

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [CS/HB 797](#)

TITLE: Veteran and Spouse Nursing Home Beds

SPONSOR(S): LaMarca

COMPANION BILL: [SB 788](#) (Truenow)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Intergovernmental Affairs](#)

10 Y, 0 N, As CS



[Health Care Facilities & Systems](#)

17 Y, 0 N



[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill allows certain licensed skilled nursing facilities to designate or alter the designation of specific beds exclusively for veterans and their spouses provided specific criteria are met. The bill authorizes the director of the Florida Department of Veterans' Affairs to approve bed designation requests under certain criteria. The bill provides an exemption from the requirement to obtain a Certificate of Need from the Agency for Health Care Administration for the consolidation of licensed facilities or the transfer of beds between facilities that solely care for veterans and their spouses if the facilities meet certain criteria.

Fiscal or Economic Impact:

None

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ANALYSIS

EFFECT OF THE BILL:

The bill allows licensed skilled nursing facilities located on the campus of a nonprofit retirement community that exclusively provides housing for veterans and their spouses to designate or alter the designation of certain beds as veteran and spouse nursing beds if the residents admitted meet the criteria for admissions to a [state veterans' nursing home](#) and the beds are operated according to the [United States Department of Veterans Affairs Community Nursing Home Program](#). The bill authorizes the director of the [Florida Department of Veterans' Affairs \(FDVA\)](#) to approve bed designation requests if the request meets the above requirements as well as the non-discrimination, admissions, financial contribution, and inspection requirements for state veterans' nursing homes. (Section [1](#))

The bill revises exemptions to the [certificate of need \(CON\)](#) process for veterans nursing homes by providing that a CON is not required for:

- State veterans' nursing homes operated by or on behalf of FDVA that are constructed with state or federal funds and where the federal government pays a per diem rate not to exceed one-half of the cost of the veterans' care.
- The consolidation of licensed skilled nursing facilities or transfer of beds between licensed skilled nursing facilities that meet the requirements of section 1 of the bill if the facilities have a shared controlling interest and are not more than 100 miles apart. (Section [2](#))

The bill provides an effective date of July 1, 2025. (Section [3](#))

RULEMAKING:

The bill authorizes the FDVA to adopt rules to implement the bed designation process.

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DATE: 3/19/2025

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Florida Department of Veterans Affairs \(FDVA\)](#)

The FDVA is constitutionally chartered¹ department that was created to provide assistance to all former, present, and future members of the Armed Forces of the United States and their spouses and dependents in preparing claims for and securing compensation, hospitalization, career training, and other benefits or privileges to which they are, or may become entitled to under federal or state law or regulation by reason of their service.² FDVA operates a network of nine state veterans' homes and provides statewide outreach to connect veterans with services, benefits, and support.³ FDVA offers benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance.⁴ There are about 1.4 million veterans living in Florida, making the state's veteran population the third largest nationally.⁵

[Veterans' Nursing Homes](#)

The FDVA provides care for veterans in both domiciliary homes and nursing facilities.⁶ Both veterans of wartime and peacetime service are eligible for admission.⁷ Veterans are admitted to both types of facilities based on a priority ranking.⁸ To be considered for admission to a veterans' home in Florida, a veteran must have been discharged from the military with either an honorable or an upgrade to an honorable discharge.⁹

Each veterans' nursing home is overseen by an administrator who is selected by the executive director (director) of FDVA.¹⁰

To be eligible for admission, a veteran must:

- Be in need of nursing care.
- Be a resident of the state at the time of application.
- Not owe money to the FDVA for services rendered during a previous stay at a FDVA facility.
- Have applied for all financial assistance reasonably available through governmental sources.
- Have been approved as eligible for care and treatment by the VA.¹¹

Eligible veterans are given priority for admission in the following order:

- Residents of the state.

¹ Art. IV, s. 11, Fla. Const.

² S. [292.05\(1\), F.S.](#)

³ Florida Dept. of Veterans Affairs, [Executive Director's Message](#) (last visited Mar. 5, 2025).

⁴ Florida Dept. of Veterans Affairs, [Benefits & Services](#) (last visited Mar. 5, 2025).

⁵ Florida Dept. of Veterans Affairs, [Our Veterans](#) (last visited Mar. 5, 2025).

⁶ Ch. 296, F.S.

