, regulations, or written directives adopted pursuant to this chapter, the department shall deny the applicant a license.

(k) Immediately upon the denial of an application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails a notice of denial, the applicant may present their written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing.

**1568.25.** (a) The department may suspend or revoke a license issued under this chapter, in the manner provided in subdivision (b), upon any of the following grounds:

(1) A licensee violates this chapter or the rules, regulations, and written directives adopted pursuant to this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or of the rules, regulations, and written directives adopted pursuant to this chapter.

(3) Conduct which is inimical to the health, welfare, or safety of a veteran resident receiving services from a medical foster home for veterans or the people of the State of California.

(4) The provision of services beyond the level the medical foster home for veterans is authorized to provide or accepting or retaining veteran residents who require services of a higher level than the medical foster home for veterans is authorized to provide.

(5) Engaging in acts of financial malfeasance concerning the operation of a medical foster home for veterans, including, but not limited to, the improper use or embezzlement of veteran resident moneys or property, the fraudulent appropriation for personal gain of medical foster home for veterans moneys or property, or willful or negligent failure to provide services.

(b) The department may temporarily suspend a license, prior to a hearing when, in the opinion of the department, the action is necessary to protect veteran residents of a medical foster home for veterans from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The department shall notify the licensee of the temporary suspension, the effective date of the temporary suspension, and, at the same time, serve the licensee with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the department shall, within 15 days, set the matter for hearing. The hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, a temporary suspension shall be deemed vacated if the department fails to make a final determination on the merits within 30 days after the original hearing has been completed.

**1568.255.** Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by these provisions. In the event of conflict between this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

**1568.26.** A license shall be forfeited by operation of law when one of the following occurs:

(a) The licensee sells or otherwise transfers the medical foster home for veterans or medical foster home for veterans property.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a medical foster home for veterans from one location to another. The department shall develop rules, regulations, or written directives to ensure that a medical foster home for veterans is not charged a full licensing fee and does not have to complete the entire application process when applying for a license for the new location.

(d) The licensee dies.

(e) A licensee abandons a medical foster home for veterans. A licensee who abandons a medical foster home for veterans and the veteran residents in care, resulting in an immediate and substantial threat to the health and safety of the abandoned veteran residents, shall, in addition to forfeiture of the license pursuant to this section, be excluded from licensure in any facility licensed by the department or from being a resource family or certified foster parent without the right to petition for reinstatement, unless otherwise ordered by the department.

(f) The United States Department of Veterans Affairs revokes its approval of a medical foster home for veterans in accordance with Section 17.71 of Title 38 of the Code of Federal Regulations.

**1568.27.** (a) (1) Every licensed medical foster home for veterans shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the department. Unannounced inspections shall be conducted at least annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection, the department shall determine if the medical foster home for veterans meets regulatory standards, including, but not limited to, providing veteran residents with the appropriate level of care and supervision based on the medical foster home for veterans license, providing adequate services, maintaining updated resident records and assessments, and complying with basic health and safety standards.

(3) If the department determines that a veteran resident requires a higher level of care than the medical foster home for veterans is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department and consult with the United States Department of Veterans Affairs. An assessment shall be conducted in consultation with the veteran resident, the veteran resident's physician, and the United States Department of Veterans Affairs and shall reflect the desires of the veteran resident, the veteran resident's physician, and the United States Department of Veterans Affairs. The assessment also shall recognize that certain illnesses are episodic in nature and that the veteran resident's need for a higher level of care may be temporary.

(4) The department shall notify a medical foster home for veterans in writing of all deficiencies in its compliance with this chapter and the rules, regulations, and written directives adopted pursuant to this chapter. The department shall set a reasonable length of time for compliance by the licensee.

(5) Unless otherwise specified in the plan of correction, a medical foster home for veterans shall remedy the deficiencies within 10 days of the notification.

(6) The department shall maintain reports on the results of each inspection and consultation. All inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(b) A duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

**1568.271.** (a) Upon receipt of a complaint, other than a complaint alleging a denial of a statutory right of access to a medical foster home for veterans, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without a reasonable basis, conduct an onsite inspection within 10 days after receiving the complaint, except where the visit would adversely affect a licensing investigation or the investigation of other agencies, including, but not limited to, a law enforcement agency. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(b) Within 10 business days of completing an investigation of a complaint under this section, the department shall notify the complainant in writing of the department's determination as a result of the investigation.

