

Notice of Development of Rulemaking

DEPARTMENT OF VETERANS' AFFAIRS

RULE NOS.: RULE TITLES:

55-11.003 Definitions
55-11.005 Admission Eligibility
55-11.006 Admittance Priority and Procedure
55-11.009 Order and Discipline of Residents
55-11.012 Vocational Rehabilitation and Work Incentive Programs

PURPOSE AND EFFECT: Purpose of rules is to provide details regarding the admission and residency to the Department's Veterans' Domiciliary Home of Florida, in Lake City, Florida, to provide extended congregate assisted living which provides complex care that is less intensive than skilled nursing care, but designed to optimize self-care and independence and setting goals that focus on emotional, physical, social, and dietary health.

SUBJECT AREA TO BE ADDRESSED: Details of admission and prioritization of applicants, as well as level of care provided and congregate assisted living environment.

RULEMAKING AUTHORITY: Section 292.05(3), FS

LAW IMPLEMENTED: Chapter 296, Part I, FS

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 6, 2021, 2:00 p.m.

PLACE: Join the meeting using one of these options:

1) from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/611403773>

2) You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States (Toll Free): 1 877 309 2073

- One-touch: tel:+18773092073,,611403773#

United States: +1 (571) 317-3129

- One-touch: tel:+15713173129,,611403773#

Access Code: 611-403-773

3) In Person, Mary Grizzle Building, Room 342, 11351 Ulmerton Road, Largo, Florida 33778.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: AgencyClerk@FDVA.STATE.FL.US/ If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Vicki Goonen, Agency Clerk, AgencyClerk@FDVA.STATE.FL.US/ or (727)518-3202, extension 5639

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

55-11.003 Definitions.

(1)-(2) No change.

(3) “Assisted living facility”~~Living Facility~~ has the meaning given to that term under the “Assisted Living Facilities Act,” Sections 429.01-429.55 ~~and 400.401 and 400.402~~, F.S.

(4) “Comprehensive Care Plan” means the written plan which sets forth each resident’s emotional, behavioral, social and physical goals and objectives to maintain an optimal level of self-care and independence as established by staff disciplines representing medical, nursing, dietetics, social service and rehabilitation. Due consideration shall be given to the resident care standards in accordance with Rule 59A-36.007, F.A.C.

~~(5)~~(4) “Department” means the Florida Department of Veterans’ Affairs.

~~(6)~~(5) “Director” means the executive director of the Florida Department of Veterans’ Affairs.

~~(7)~~(6) “Domiciliary Care” means shelter, sustenance, and incidental medical care provided on an ambulatory

self-care or temporarily assisted care basis for eligible veterans who are disabled by age or disease, but who are not in need of hospitalization or nursing home care services, and includes extended congregate care.

~~(8)(7)~~ “Extended Congregate Care” means acts in accordance with the definitions given in Sections 296.02 and 429.02400.402, F.S.

~~(8)~~ “Incidental Medical Care” means medical care provided by the Domiciliary Home that meets the minimum standards required by the United States Department of Veterans’ Affairs, Veterans Health Services and Research Administration Manual M-5, Part VIII, Chapter 2, dated November 4, 1992, incorporated by reference in this rule.

~~(9)~~ Interdisciplinary Treatment Team – A professional teamgroup of professionals consisting of the Executive Director of Nursing (END), Senior Registered Nurse Supervisor (SRNS), Physician/Advanced Registered Nurse Practitioner (ARNP)/Consultant, Social Services Program Manager, Food Services Director, Activities Director, and Senior Clerk/Recorder a senior registered nurse supervisor, social worker, physician, rehabilitation therapist and dietician who to develop a service-comprehensive plan of care for each resident, and make recommendations to the Administrator for implementing the service-plan, and follow up to evaluate its effectiveness, and make adjustments as needed.

~~(10)~~ “Interdisciplinary written Treatment Plan” means the written plan which sets forth each resident’s emotional, behavioral, socialrehabilitation and physical goals and objectives to maintain an optimal level of self-care and independence as established by staff disciplines representing medical, nursing, dietetics, social service and rehabilitation.