⁷ Ss. [296.08](#) and [296.36, F.S.](#) "Wartime service" is defined as is service in any of the following campaigns or expeditions: Spanish-American War (1898-1902); Mexican Border Period (1916-1917); World War I (1917-1918, with qualifying extensions until 1921); World War II (1941-1946); Korean War (1950-1955); Vietnam War, (1961-1975); Persian Gulf War (1990-1992); Operation Enduring Freedom (2001-date prescribed by presidential proclamation or by law); Operation Iraqi Freedom (2003-date prescribed by presidential proclamation or by law). Peacetime service is defined as any Army, Navy, Marines, Coast Guard, Air Force, or Space Force service not in any of the campaigns or expeditions. S. [1.01\(14\), F.S.](#)

⁸ Ss. [296.08](#) and [296.36, F.S.](#)

⁹ Ss. [296.02\(9\)](#) and [1.01\(14\), F.S.](#)

¹⁰ S. [296.34, F.S.](#)

¹¹ S. [296.36\(1\), F.S.](#)

- Those who have a service-connected disability as determined by the VA, or who were discharged or released from service for a disability incurred or aggravated in the line of duty and the disability is the condition for the nursing home need.
- Those who have a non-service-connected disability and are unable to defray the cost of nursing home care.¹²

A spouse or surviving spouse of an eligible veteran is also eligible for admission at the bottom of the priority list.¹³ The director of the FDVA Affairs may waive the residency requirement for an otherwise qualified veteran if the veteran is a disaster evacuee of a state under a declared state of emergency.¹⁴

The FDVA currently operates eight skilled nursing facilities throughout the state. The nursing homes are located in Daytona Beach, Orlando, Land O'Lakes, Pembroke Pines, Panama City, Port Charlotte, Port St. Lucie, and St. Augustine, Florida.¹⁵

Cost and Funding of Resident Care

A resident of a state veterans' home must contribute to the cost of his or her care if the resident receives a pension, compensation, gratuity from the federal government, or income from any other source of more than \$100 per month for domiciliary homes and \$160 per month for nursing homes.¹⁶

In addition to the resident's portion of payment, the United States Department of Veterans Affairs (VA) provides a reimbursement care subsidy to domiciliary homes and nursing homes based on a per diem rate.¹⁷ The current VA per diem for domiciliary homes is \$59.69 a day.¹⁸ The current VA per diem for basic care in a nursing home is set at \$138.29 a day, while per diem for disabled veterans who are determined to be at least 70 percent disabled is set at \$474.45 a day.¹⁹ To qualify for reimbursement, federal law requires at least 75 percent of the population of the facility to be veterans. This threshold drops to 50 percent if the facility was constructed or renovated solely by the state.

Federal law authorizes a state veterans' home to house non-veteran residents who are spouses of veterans or parents whose children died while in military service.²⁰ These residents are required to pay for the full cost of their care.

VA Community Nursing Home Program (CNH)

Federal law authorizes the VA to contract with community nursing homes to provide care for eligible veterans.²¹ Separate guidelines are outlined giving authority for the VA to place eligible veterans in non-VA facilities when necessary²² and the requirements for State Veterans' Homes,²³ which are separate from the CNH Program but often related in the types of care that is offered.

¹² S. [296.36\(3\), F.S.](#)

¹³ S. [296.36\(3\), F.S.](#)

¹⁴ S. [296.36, F.S.](#)

¹⁵ Florida Dept. of Veterans Affairs, [State Veterans' Homes](#) (last visited Mar. 5, 2025).

¹⁶ S. [296.10, F.S.](#), and s. [296.37, F.S.](#) This contribution for care may be 100 percent of the cost if an otherwise eligible veteran is able to fund his or her own support.

¹⁷ 38 C.F.R. s. 51.390 and 38 C.F.R. s. 51.210.

¹⁸ U.S. Dept. of Veterans Affairs, Geriatric and Extended Care, State Home Per Diem Program, [State Home Per Diem Basic Rates for FYs 2000-2024](#) (last visited Mar. 5, 2025).

¹⁹ Florida Dept. of Veterans' Affairs, *2023 Agency Legislative Bill Analysis, SB 174* (Nov. 7, 2023).

²⁰ 38 C.F.R. s. 51.210(d).

²¹ 38 U.S.C. s. 1720.

²² 38 C.F.R. s. 17.51

²³ 38 C.F.R. s. 51.20. *See also* 38 C.F.R. s 51.30.

For all types of VA skilled nursing home care, veterans must be eligible (and enrolled) in the VA health care benefit system, also called the standard medical benefits package, via the Veterans Health Administration and meet the following eligibility requirements:

- Must not have been dishonorably discharged.
- Must have served on active duty in the military, air, or naval service.
- Must have served 24-months continuously or the full active duty period in which one was called if enlisted after Sept. 7, 1980, or became active duty after Oct. 16, 1981. This minimum active duty criteria are not applicable for veterans who actively served before Sept. 7, 1980, or were discharged due to a disability that resulted from, or was worsened, by active duty, or had an early-out or hardship discharge.
- National Guard or Reserves members (current and former) must have served on active duty per a federal order and served the entire period as ordered. Active duty status for training only does not count.²⁴

CNHs must provide 24-hour skilled nursing care (such as wound care or help with IV medication), occupational and physical therapy, and access to social work services.²⁵ Additionally, some CNHs provide short term rehab services, hospice and palliative care for the end of life, and specialized care for dementia.