(c) A licensee, or employee of the licensee, shall not discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction against a person receiving services from the licensee or against an employee of the licensee on the basis, or for the reason that, the person, employee, or any other person initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this section or initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

(d) This section shall not be construed to limit the authority of the department to inspect, evaluate, or investigate a complaint or incident, or initiate a disciplinary action, against a medical foster home for veterans or to take any action it may deem necessary for the health and safety of veteran residents placed with a medical foster home for veterans.

(e) If a local or state ombudsman receives a complaint relating to a licensed medical foster home for veterans, the local and, where applicable, the state ombudsman shall send a written report of the complaint to the department.

(f) If the department receives a complaint relating to a licensed medical foster home for veterans, the department shall send a copy of the complaint and the complaint findings to the United States Department of Veterans Affairs.

(g) If the department receives a complaint relating to a licensed medical foster home for veterans outside the department's jurisdiction, the department shall cross-report the complaint to the appropriate agency.

**1568.28.** (a) (1) No unlicensed medical foster home for veterans, as defined in paragraph (3), shall operate in this state.

(2) Upon discovery of an unlicensed medical foster home for veterans, the department shall refer residents to the appropriate placement or adult protective services agency or the appropriate local or state long-term care ombudsman, if either of the following conditions exist:

(A) There is an immediate threat to a veteran resident's health and safety.

(B) The medical foster home for veterans will not cooperate with the department to apply for a license, meet licensing standards, and obtain a valid license.

(3) A medical foster home for veterans shall be deemed to be an "unlicensed medical foster home for veterans" and "maintained and operated to provide residential care" if it is unlicensed, not exempt from licensure, and any one of the following conditions is satisfied:

(A) The medical foster home for veterans is providing care and supervision, as defined by this chapter or the rules, regulations, and written directives adopted pursuant to this chapter.

(B) The medical foster home for veterans is held out as, or represented as, providing care and supervision, as defined by this chapter or the rules, regulations, and written directives adopted pursuant to this chapter.

(C) The medical foster home for veterans accepts or retains veteran residents who demonstrate the need for care and supervision, as defined by this chapter or the rules, regulations, and written directives adopted pursuant to this chapter.

(D) The home represents itself as a licensed medical foster home for veterans in California.

(b) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department shall issue a civil penalty as follows:

(1) (A) Notwithstanding any other provision of this chapter, a person who violates Section 1568.23 shall be assessed an immediate civil penalty in the amount of one hundred dollars (\$100) per resident for each day of the violation.

(B) The civil penalty authorized in subparagraph (A) shall be doubled if an unlicensed medical foster home for veterans is operated and the operator refuses to seek licensure or the operator seeks licensure, the licensure application is denied, and the operator continues to operate the unlicensed medical foster home for veterans unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.

(2) For a violation that the department determines resulted in the death of a veteran resident, the civil penalty shall be seven thousand five hundred dollars (\$7,500).

(3) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, to a veteran resident the civil penalty shall be two thousand five hundred dollars (\$2,500).

(4) For a violation that the department determines resulted in serious bodily injury, as defined in Section 15610.67 of the Welfare and Institutions Code, to a veteran resident the civil penalty shall be two thousand five hundred dollars (\$2,500).

(c) Notwithstanding any other provision of law, revenues received by the department from payment of civil penalties imposed on a licensed medical foster home for veterans pursuant to this section shall be deposited into the Technical Assistance Fund created pursuant to Section 1523.2 and may be expended by the department for the technical assistance, training, and education of licensees.

(d) (1) (A) A licensee shall have the right to submit a written request for a formal review to the department for a civil penalty assessed pursuant to this section within 15 business days of receipt of the notice of a civil penalty assessment. The licensee shall provide all available supporting documentation that was unavailable at the time of submitting the request for review within 30 business days after submitting the request for review. If the department requires additional information from the licensee, it shall request that information within 30 business days after receiving the request for review.

