

MDH F888 Deficiencies issued February 18 - March 7, 2022

Based on interview and document review the facility failed to ensure all staff received at least one dose of COVID-19 vaccine, had pending request for, had a qualifying exemption, or temporary delay as recommended by the CDC prior to staff providing any care, treatment, or other services for the facility and/or its residents. The facility had 6.9% of staff whom were not vaccinated without exemption/delay and had no residents that were COVID positive in the facility.

Findings include:

The facility's COVID-19 Staff Vaccination Status for Providers, provided 1/27/22, indicated the facility had a total of 387 staff; 22 partially vaccinated staff; 254 completely vaccinated staff; 75 staff granted exemption; 10 temporary delay/new hire staff; and 26 staff not vaccinated without exemption/delay. This indicated there were 6.9% staff that were not vaccinated.

During the entrance conference on the morning of 1/27/22, the administrator stated 0 residents were COVID positive.

On 1/27/22, at 1:55 p.m. the administrator said 26 staff were not vaccinated but remained on the schedule (or 6.9% of staff), and therefore, 100% of all staff had not received at least one dose of COVID-19 vaccine, or had a pending request for, or had been granted a qualifying exemption, or were identified as having a temporary delay as recommended by the CDC. However, the facility had a plan to become 100% vaccinated.

The facility's COVID-19 Vaccine Mandate Policy, updated 1/27/22, indicated "all facility staff are required to have received at least one dose of an FDA-authorized COVID-19 vaccine by January 27, 2022, and the final dose of a primary vaccination series by February 28, 2022." The policy further indicated "staff may be eligible for a medical or religious exemption but must meet the criteria for the exemption to qualify".

Based on interview and document review, the facility failed to ensure vaccination policies and procedures contained direction regarding additional infection control precautions for staff who were exempted from the COVID-19 vaccine in order to mitigate the spread of COVID-19 prior to staff providing any care, treatment, or other services for the facility and/or its residents. This had the potential to affect all 24 residents who resided in the facility.

Findings include:

On 1/28/22, at 12:01 p.m. the administrator was interviewed and stated the director of nursing (DON) had yet to update the staff vaccination and COVID-19 policies to reflect additional precautions for staff who were exempted from the COVID-19 vaccine.

On 1/28/22, at 12:10 p.m. the DON stated she "may have missed" updating the facility vaccination policy to include additional infection control precautions for staff who were exempted from the COVID-19 vaccine. The DON stated presently, staff who were exempted from the COVID-19 vaccine were being tested for COVID-19 twice per week.

The facility policy xxxxxx COVID-19 vaccine immunization requirements policy dated 12/31/21, directed staff must have one of the following in place by 1/27/22:

- a. Received at least one dose of COVID-19 vaccine.
- b. Have a pending request for or have been granted a qualifying exemption.
- c. Identified as having a temporary delay as recommended by CDC.

The policy further indicated unvaccinated staff must physically distance whenever possible and were subject to precautions as determined by xxxxxx to mitigate against the spread and/or transmission of COVID 19. The policy lacked direction for additional infection control precautions.

CDC guidance titled Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic updated 9/10/21, indicated source control and physical distancing (when feasible and will not interfere with provision of care) are recommended for everyone in a healthcare setting. This is particularly important for individuals, regardless of their vaccination status, who live or work in counties with substantial to high community transmission or who have not been fully vaccinated. Facilities could consider use of NIOSH-approved N95 or equivalent or higher-level respirators for health care providers (HCP) working in other situations where multiple risk factors for transmission are present. Eye protection (i.e., goggles or a face shield that covers the front and sides of the face) should be worn during all patient care encounters.

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Based on interview and document review the facility failed to ensure all staff received at least one dose of COVID-19 vaccine, or had a pending request for, or had been granted a qualifying exemption, or were identified as having a temporary delay as recommended by the Centers for Disease and Control (CDC) prior to staff providing any care, treatment or services for the facility and its residents. The facility vaccination rate was below 100% the National Health Safety Network percent

was 84%. Further, the facility failed to demonstrate a process for tracking of all staff vaccination status. This had the potential to affect all residents residing in the facility.

Findings include:

Email correspondence dated 1/31/22 with LPN-A indicated the facility has no current residents with a COVID-19 diagnosis.

The facility's vaccination tracking form provided on 1/31/22, noted the facility had 146 total employees and 126 were vaccinated for COVID-19. The tracking form did not list contracted or outside providers that provide care to residents at the facility. The facility National Health Safety Network percent of staff who were fully vaccinated was 84%. The onsite vaccination survey data indicated 83% of staff were either vaccinated, who have pending requests, who have been granted exemptions to the vaccination requirements, or those staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations.