~~(10)(11)~~ Mentally ill means having an impairment as defined in Section 296.02(6), F.S.of the emotional process of the ability to exercise conscious control of one’s actions, or of the ability to perceive reality, or to understand, which impairment substantially interferes with a person’s ability to meet the ordinary demands of living and which impairment cannot be controlled by medication.

~~(11)(12)~~ “Peacetime Service” means service as defined in Section 296.02(7), F.S.in the active military, naval, or air service by any person who was discharged or released therefrom under honorable conditions and said service was not during a wartime era as defined in subsection (17), herein.

~~(12)(13)~~ “Property” means equipment, fixtures and other tangible personal property of a nonconsumable and nonexpendable nature the value or cost of which is \$500.00 or more and the normal expected life of which is one year or more, and hardback-covered bound books the value or cost of which is \$100 or more, owned by the state.

~~(13)(14)~~ Resident means any eligible veteran admitted to live in the Veterans’ Domiciliary Home of Florida.

~~(14)(15)~~ “VA” means the United States Department of Veterans’ Affairs.

~~(15)(16)~~ “Veterans’ Domiciliary Home of Florida;” hereinafter referred to as the “home” means a home established by the state under Chapter 296, Part I, F.S., and defined in Section 296.03, F.S.for peacetime and wartime veterans, as defined in subsections (12) and (17), herein, and maintained for the use of those veterans not in need of hospitalization or nursing home care who are ambulatory, can substantially attend to their personal needs, dress themselves, and attend a general dining facility, or who are in need of extended congregate care.

~~(16)(17)~~ “Wartime Service” means service as defined in Section 296.02(11), F.S.in the active military, naval, or air service by any person who was discharged or released therefrom under honorable conditions only, or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the VA on individuals discharged or released with other than honorable discharges, provided that such veterans served during one of the following periods of wartime service:

~~(a)~~ Spanish American War: April 21, 1898 to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.

~~(b)~~ Mexican Border Period: May 9, 1916 to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

~~(c)~~ World War I: April 6, 1917 to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917 and November 12, 1918.

~~(d)~~ World War II: December 7, 1941 to December 31, 1946.

~~(e)~~ Korean Conflict: June 27, 1950 to January 31, 1955.

~~(f)~~ Vietnam Era: February 28, 1961 to May 7, 1975.

~~(g) Persian Gulf War: August 2, 1990, and ending on the date thereafter prescribed by presidential proclamation or by law.~~

(17) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 296.04(2) FS. Law Implemented 296.02, 296.04(1), 296.06, 296.17 FS. History—New 5-29-90, Amended 11-19-92, 3-31-94, 10-27-94, 12-27-98, 00-00-00.

55-11.005 Admission Eligibility.

(1) To be eligible for residence, a veteran must meet the criteria stated in Section 296.06, F.S., and not be determined to be ineligible under Section 296.07, F.S.:

~~(a) Have wartime or peacetime service as defined in subsection 55-11.003(17) or (12), F.A.C., of this chapter of the rules;~~

~~(b) Have been discharged or released from such service under honorable conditions or later received an upgraded discharge under honorable conditions;~~

~~(c) Be a resident of the state at time of application; and,~~

~~(d) Not owe money to the Department for services rendered during any previous stay at a Department facility.~~

~~(2) The veteran applicant must not be mentally ill, habitually inebriated or addicted to the use of a controlled substance. A resident of the home who is discharged or voluntarily leaves the home because of mental illness, inebriation or addiction shall be referred by the home to the appropriate federal, state or county agency available for the treatment of such condition.~~

~~(3) The veteran applicant must not be in need of hospitalization or nursing home care and must be ambulatory, substantially able to attend to personal needs, dress, groom, and attend a general dining facility or be in need of extended congregate care.~~

(4) Criteria for admission to the domiciliary home must be consistent with the admission requirements for assisted living facilities set forth in Rule 59A-36.00658A-5.0181, F.A.C., said criteria are incorporated by reference in this rule section.

