Addendum #1

Date: February 7, 2022

Request for Proposal: Minnesota Department of Veterans Affairs - Renovate Building 16"
SDSB Project 21-11 - RECS Project 75MP0098

Subject: RFP Proposal – MDVA Updated COVID-19 Policy
January 26, 2022

To: Contractors and Vendors

Re: COVID-19 Proof of Vaccination at MDVA Veterans Homes

The COVID-19 pandemic continues to bring unprecedented challenges to our State. The ongoing community transmission of COVID-19, especially among those who are unvaccinated, presents a continuous risk of infection. The information below sets forth requirements that are intended to protect the health and safety of our patients and employees.

The Centers for Medicare & Medicaid Services (CMS) has implemented an interim final rule regarding COVID-19 vaccination requirement for eligible personnel employed, contracted, or on volunteer status at healthcare facilities that participate in Medicare and Medicaid programs. At this time, the following Minnesota locations of Veterans Homes operated by MDVA are required to comply with this rule: Luverne, Silver Bay, Fergus Falls and Minneapolis (hereinafter collectively referred to as “MDVA Veterans Homes”).

Based on our analysis of the services you provide, we believe the CMS vaccine mandate applies to your employees or subcontractors when they are providing services at the MDVA Veterans Homes.

Because MDVA Veterans Homes must follow this new mandate, MDVA has adopted a new policy implementing the CMS requirements. The following provisions of that policy impact you as a contractor or vendor:

- **Track and Maintain Data:** For contractors or vendors that have employees that provide services to MDVA Veterans Homes and that have received the COVID-19 vaccine, MDVA requests that you track and maintain data regarding these employees’ proof of COVID-19 vaccination and promptly provide this information to MDVA upon request in a manner and format compliant with applicable law.
  
  o Employees of a contractor or vendor who frequently provides services to MDVA Veterans Homes, including non-direct care services, must have received the **first dose of a two-dose COVID-19 vaccine or a one-dose COVID-19 vaccine** prior to providing any care, treatment, or other services in MDVA Veterans Homes by **Thursday, January 27, 2022**.

  o Employees of a contractor or vendor who frequently provides services to MDVA Veterans Homes must have received all the necessary shots of a two-dose series by **Monday, February 28, 2022**.

- **Show Proof of Full Vaccination Against COVID-19:** Contractor’s or vendor’s employees who

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show proof of full vaccination against COVID-19 in compliance with the dates provided above may access MDVA Veterans Homes to perform contractual services.

- **Accommodations:** Employees of a contractor or vendor whose services require them to receive a full vaccination against COVID-19 to provide services to MDVA Veterans Homes may choose to file a request with their employer for a medical or religious accommodation under the Americans with Disabilities Act (ADA) or Title VII of the Civil Rights Act of 1964 (Title VII). The employee’s employer must adhere to its own internal process to determine if an accommodation is approved or denied. Such process must be in accordance with the CMS vaccine mandate rule, the ADA regarding reasonable accommodations for qualified individuals with disabilities, and Title VII regarding accommodations for sincerely held religious beliefs, observances, or practices.
  - MDVA Veterans Homes contractors or vendors who have employees that have been granted an accommodation under its standard process must provide the approved accommodation confirmation to the Authorized Representative of MDVA.
  - Beginning January 27, 2022, any of the contractor’s or vendor’s employees who have not received the first of a two-dose COVID-19 vaccine or a one-dose COVID-19 vaccine and who have received an approved accommodation, or have an accommodation request pending, must adhere to the following requirements to enter a MDVA Veterans Homes:
    - A fitted NIOSH-approved N95 respirator and face shield must be worn at all times while in the facility, including in non-patient care areas. Additional PPE, like gloves and gowns, may be required in designated areas of the facility or based on the infection rate of the facility.
    - Compliance with MDVA COVID-19 Testing Requirements, which may include testing the contractor’s or vendor’s employees at least twice per week.
    - The contractor or vendor is responsible for supplying the contractor’s or vendor’s employees with the testing and PPE described above.