When interviewed on 1/31/22, at 1:15 p.m. licensed practical nurse (LPN)-A stated she was assigned to COVID-19 responsibilities for the facility. LPN-A stated she does not have vaccine information on the pool agency staff that provide care in the facility and instead of vaccination tracking, they perform rapid tests at the start of their shifts. LPN-A stated nursing students from one college provided vaccination cards but another college does not because the nursing instructor performs rapid testing prior to the start of their day for those students. The facility did not have an attestation that students from either college were vaccinated or met an exemption status.

A facility policy titled COVID-19 Vaccination Policy & Plan dated 1/27/22, noted all employees working in the skilled nursing facility (SNF) are required to receive the COVID-19 vaccination unless a reasonable accommodation is submitted to and approved.

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Based on interview and document review, the facility failed to ensure vaccination policies and procedures included direction regarding additional infection control precautions for staff who were exempted from the COVID-19 vaccine in order to mitigate the spread of COVID-19 prior to staff providing any care, treatment, or other services for the facility and/or its residents. This had the potential to affect all 80 residents who resided in the facility.

Findings include:

On 2/2/2022, information provided by the facility employed 278 staff. Of those, 222 were vaccinated, three granted temporary delay, 37 partially vaccinated or unvaccinated, and 16 staff were granted a non-medical exemption. This was an 87% vaccination rate. This data is consistent with the National Health Care Safety Network (NHSN) data for 1/23/2022, (85.6%). All workers in the facility are considered employees of the parent corporation, there were no contracted staff from outside agencies.

On 2/2/22, at 10:20 a.m. Clinical Nurse Manager (CNM)-A stated was aware of the stipulations for staff members practicing in resident care areas who had been granted an exemption to receiving COVID vaccine. These included wearing an N-95 mask, not care for immunocompromised or unvaccinated residents, and required to undergo COVID testing twice a week. Stated would discuss these stipulations with employees as needed. Stated there were no exempted employees on the unit at the time of the interview. CNM-A stated managers would be notified if an exempted staff member was assigned to their care areas. CNM-A stated information about vaccination policies has been readily available to all staff members including the process for requesting a medical or non-medical exemption. Stated at the time of this interview, all staff were undergoing COVID testing twice weekly because two employees were found to have positive COVID test results during the week of 1/17/2022.

On 2/2/2022, at 11:05 a.m. the administrator and the director of nursing (DON) were interviewed and stated they have discussed expected stipulations to practice for employees who had been granted either a medical or religious exemption to receiving the Covid vaccine. Stipulations included communicating with the employee(s) informing them their vaccination status would be disclosed to their immediate supervisor, they will not be assigned to care for immunocompromised or unvaccinated residents, and they would be required to undergo COVID testing twice a week. Though discussed, these stipulations had not yet been memorialized into policy. Final discussions among department and corporate leaders were pending.

On 2/2/22, at 12:10 p.m. Human Resources Manager (HRM) for xxxx (HR) disclosed that 16 exemptions have been granted to employees for religious reasons and no medical exemptions have been granted. HRM further stated all personnel working in this facility are employees, there are no contracted staff. Employees who travel between campuses are fully vaccinated. For exempted employees, testing for COVID-19 must be done twice a week, PPE must be worn, they may not work with Immunocompromised or unvaccinated residents. Any employee who misses testing may not participate in their job until testing is done on site. Covid test kits are always available on site at each facility in the Presbyterian Homes system. HR stated these measures have been discussed with nursing leadership.

The facility policy xxxxxx COVID-19 VACCINATION POLICY, revised 1/27/2022, directed:

2. Vaccination in Medicare-Certified Operations (CMS) - Medicare and Medicaid Program; Omnibus COVID-19 Health Care Staff Vaccination, 86 Fed. Reg. 212 (November 5, 2021)

a. Scope

i. This Section 2 applies to the following settings (refereed to collectively as "Medicare Service Settings"):

1. Optage Hospice (§ 418.60)
2. Care Centers (§ 483.80)
3. Optage Home Care (§ 484.70)

ii. Unless exempt under this policy this Section 2 applies to individuals (collectively referred to as "Staff") who provide care, treatment, or other services in Medicare Service Settings:

1. employee;
2. licensed practitioner;
3. students, trainees, and volunteers; and
4. individuals who provide care, treatment, or other services for residents or patients under contract or other arrangement with PH or its affiliates.

iii. The following individuals are Exempt from this Section 2:

I. Staff who (a) exclusively provide support telehealth, or telemedicine services outside of the settings of Medicare service settings where services are provided to resident and patient and (b) do not have any direct contact with residents, patients, patient families and caregivers, and other Staff working in Medicare Service Settings (e.g., home office biller or individuals who infrequently provide ad hoc, non-health care services such as annual elevator inspection or delivery person).