(5) Before admission each applicant must apply for a certificate of eligibility. To secure a certificate of eligibility the applicant must complete the Application for Certificate of Eligibility along with all required supporting documentation, found in the following link [placeholder for DOS-assigned link] as well as the website for the Florida Department of Veterans' Affairs: <https://floridavets.org/>. The application forms can be obtained from any of the following locations:

(a) Robert H. Jenkins, Jr. Veterans' Domiciliary Home of Florida, 751 SE1300 Sycamore Terrace Lane, Lake City, Florida 32025-32055, Telephone number: 386-758-0600; Fax: 386-758-0549, or Website: <https://floridavets.org/locations/state-veterans-nursing-homes/>.

~~(b) Florida Department of Veterans' Affairs, 9500 Bay Pines Blvd., Bay Pines, FL 33504.~~

~~(b)(c) Florida Department of Veterans' Affairs Field Services Offices in VA Medical Centers or Outpatient clinics located at Bay Pines, Gainesville, Lake City, Miami, Tampa, Daytona Beach, West Palm Beach, Tallahassee, Fort Myers, Port Richey, Riviera Beach, Pensacola and Oakland Park, or County or City Veteran Service offices located in counties throughout Florida—the Veterans' Nursing Homes of Florida in Daytona Beach, Land O'Lakes and Pembroke Pines. Consult the local telephone directory for the address of the nearest office.~~

~~(d) County or City Veteran Service offices located in counties throughout Florida. Consult the local telephone directory for the address of the nearest office.~~

(6) The Application for Certificate of Eligibility consists of the following forms which are hereby incorporated by reference, and posted at the following links:-

(a) Robert H. Jenkins Jr. Veterans Domiciliary Home of Florida Application Packet at [placeholder for DOS-assigned link].

(b) VA Form 10-10EZ Application for Health Benefits at [placeholder for DOS-assigned link].

~~(a) Veterans' Domiciliary Home of Florida Application for Certificate of Eligibility (FDVA Form 10), dated June 1997.~~

~~(b) Department of Veterans' Affairs Medical Certificate (VA Form 10-10m), dated March 1992.~~

~~(c) Department of Veterans' Affairs Request for and Consent to Release of Information from Claimant's Records (VA Form 70-3288), dated December 1988.~~

~~(d) Department of Elder Affairs, DOEA Form 1823, dated October 1995, Health Assessment for Assisted Living Facilities.~~

~~(e) A legible copy of the applicant's Certificate of Release or Discharge from the U.S. Armed Services or a legible copy of a U.S. Department of Veterans' Affairs Hospital Inquiry Screen must also be included.~~

(7) The fully completed Application for Certificate of Eligibility along with all required supporting documentation must be forwarded to the home at the address set forth at Robert H Jenkins, Jr., Domiciliary Home of Florida, 751 SE Sycamore Terrace, Lake City, Florida 32025~~subparagraph (4)(a)1, herein~~. Incomplete applications will be returned to the applicant.

~~(a) The completed application will be reviewed by an Admissions Committee consisting of a representative of Business Services, a representative of Health Services, and a representative of Social Services, and Food Services. The Business Services representative will be the Business Manager or designee; the Health Services representative will be the Physician or Nurse Specialist or designee, and the Social Services Representative will be the Human Services Counselor Supervisor or designee.~~

~~(b) The Admissions Committee will review the application and make a recommendation to the Administrator as to the action to be taken, and whether or not to approve the admission.~~

~~(7) This rule will expire five (5) years from the effective date, unless readopted.
Rulemaking Authority 296.04(2) FS. Law Implemented 1.01(14), 296.02(6), 296.04(2), 296.06(2), 296.07, 296.08 FS. History—New 5-29-90, Amended 3-31-94, 10-27-94, 12-27-98, 12-28-04, 10-26-14, 00-00-00.~~

55-11.006 Admittance Priority and Procedure.