(B) The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or rules, regulations, and written directives adopted by the department, they may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review process described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In a proceeding conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the medical foster home for veterans license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(4) Civil penalties shall be due and payable when administrative appeals have been exhausted. Unless payment arrangements have been made that are acceptable to the department, a civil penalty not paid within 30 days shall be subject to late fees, as specified by rules, regulations, and written directives adopted by the department.

(5) If a reviewer determines that a notice of deficiency or a civil penalty assessment was not made in accordance with applicable statutes, rules, regulations, and written directives, the reviewer may amend or dismiss the notice of deficiency or civil penalty assessment.

**1568.29.** (a) Prior to licensure, the following individuals shall be subject to and complete a background check pursuant to Section 1522:

(1) An applicant.

(2) An adult residing or regularly present in an applicant or licensee's home.

(3) Additional individuals who have contact with a client, as determined necessary by the department by rules, regulations, or written directives.

(b) Subsequent to initial licensure, a person specified in subdivision (a) who is not exempted from fingerprinting under subdivision (f) shall obtain either a criminal record clearance or an exemption from disqualification pursuant to Section 1522 prior to employment, residence, or initial presence in a medical foster home for veterans.

(c) A person initiating a background examination pursuant to subdivision (a) shall submit their fingerprints to the Department of Justice by electronic transmission in a manner approved by the department, unless exempt under subdivision (f).

(d) A law enforcement agency or other local agency authorized to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter.

(e) The Department of Justice shall use the fingerprints to search state and Federal Bureau of Investigation criminal offender record information pursuant to Section 1522.

(f) A person who is a current licensee or employee in a facility licensed by the department, a certified administrator, or a registered TrustLine provider need not submit fingerprints to the Department of Justice and may transfer their current criminal record clearance or exemption pursuant to paragraph (1) of subdivision (h) of Section 1522.

(g) Before issuing a criminal record clearance or exemption to an individual described in subdivision (a), the department shall review the individual's state summary criminal offender record information and the records of the Federal Bureau of Investigation pursuant to Section 1522.

(h) The department shall not prohibit a person from being employed or having contact with a veteran resident in a medical foster home for veterans on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1568.295.

(i) The department shall hold criminal record clearances and exemptions in its active files for a minimum of three years in order to facilitate a transfer request.

(j) Other than the applicant or licensee, a member of a United States Department of Veterans Affairs interdisciplinary home care team who provides medical, rehabilitative, or preventive services to a veteran resident in a medical foster home for veterans, including, but not limited to, Home-Based Primary Care and Spinal Cord Injury-Home Care, is exempt from requirements applicable under this section.

**1568.295.** (a) The department may prohibit a person from being a licensee or a licensee from employing, continuing the employment of, allowing in a licensed medical foster home for veterans, or allowing contact with a veteran resident of a licensed medical foster home for veterans by an employee, prospective employee, or person who is not a veteran resident who has done any of the following:

(1) Violated aided, or permitted the violation by any other person of any provisions of this chapter or of any rules, regulations, or written directives promulgated under this chapter.

(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either the people of this state or an individual in, or receiving services from, a medical foster home for veterans.

(3) Been denied an exemption to work or to be present in a medical foster home for veterans when that person has been convicted of a crime, as defined in Section 1522.

(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee or a medical foster home for veterans.

(5) Engaged in acts of financial malfeasance concerning the operation of a medical foster home for veterans, including, but not limited to, improper use or embezzlement of veteran resident moneys or property, fraudulent appropriation for personal gain of medical foster home for veterans moneys or property, or willful or negligent failure to provide services.

(b) The excluded person and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days of the department serving the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate exclusion of an employee, prospective employee, or person who is not a veteran resident from a medical foster home for veterans pending a final decision of the matter when, in the opinion of the director, the action is necessary to protect veteran residents from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate exclusion of an employee, prospective employee, or person who is not a veteran resident from a medical foster home for veterans, the department shall serve an order of immediate exclusion upon the excluded person that notifies the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) The department shall conduct an unannounced visit to a medical foster home for veterans within 30 days after the department serves an order of immediate exclusion from the medical foster home for veterans upon a person subject to immediate removal or exclusion from the medical foster home for veterans in order to ensure that the excluded person is not within the medical foster home for veterans, unless the department has previously verified that the excluded person is not within the medical foster home for veterans.