- **Compliance with Vaccination Policy:** Employees of a contractor or vendor that provide covered services to MDVA Veterans Homes and who choose not to submit proof of vaccination against COVID-19 or have not been granted an accommodation under the ADA or Title VII may not enter MDVA Veterans Homes to perform contracted services.

In the event protocols that meet the above requirements are not already in place in your organization and will result in new costs that you would not otherwise incur, we ask you to contact the state’s authorized representative to discuss options, including potential modification of your contract.

We appreciate your cooperation to protect and safeguard against COVID-19.

Sincerely,

Simone Hogan, MSW, LICSW
Senior Director for Veterans Health
Simone.hogan@state.mn.us
612-505-4110
POLICY: COVID-19 Proof of Vaccination for MDVA Skilled Nursing Facilities

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David Bellefeuille

REFERENCES:
Omnibus COVID-19 Health Care Staff Vaccination (CMS-3415-IFC)

DEFINITIONS:
Booster: a dose of vaccine administered when the initial sufficient immune response to the primary vaccination series is likely to have waned over time.

Covered Facility: Minnesota Department of Veterans Affairs, Skilled Nursing Facilities.

Covered Positions: Positions which provide any care, treatment, or other services for the covered facility and/or its patients. This includes all positions that involve the incumbent, regardless of clinical responsibility or patient contact, to interact in-person with other staff or patients.

Covered Staff: All employees, licensed practitioners, students, trainees, contractors, and volunteers in covered positions.

Fully Vaccinated: Individuals are considered fully vaccinated against COVID-19:

- 2 weeks after their second dose in a 2-dose COVID-19 vaccination series authorized or approved by the U.S. Food and Drug Administration (“FDA”) or the World Health Organization (“WHO”); or
- 2 weeks after a single-dose COVID-19 vaccine authorized or approved by the FDA or the WHO.

FDA/WHO approval includes emergency use authorization.

Infrequent Services: Employees or contractors who infrequently provide non-health care services to the covered facility

APPLICABILITY:
This policy applies to all current staff and new hires working at MDVA who provide direct health care, treatment, or other supportive services for MDVA Skilled nursing facility and/or its residents. This includes all employees, licensed practitioners, students, trainees, contractors, and volunteers, regardless of clinical responsibility or patient contact, who interact in-person with residents or with staff that interact with residents on a regular basis.
This policy does not apply to individuals who provide services 100 percent remotely and have no direct in-person contact with patients or other staff.

PURPOSE:
To comply with the Interim Final Rule of the Centers for Medicare and Medicaid Services ("CMS") requiring COVID-19 vaccination for staff of certain health care facilities.

POLICY:
The agency will comply with CMS COVID-19 vaccination regulations by requiring covered staff to comply with this policy.

PROCEDURES:

I. Phase I

By January 27, 2022, all covered staff must submit to agency Human Resources a completed attestation form and proof that they have received at least one dose of a COVID-19 vaccination that has been given emergency use authorization or approval by the FDA or the WHO. Covered staff have the right to refuse to receive a COVID-19 vaccination, but the staff member will be considered to be unvaccinated against COVID-19 for the purposes of this policy.

Proof of vaccination against COVID-19 must legibly show, at a minimum:

1. Name of the individual vaccinated;
2. Date of birth of the individual vaccinated;
3. The manufacturer of the vaccine;
4. The date(s) on which the vaccine was administered; and
5. Name of health care professional(s) or clinic site(s) administering the vaccine(s).

Acceptable proof includes the following:

- an original CDC COVID-19 Vaccination Record Card or a legible electronic copy (e.g., digital photo, scanned image, PDF);
- documentation of COVID-19 vaccination from the individual’s electronic health record;
- paper or electronic copy of immunization record maintained by the Minnesota Immunization Information Connection (MIIC) or the individual’s health care provider or pharmacy; or
- if vaccinated in another country, an original or paper or electronic copy of an equivalent alternative official vaccination record, as proof of FDA- or WHO-authorized or approved COVID-19 vaccination.