[Certificate of Need \(CON\)](#)

Florida's CON program has existed since July 1973. From 1974 through 1986, the specifics of the program were largely dictated by the federal National Health Planning and Resources Development Act of 1974 (Act), which established minimum requirements regarding the type of services subject to CON review, review procedures, and review criteria.²⁶ Each state was required to have a CON program in compliance with the Act as a condition for obtaining federal funds for health programs. The Act was repealed in 1986.

In Florida, a CON is a written statement issued by Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service.²⁷ The current CON program only applies to nursing homes, hospices, and intermediate care facilities for the developmentally disabled.

A CON is predicated on a determination of need. The future need for services and projects is known as the "fixed need pool,"²⁸ which AHCA publishes for each batching cycle. A batching cycle is a means of grouping of, for comparative review, CON applications submitted for beds, services or programs having a like CON need methodology, or licensing category in the same planning horizon and the same applicable district or sub-district.²⁹

Upon determining that a need exists, AHCA accepts applications for CONs based on batching cycles for each of the 11 district service areas defined by statute.³⁰ The CON review process consists of two batching cycles each year for intermediate care facilities for the developmentally disabled, nursing homes, hospice programs, and hospice inpatient facilities.

At least 30 days prior to the application deadline for a batch cycle, an applicant must file a letter of intent with AHCA.³¹ A letter of intent must describe the proposal, specify the number of beds sought, and identify the services to be provided and the location of the project.³² Applications for CON review must be submitted by the specified

²⁴ American Council on Aging, Veterans Nursing Homes: Community Living Centers, [Community Nursing Homes & State Veterans Homes](#) (last visited Mar. 5, 2025).

²⁵ U.S. Dept. of Veterans' Affairs, [Community Nursing Home](#) (last visited Mar.5, 2025).

²⁶ Pub. L. No. 93-641, 42 U.S.C. s. 300k et seq.

²⁷ S. [408.036, F.S.](#)

²⁸ R. 59C-1.002(19), F.A.C., defines "fixed need pool" as the identified numerical need, as published in the Florida Administrative Register, for new beds or services for the applicable planning horizon established by AHCA in accordance with need methodologies which are in effect by rule at the time of publication of the fixed need pools for the applicable batching cycle.

²⁹ R. 59C-1.002(5), F.A.C.

³⁰ S. [408.032\(5\), F.S.](#)

³¹ S. [408.039\(2\)\(a\), F.S.](#)

³² S. [408.039\(2\)\(c\), F.S.](#)

deadline for the particular batch cycle.³³ AHCA must review the application within 15 days of the filing deadline and, if necessary, request additional information for an incomplete application.³⁴ The applicant then has 21 days to complete the application or it is deemed withdrawn from consideration.³⁵

Within 60 days of receipt of the completed applications for that batch, AHCA must issue a State Agency Action Report and Notice of Intent to Award a CON for a project in its entirety, to award a CON for identifiable portions of a project, or to deny a CON for a project.³⁶ AHCA must then publish the decision within 14 days.³⁷ If no administrative hearing is requested within 21 days of the publication, the State Agency Action Report and the Notice of Intent to Award the CON become a final order.³⁸

An applicant for CON review must pay a fee to AHCA when the application is submitted. The minimum CON application filing fee is \$10,000.³⁹ In addition to the base fee, an applicant must pay a fee of 1.5 percent of each dollar of the proposed expenditure; however, the total fee may not exceed \$ 50,000. A request for a CON exemption must be accompanied by a \$250 fee payable to AHCA.⁴⁰

State veterans' nursing homes operated by or on behalf of FDVA are exempt from the CON process if at least 50 percent of the construction cost was federally funded and the federal government pays a per diem rate not exceeding 50 percent of the cost of the veterans' care.⁴¹ These beds are excluded from the state's nursing home bed inventory.

BILL HISTORY

| COMMITTEE REFERENCE | ACTION | DATE | STAFF DIRECTOR/ POLICY CHIEF | ANALYSIS PREPARED BY |
|--|------------------|-----------|---------------------------------|----------------------|
| Intergovernmental Affairs Subcommittee | 10 Y, 0 N, As CS | 3/12/2025 | Darden | Burgess |
| THE CHANGES ADOPTED BY THE COMMITTEE: Corrects directory language. | | | | |
| Health Care Facilities & Systems Subcommittee | 17 Y, 0 N | 3/19/2025 | Calamas | Guzzo |
| State Affairs Committee | | | | |

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

³³ R. 59C-1.008(1)(g), F.A.C.

³⁴ S. [408.039\(3\)\(a\), F.S.](#)

³⁵ *Id.*

³⁶ S. [408.039\(4\)\(b\), F.S.](#)

³⁷ S. [408.039\(4\)\(c\), F.S.](#)

³⁸ S. [408.039\(4\)\(d\), F.S.](#)

³⁹ S. [408.038, F.S.](#)

⁴⁰ S. [408.036\(4\), F.S.](#), and R. 59C-1.005(2)(g), F.A.C.

⁴¹ S. [408.036\(4\)\(f\), F.S.](#)