(4) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do both of the following upon receipt of a written appeal:

(A) Serve an accusation upon the excluded person within 30 days of receipt of the appeal.

(B) Conduct a hearing on the accusation within 60 days of receipt of a notice of defense from the excluded person, pursuant to Section 11506 of the Government Code.

(5) An order of immediate exclusion from a medical foster home for veterans shall remain in effect until the hearing is completed and the department has made a final determination on the merits.

(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide their current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence, and the



burden of proof shall be on the department.

(f) The department may do any of the following:

- (1) Institute or continue a disciplinary proceeding against a licensee or an employee, prospective employee, or person who is not a veteran resident upon any ground provided by this section.
- (2) Enter an order prohibiting a person from being a licensee or prohibiting an excluded person's employment or presence in the medical foster home for veterans.
- (3) Take disciplinary action against an excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person or any discharge, failure to hire, or reassignment of the excluded person by the licensee.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1568.25.

(h) (1) (A) In a case where an excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, or where the department informed an excluded person of their right to appeal the exclusion order and the excluded person does not appeal the exclusion order, the excluded person shall be prohibited for the remainder of the excluded person's life, unless otherwise ordered by the department, from all of the following:

- (i) Working or volunteering in any facility or organization licensed by the department if there is contact with clients, prospective clients, or confidential client information.
- (ii) Licensure to operate a facility or organization licensed by the department.
- (iii) Certification or approval as foster parent or resource family.
- (iv) Registration as a Registered Home Care Aide or TrustLine Registrant or remaining registered on the Home Care Aide Registry.
- (v) Serving as a member of the board of directors or governing body of, serving as an executive director or officer for, or being a licensee of a Home Care Organization or facility.
- (vi) As a licensee, from employing, continuing the employment of, or allowing an individual to volunteer at a Home Care Organization or facility if there is contact with clients, prospective clients, or confidential client information.

(B) Pursuant to Section 11522 of the Government Code, an excluded person may petition the department for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order or after one year has elapsed from the date of the notification of the exclusion order if no appeal was made. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the appeal decision and order or with the exclusion order.

**1568.296.** (a) (1) If the department determines that a person was issued a license under this chapter, Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.3 (commencing with Section 1570), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), or that the applicant previously was approved as a resource family under Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9 of the Welfare and Institutions Code, and the prior license was revoked or prior approval was rescinded within the preceding two years, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter.

(2) If the department determines that a person previously was issued a medical foster home for veterans license that was revoked or rescinded by the department within the preceding two years, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter.

(b) If the department determines that a person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter and the following:

(1) In a case where an applicant petitions for a hearing, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and department upholding a denial.

(2) In a case where the department or county informs an applicant of their right to petition for a hearing and the applicant does not petition for a hearing, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that a person had previously applied for a medical foster home for veterans license and the department ordered the denial of the application, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter and the following:

(1) In a case where an applicant petitions for a hearing, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and department order upholding a denial.

(2) In a case where the department informs an applicant of their right to petition for a hearing and the applicant does not petition for a hearing, the department shall exclude the person from any medical foster home for veterans licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1568.295 or any other law.

(e) The department may determine not to exclude a person from any medical foster home for veterans licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the medical foster home for veterans license, or the denial or rescission of resource family approval, were due to circumstances and conditions that either have been corrected or are no longer in existence.

**1568.30.** (a) A medical foster home caregiver and relief caregiver shall provide the department written evidence of all initial and ongoing training received as required by the United States Department of Veterans Affairs. Written evidence shall be provided to the department within 30 days of completion of each training.

(b) A medical foster home caregiver and relief caregiver shall provide the department written evidence of all completed continuing education requirements related to the knowledge and skills needed in order to provide care and supervision to veteran residents who have chronic or medically complex health impairments. Written evidence shall be provided to the department within 30 days of completion of each training.

(c) The department shall have the authority to require a medical foster home caregiver and relief caregiver to receive additional training if determined necessary.

**1568.40.** (a) The department shall adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations to implement this chapter.

(b) Until regulations are adopted, the department may implement and administer the licensing of medical foster homes for veterans under this chapter through the issuance of written directives that shall have the same force and effect as regulations. The directives shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).