If the proof is not legible or verifiable in the form presented, the agency may ask the staff member to present the original document. If the vaccine was administered outside of the United States, documentation must include the above information in English.

The attestation forms and vaccination records will be treated as confidential medical records under applicable law and may be provided to agency HR staff, agency safety administrator, members of the agency’s staff with a business need to know, and others authorized by law. **Staff who provided a completed attestation form and proof of full COVID-19 vaccination under Minnesota Management and Budget HR/LR Policy #1446 COVID-19 Proof of Vaccination and Testing, or who received full COVID-19 vaccination at an agency facility, are considered fully in compliance with Phase I and Phase II of this policy and are not required to submit a new attestation form or additional proof of vaccination.**
II. Phase II

By February 28, 2022, all covered staff must submit to agency Human Resources a completed attestation form and proof that they have received all required doses of a COVID-19 vaccination that has been given emergency use authorization or approval by the FDA or the WHO.

Staff who, by January 27, 2022, provided an attestation form and proof that they received a single-dose COVID-19 vaccine authorized or approved by the FDA or the WHO (such as Johnson & Johnson) are in compliance and are not required to submit a new attestation form or additional proof of vaccination in Phase II.

Staff who provided a completed attestation form and proof of full COVID-19 vaccination under Minnesota Management and Budget HR/LR Policy #1446 COVID-19 Proof of Vaccination and Testing are considered fully in compliance with Phase I and Phase II of this policy and are not required to submit a new attestation form or additional proof of vaccination.

Covered staff have the right to refuse to receive a COVID-19 vaccination, but the staff member will be considered to be unvaccinated against COVID-19 for the purposes of this policy.

The attestation forms and vaccination records will be treated as confidential medical records under applicable law and may be provided to agency HR staff, agency safety administrator, members of the agency’s staff with a business need to know, and others authorized by law.

III. Booster Doses

While COVID-19 booster doses are not required at this time, staff should receive a booster in accordance with CDC recommendations. Covered staff who have obtained booster doses of a COVID-19 vaccine that is approved or authorized for emergency use by the FDA or the WHO must provide an updated attestation form and acceptable proof of the booster vaccination to agency HR.

Staff who have previously voluntarily provided MDVA with proof of a booster vaccination are not required to submit a new attestation form or additional proof of vaccination and will be considered fully in compliance with part III of this policy.

IV. New Hires

Individuals hired into covered positions with a start date between January 27, 2022 and February 28, 2022, must comply with the requirements of Phase I by their first day of employment, and must comply with Phase II as of February 28, 2022. Individuals hired into covered positions with a start date after February 28, 2022 must attest and provide proof of full COVID-19 vaccination by their first day of employment.

V. Consequences for Failing to Comply with the Requirements of Phase I or Phase II

Covered staff who fail to comply with the requirements of Phase I and/or Phase II are not permitted to provide any care, treatment, or other services for covered facilities and/or their patients, will be informed that they will be excluded from covered facilities, and may be subject to disciplinary action, up to and including discharge.

These staff members may be sent home and placed in no-pay status (ETL for employees). If the staff member is an employee of the agency, prior to being placed in no-pay status, they will be offered a
meeting with their supervisor to learn the reasons for being placed in no-pay status and to tell their side of the story. The employee may have union representation at the meeting.

New hires in covered positions who fail to comply with this policy by their first date of employment are not permitted to provide any care, treatment, or other services for covered facilities and/or their patients, and may have their offer of employment rescinded.

VI. Accommodation Requests

Covered staff may request an accommodation if they are unable to receive a COVID-19 vaccination due to:

(a) a recognized medical condition for which a COVID-19 vaccine is contraindicated; or
(b) an objection based upon a sincerely held religious belief, practice, or observance. Objections to COVID-19 vaccinations that are based on non-religious reasons, including personal preferences or non-religious concerns about the vaccine, do not qualify for a religious accommodation.