2. Staff who have a pending request or have obtained a medical or religious exemption under this policy; and

3. Staff for whom COVID- 19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations including, but not limited to, individuals with acute illness secondary to COVID-19, and individuals who received monoclonal antibodies or convalescent plasma for COVID-19 treatment.

5. Other COVID-19 Precautions. All Employees and Staff, including those who are fully vaccinated or who receive an exemption, must continue to comply with PHS's COVID-19 policies procedures including, but are not limited to screening, use of personal protective equipment (PPE), testing, source tracing, and self-isolation.

The policy continues with the attachment; REASONABLE ACCOMMODATION, MEDICAL AND RELIGIOUS EXEMPTION FOR COVID-19 VACCINATIONS POLICY. Staff who have a medical contraindication or who object to being vaccinated on the basis of a sincerely held religious belief and practice may request and engage in an interactive process to determine if a reasonable accommodation or exemption from the application of this policy can be provided so long as it does not create an undue hardship for PHS and does not pose a direct threat to the health or safety of others in the workplace and/or to the employee. Staff may request an accommodation without fear of retaliation.

3. Review and Discuss the Medical Exemption/Accommodation Request. Employee Health Services will review medical exemption requests and determine whether an exemption may be granted. Exemptions should be granted if the requested information is complete and accurate. Exemptions may be limited to a period of time based upon the information presented. There may be additional questions and discussions with the Staff member regarding the essential functions of the Staff members position and possible accommodations if the exemption is granted. The exact nature of the discussion and questions may vary.

Based on observation, interview, and document review, the facility failed to ensure vaccination policies and procedures contained direction regarding additional infection control precautions for staff who were exempted from the COVID-19 vaccine, in order to mitigate the spread of COVID-19 prior to staff providing any care, treatment, or other services for the facility and/or its residents. This had the potential to affect all 92 residents who resided in the facility.

Findings include:

On 2/3/22, information provided by the facility showed they had 139 staff, 129 vaccinated, three partially vaccinated, and seven staff with an exemption. This was a 100% vaccination rate. The facility was able to provide attestations for contracted staff.

On 2/3/22, at 10:32 a.m. nursing assistant (NA)-A was observed on a resident care area wearing a surgical mask. NA-A stated she was taking direct care of residents and stated her job duties had not changed since she had been granted an exemption for not receiving the COVID-19 vaccine. NA-A stated she was testing for COVID-19 every three days at the facility. NA-A stated she was not aware of any restrictions in caring for residents or resident types.

On 2/3/22, at 11:43 a.m. registered nurse (RN)-A was interviewed. RN-A stated exempt staff were expected to test for COVID-19 twice a week. RN-A stated twice weekly testing for COVID-19 was the additional precaution implemented for exempt staff.

On 2/3/22, at 12:04 p.m. the administrator verified exempt staff were expected to test twice a week. The administrator stated apart from testing, no additional infection control precautions were implemented for exempt staff.

On 2/3/22, at 1:44 p.m. the director of nursing (DON) was interviewed and stated she would expect exempt staff to wear personal protective equipment (PPE) as appropriate.

The facility policy CMS Omnibus COVID-19 Health Care Staff Vaccine Interim Final Rule dated 1/18/22, directed: Additional Precautions for Unvaccinated Exempted Employees: Employees who are granted an exemption will continue to be tested for COVID-19 as follows: Regardless of whether the facility is in a county with low to moderate community transmission, all non-vaccinated exempted employees will be required to have a negative COVID-19 test prior to the start of 1 worked shift per week, at a minimum. The policy lacked direction on any additional infection control precautions other than staff testing, to mitigate the risk for transmitting COVID-19 for unvaccinated exempt employees.

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Based on interview and document review the facility failed to ensure all staff received at least one dose of COVID-19 vaccine, had exemption, or temporary delay as directed by Centers for Disease and Control (CDC) prior to providing care or services. In addition, the facility did not track contracted staff's vaccination status which resulted in a xxx staff vaccination rate.

Findings include:

A facility vaccination tracking form--name of form ?-- printed on 2/3/22, noted the facility employed 230 staff members and 228 were fully vaccinated or had an approved exemption. The remaining 2 staff were on a leave of absence. The tracking form did not include facility contracted providers or pool agency staff members. How often were these individuals used, frequently or unsure, also is there a number they used to identify this with interview. How many resident were COVID + in the facility, please add this. This determine scope and severity.