~~(1) In determining the eligibility of applicants to be admitted to the home, two admittance priority groups are established. The first priority group consists of applicants who do not have sufficient means for their own support and cannot pay the full cost of their support in the home. The second priority group consists of applicants who have sufficient means for their own support and can pay the full cost of their support in the home.~~

~~(2) In determining if an applicant has sufficient means for his or her own support, the Administrator shall take into account the applicant's income from all sources including income from any property owned by the applicant, and the eligibility of the applicant to receive per diem assistance from the VA while a resident of the home.~~

~~(3) Applicants in the first priority group shall be issued certificates of eligibility in accordance with the priority of admittance under Section 296.08, F.S. in the following order:~~

~~(a) Those veterans with wartime service, with a service connected disability or disabilities, not in need of hospitalization or nursing home care, and who do not have sufficient means for their own support.~~

~~(b) Those veterans with wartime service with a nonservice connected disability or disabilities, not in need of hospitalization or nursing home care, and who do not have sufficient means for their own support.~~

~~(c) Those veterans with wartime service with no disability or disabilities who do not have sufficient means for their own support.~~

~~(d) Those veterans with peacetime service, with or without any disability or disabilities, not in need of hospitalization or nursing home care, who do not have sufficient means for their own support.~~

~~(2)(4) An Applicant's individual financial circumstances and ability to contribute to the costs of his or her support will be determined in accordance with Section 296.10, F.S., and resident contributions toward cost of care may not exceed the actual cost of operating and maintaining the home.~~

~~fter certificates of eligibility have been issued to all applicants who are eligible to be included in the first priority group above, if there is room in the home for other residents, t~~

~~(3) The Administrator will issue certificates of eligibility to veterans who are eligible to become residents who have sufficient means for their own support. Prior to admission, and while a resident of the home, such residents shall be required to pay to the home an amount sufficient to defer the full cost of support pursuant to Rule 55-11.008, F.A.C., herein.~~

~~(4)(5) The Administrator will notify the applicant who has been issued a certificate of eligibility when a room is available and will schedule the applicant to take a final preadmission physical examination in Lake City, Florida. The applicant must appear and be given the preadmission physical examination to assure that the applicant is fully eligible for admission as a resident of the home. Transportation costs to and from the home for all such preadmission procedures are the responsibility of the applicant.~~

~~(5) This rule will expire five (5) years from the effective date, unless readopted.~~

Rulemaking Authority 296.04(2) FS. Law Implemented 296.08, 296.10(2), 296.10(3) FS. History—New 5-29-90, Amended 12-27-98, 7-26-00, 00-00-00.

55-11.009 Order and Discipline of Residents.

(1) Residents of the home shall cooperate fully in the preservation of order and discipline in the home.

(a) Residents shall observe good health habits and personal hygiene.

1. Except for any specific area designated by the Administrator for such use, the use of tobacco products inside the home is prohibited. Areas shall be designated outside of the home for such use.

2. The use or possession of non-medicinal alcohol, illegal drugs or any controlled substance in the home or on the grounds of the home, is prohibited. Prescription drugs will be controlled by the home, and administered or supervised by the home staff.

3. Residents shall maintain their persons and their living areas in a clean and sanitary manner.

4. Residents shall submit to such physical or mental examinations and shall cooperate in such health or rehabilitative programs as may be ~~outlined~~required by ~~the Comprehensive Care Plan~~Health Services.

(b)–(c) No change.

(d) Leave time.

1. Absence of up to 96 hours shall not require approval as leave. Absence in excess of such period shall be considered leave time.

2. Residents shall be entitled to up to thirty (30) calendar days of approved leave in any 12 month period, and will receive a written approval or pass. Leave in excess of thirty (30)~~30~~ calendar days will only be granted by the Administrator in extraordinary situations that are beyond the control of the resident. ~~or when the resident's place in the home is not needed by another eligible applicant. Based on the recommendation of the interdisciplinary team and the approval of the Administrator, a resident will be granted up to thirty (30) calendar days of vocational rehabilitation leave, in any 12 month period, for the purposes of vocational rehabilitation.~~

3. A resident is required to continue to make the member's full contribution to the home while absent or on approved regular annual leave or pass.

4. ~~A resident, participating in a vocational rehabilitation work program, will, in addition to annual leave, be granted work leave for up to thirty (30)30 calendar days. The Administrator will waive a resident's contribution for support while the resident is away from the home on approved vocational rehabilitation leave.~~

(e) No change.

(2) No change.