Accommodation requests should be made by **January 18, 2022** but will be considered after that date. If you have a request, please submit the appropriate form to the MDVA Office of Diversity Inclusion and Equity:

**By mail or in person:** MDVA Office for Diversity, Inclusion and Equity, 20 W 12th St., St. Paul, MN 55155
**By email:** diversity.mdva@state.mn.us
**By confidential Fax:** (651) 797-1781

**This information is confidential and will only be shared with appropriate personnel to consider the implementation of a reasonable accommodation. Questions? Please call (612) 548-5961.**

Requests for accommodation will be evaluated in accordance with the requirements of applicable law and only will be granted if required by law. Determining whether an accommodation is required will include consideration of factors such as:

- The basis for the claim;
- the nature of the individual's job responsibilities; and
- the reasonably foreseeable effects on the agency’s operations, including protecting other agency staff and the public from COVID-19.

Accommodations will not be provided if the accommodation would impose an undue hardship on the facility or would pose a direct threat to the health or safety of the staff member or others in the workplace. Covered staff may be requested to supply documentation of the need and basis for accommodation before the request is considered.

For staff members who request a medical accommodation from vaccination, all documentation confirming recognized clinical contraindications to COVID-19 vaccines, and which supports the staff member's request, must be signed and dated by a licensed practitioner acting within their scope of practice. Such documentation must contain all information specifying which of the authorized COVID-19 vaccines are clinically contraindicated for the staff member to receive and the recognized clinical reasons for the contraindications; and a statement by the authenticating practitioner recommending that the staff member be exempted from the COVID-19 vaccination requirements based on the recognized clinical contraindications.
Covered staff may request a delay for complying with the vaccination requirement based on certain medical considerations. Individuals 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 a recognized therapeutic treatment that requires a delay in vaccination, must submit supporting documentation signed and dated by a licensed practitioner acting within their scope of practice. Such documentation must include a statement by the authenticating practitioner of the basis for the delay and a date by which the staff member is able to be vaccinated against COVID-19. Individuals whose request for delay is granted must receive their first (or if a one-dose series, only) dose no later than two weeks after clinical considerations no longer recommend delay. If receiving a two-dose series, the individual is required to receive the second dose within six weeks of receiving the first dose. If the individual already received a first dose of a two-dose series, they are required to receive their second dose no later than two weeks after clinical considerations no longer recommend delay.

Staff who requested an accommodation and are denied by the agency within two weeks of the January 27, 2022 due date for Phase I, must comply with the following vaccination requirement:

- Receive their first (or, if a one-dose series, only) dose within 2 weeks of the determination to deny the accommodation.
- If a two-dose series, the individual must receive the second dose within 6 weeks of receiving the first dose.
- If the employee received a first dose of a two-dose series prior to seeking an accommodation the individual is required to receive their second dose within 2 weeks of the determination to deny the accommodation or within a week of the earliest day by which they can receive their second dose, whichever is later.

VII. Confidentiality of Medical Information

The agency must maintain the confidentiality of staff COVID-19 vaccination records as provided by law. All information gathered under this policy must be retained by HR according to the applicable retention schedule and in a secure medical file separate from the staff member’s personnel file.

COVID-19 vaccination status may be shared with agency HR staff, agency safety administrator, members of agency staff with a business need to know, and others authorized by law.

VIII. Infrequent Services

Employees or contractors that infrequently enter the facility for a specific and limited purpose for a limited amount of time, and do not provide health care services to the residents: are not required to provide proof of vaccination. The Administrator of the covered facility, in consultation with MDVA Healthcare Division Senior Leadership and other internal support resource should determine the definition of infrequent depending on the uniqueness of the facility, the layout of the facility, and other contributing factors.

FORMS AND ATTACHMENTS:
Federal Law COVID -19 Vaccine Attestation Form
COVID-19 Vaccination Medical Accommodation Form
COVID-19 Vaccination Religious Accommodation Request Form

KEYWORDS: Vaccine, Requirement, COVID, COVID-19
End of Addendum #1