Upon interview on 2/3/22, at 3:47 p.m. the director of nursing (DON) stated the employee tracking form is all the facilities in house active employees. The DON denied a process for tracking the contract employees. She stated there was a letter of understanding on that for those outside contracted providers stating the provider will track the vaccination status and furnish it upon request of the facility. How often are they used? frequently? and how many individuals?

Upon interview on 2/3/22 at 4:02 p.m. the Administrator stated she would reach out to the corporate office for a policy on the process for tracking vaccination requirements with the contract staff. As of 2/6/22 the corporate office did not provide an additional policy other then their CMS Omnibus Covid-19 Health Care Staff Vaccine Interim Final Rule Policy.

A facility policy titled CMS Omnibus Covid-10 Health Care Staff Vaccine Interim Final Rule Policy revised 1/31//22, noted that the policy requirement applies to all staff who work at the facility, regardless of clinical responsibility or resident contact. In addition to the Facility employees, the vaccination requirements also apply to licensed practitioners, contracted employees (pool, agency, hospice, etc.), students, trainees, and volunteers affiliated with the facility. Attached with the policy was the Minnesota Department of Health Matrix form titled Covid-19 Staff Vaccinations Status for Providers.

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Based on interview and document review, the facility failed to implement policies to ensure all staff providing care or services directly or through contracted services or agreements, were fully vaccinated or had an approved religious or medical exemption for 1 of 196 staff (nurse aide (NA)-A).

Findings include:

Review of the facility's current vaccination tracking form noted there was 1 staff (NA-A) who was not vaccinated or had an approved religious or medical exemption. The facility had 196 employees in total.

Interviewed on 2/10/22 at 10:18 a.m., with NA-A identified she had been given the medical exemption form in December 2021, had not completed it yet. She was not vaccinated. NA-A stated she only worked on 2nd floor, and wore additional PPE as required. NA-A reported she was currently pregnant and was considered to have a high risk pregnancy. She was COVID positive in January and had not been back to her physician (MD). Without a new physicians visit, she reported her MD would not sign her exemption.

Interview on 2/10/22 at 10:25 a.m., with the assistant administrator identified NA-A was working without having recieved a vaccination or any type of exemption, and had not completed her exemption paperwork. NA-A had an appointment with her

MD on 2/11/22 to have the exemption form completed. The assistant administrator indicated she thought the timeline for facilities to be in compliant with the regulation for 100% vaccination or exemption was 2/28/22. She was unaware the facility needed to be in compliance by 1/27/22.

Review of the 1/15/22, Vaccination Policy identified all employees and contracted staff shall be required to be fully vaccinated or have a religious or medical exemption on file according to the federal mandate and regulation.

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Based on interview and document review, the facility failed to ensure vaccination policies and procedures included a process for ensuring all staff (facility employees, licensed practitioners, individuals who provide care to or services to residents under contract or other arrangement) had received COVID-19 vaccination, had been granted an exemption to the vaccination requirements, or a temporary delay as recommended by the Centers of Disease Control (CDC) before providing resident care. Furthermore, the facility failed to develop a process for tracking and securely documenting COVID-19 vaccination status for all staff and ensure accurate reporting to NHSN. This had the potential to affect all residents who reside in the facility.

Findings include:

An interview on 2/8/22, at 7:55 a.m. staffing coordinator stated most of the contracted staff are vaccinated. However, the facility does not track them. "Sometimes we ask, but we don't get proof".

An interview on 2/8/22, at 2:10 p.m. the administrator stated contracted staff, such as hospice, are screened upon entrance, but vaccinations are not tracked and had "no idea which nurse would be coming in". The administrator also stated to the best of his knowledge, the facility only contracts with hospice and no other services.

An interview on 2/8/22, at 2:42 p.m. the financial director (FD) stated he entered NHSN data once a week and it was based on the information sent by the infection preventionist (IP). FD verified NHSN was updated last on 2/2/22, and stated he can only put in the data that had been sent and does not have access to documents at the facility or a way to verify the information sent was correct.

An interview on 2/9/22, at 1:04 p.m. IP verified vaccination information was sent to FD weekly to enter into NHSN. IP verified this information was only for facility staff and the facility had not started tracking the vaccination status of contracted staff who provide care to residents. IP further stated "we know we haven't started tracking yet, but need to".

An interview on 2/10/22, at 4:05 p.m. the administrator stated the policy needed to be expanded to include all [facility staff and contracted staff] providing care to residents.

A facility policy titled xxxxx center Mandatory Vaccine Policy (no date) indicated the policy applied to all employees of Victory and employees were required to be fully vaccinated or have a medical or religious exemption. The policy lacked procedures on tracking individuals who were not employed by the facility but were providing resident care.