(3) If the Administrator determines that a resident has caused physical damage to the home, or its furnishings and equipment, either negligently or intentionally, the Administrator may utilize all appropriate remedies as described in Section 296.04, F.S.~~shall determine the cost of repairs or replacement, and take action to recover the cost of repair or, if necessary, replacement. The Administrator shall recover such repair or replacement cost by:~~

(a) ~~Increasing the resident's co-payment.~~

(b) ~~Using funds of the resident that are on deposit in the Resident's Deposit Trust Fund.~~

(c) ~~Holding personal property of the resident which has been deposited with the Administrator pursuant to Section 296.14, F.S.~~

(4) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 296.04(2) FS. Law Implemented 296.04(2), (5) FS. History—New 5-29-90, Amended 3-26-91, 11-19-92, 3-31-94, 12-27-98, 00-00-00.

PROPOSED FOR REPEAL AS NO LONGER NECESSARY:

55-11.012 Vocational Rehabilitation and Work Incentive Programs.

~~(1)(a) It is the purpose of the vocational rehabilitation program, as set forth in 38 C.F.R. 17.217(j), dated July 1, 1997, to afford the resident an opportunity to gain employment outside the home as a part of the therapeutic rehabilitation of the resident; to assist the resident to become a self-sufficient and productive member of society, able to live in a noninstitutional setting.~~

~~(b) The work incentive program will afford the resident the opportunity to work at the home and be compensated for rendering assistance in the care of the home and grounds.~~

~~(2) A resident must have his or her participation in these programs approved as a part of the resident's written interdisciplinary treatment plan.~~

~~(3)(a) After the approval of the resident's participation in the vocational rehabilitation program has been entered into the resident's interdisciplinary treatment plan, and if the resident does not have a job, he/she shall be referred to the Florida Department of Labor and Employment Security Job Service for an assessment of the resident's skills and abilities.~~

~~(b) The resident shall be assisted in securing employment appropriate to the resident's skills, abilities and physical condition by the Disabled Veteran Outreach Program (DVOP) or Local Veterans Employment Representative (LVER) personnel.~~

~~(4)(a) After the approval of the resident's participation in the work incentive program has been entered into the resident's interdisciplinary treatment plan, the interdisciplinary team shall determine the type of work the resident may be qualified and capable of performing and refer the resident to the home personnel office for processing. Work incentive positions will be filled based on recommendations from the interdisciplinary team and available work incentive position vacancies.~~

~~(b) The personnel office shall assess the resident's skills and abilities and determine the appropriate kind of work to which the resident can be assigned.~~

~~(c) The resident shall be assigned to work that renders assistance in the care of the home and grounds that is consistent with the resident's skills, abilities and physical condition.~~

~~(5) The resident's continued participation in these programs shall be contingent on the employment being compatible with the resident's interdisciplinary treatment plan and the resident's continued observance of all the rules governing the preservation of order and discipline in the home as set forth at Rule 55 11.009, F.A.C., herein.~~

~~(6) When available, transportation to and from employment in the local community will be provided by the home for the first thirty (30) days of employment. Thereafter, the resident will be responsible for arranging his own transportation.~~

~~(7) The resident's contribution to his or her support while employed under either program, shall be in accordance with the schedule of payment determined by the Administrator and approved by the Director, to be computed at fifty percent (50%) of the resident's net earnings after taxes and after the set aside of the first \$100.00 per month, not to exceed the resident's required contribution based on the daily cost of care as calculated in subsection 55 11.008(2), F.A.C., herein. Payments toward a resident's contribution for support will be due within five (5) days after each pay period. The resident is required to authorize the Administrator of the home to secure from the employer sufficient information to verify the resident's earnings under the program.~~

~~(8) The Inter Disciplinary Team must approve a resident's Vocational Rehabilitation Program which shall be for a maximum period of three (3) months prior to a discharge to independent living.~~

~~Rulemaking Authority 296.04(2) FS. Law Implemented 296.04(6), 296.10(1), 296.17, 400.402 FS. History—New 6-25-91, Amended 3-31-94, 12-27-98, Repealed 00-00-00.~~