# First Monitoring Report
# US Department of Justice v. Erie County

This report reviews the status of medical program conditions at the time of the first monitoring visit, which took place November 1-3, 2011.

The format for this report will follow the provisions of the Agreement within the medical care section of the Agreement. Each area will be described in terms of compliance status, findings and recommendations. Because this is the first monitoring report and therefore the County will have had no experience in appreciating the methodology utilized, this Monitor views this report as a baseline description of the status. What will become important is the extent to which each subsequent monitoring visit is able to demonstrate improvements in the areas identified as needing improvement. Compliance status will be assessed as: substantial compliance, meaning the program has achieved the intent of the agreement; partial compliance, which means the program has accomplished one or more aspects of the intent but not the full intent, non-compliance, meaning that we have not been able to observe any progress in the delineated area or non-ratable meaning insufficient data was available to assess compliance. We would expect that the recommendations would assist the jurisdiction in identifying major areas of focus. We would also expect that over time the number of areas being noncompliant will become substantially reduced and the number of areas becoming substantially compliant will be significantly increased. We remain available for consultative input during this entire process and would encourage the jurisdiction, where indicated, to avail themselves of this resource. We are also allowing the jurisdiction to submit any additional policies, procedures or other relevant documents to the Monitor before the end of January 2012. This data will be used to craft the final version of this first monitoring report, to be submitted to the court by the end of February 2012.

## B. Medical Care

### 1. Policies and Procedures

**Compliance Status: Partial compliance.**

**Findings**

I have reviewed over 40 policies and procedures along with associated forms and although there are modifications that are needed, it is very clear that the County has invested a substantial amount of work into developing an organized and coherent policy and procedure set to guide their staff.

**Recommendation**

1. Continue to work on the policies and procedures and use my letter as a basis for many of the changes.

## 2. Medical Autonomy

**Compliance Status: Substantial compliance**.

**Findings**

We came across no situations in which there was custody or administrative intervention overriding a clinical decision. In our discussion with the Erie County stakeholders, it seemed clear that the County was committed to the philosophy of medical autonomy. We have reviewed policy 01.01.00 and it is consistent with the intent of paragraph 2.

**Recommendation:** None.

## 3. Privacy

**Compliance Status: Noncompliance.**

**Findings**

Not only were we unable to observe all the clinical areas where assessments were performed, but also there is no discreet policy that addresses privacy issues, especially in clinical areas. Although there is an effort to insure confidentiality is afforded during clinical assessments, we were not able to thoroughly review the matter of patient refusals of medication. In fact, during the observed medication rounds, if people on medications did not show up for their medications it was treated as a refusal without any verbal or written confirmation.

B. We were not able during this visit to observe the variety of areas where clinical assessments occur. Thus, we could not confirm that the County was compliant in insuring confidentiality during assessments.

C. We also were not able to observe that appropriate documented training on how to maintain patient confidentiality is provided for all those non-healthcare staff who facilitate healthcare through performing the interpreter role.

D. We did observe that healthcare records are maintained separate from correctional records and are transported in a secure fashion.

**Recommendations**

1. Modify the medication administration procedure so that patients are forced to either refuse or accept medication. Not being present is an unacceptable alternative.
2. Be prepared to demonstrate training regarding confidentiality given to custody staff or others who perform the interpreter role.
3. Develop a policy that addresses privacy, in particular for all of the clinical areas.

## 4. Training of Custody Staff

**Compliance Status: Substantial compliance.**

**Findings**

The County was able to demonstrate documentation of training provided to custody on responding to medical urgencies and emergencies as well as supervision of inmates with serious medical needs.

**Recommendation**

1. Continue to maintain records of appropriate training provided to officers with regard to these healthcare areas.

## 5. Management of Health Records

**Compliance Status: Partial compliance.**

**Findings**

Although the County is attempting to insure that all healthcare data are kept in a single file, the current file lacks both medication lists as well as updated problem lists, thus inhibiting the efficient use of these files. We are aware that the County plans to transition to an electronic record and this may ultimately resolve many of these issues.

A. We reviewed policies 03.00.00 through 03.03.00. These policies are consistent with the intent of the Agreement.

B. We did identify records in which documentation was missing greater than 72 hours after its creation. This suggests that there is a problem with timeliness of filing and thus ultimately completeness of medical records.

C. We were not able to verify that health record documentation is sent offsite timely and that upon return necessary information is available in a timely manner. On the other hand, we did identify that in most instances records were transported from ECHC to ECCF and vice versa in a timely manner.

D. We were unable to verify that the lead physician is being notified of transfers from the County's custody staff to another facility and therefore that critical health information is prepared and sent with the prisoner at the time of transfer.

E. We were informed that there currently is not a procedure to provide prisoners with written instructions including a fax number where future medical providers can request a summary which includes the prisoner's major health problems and current medications and dosages.

**Recommendations**

1. Implement a procedure to insure that both an updated problem list and a medication list is available in each record which includes both medical, mental health and dental documentation.
2. Implement a timely process for medical record filing, preferably faster than 72 hours, so that critical information is virtually always available at the time that services need to be provided.
3. Implement a procedure that insures that as soon as the patient returns from the offsite service, efforts are made to retrieve the documentation of the service, have that documentation reviewed by a clinician and acted upon, including follow up with the primary care clinician.
4. Insure that custody notifies medical leadership timely so that appropriate documents can be prepared for transfer when patients are sent or transferred to offsite facilities.
5. Implement a policy and procedure to provide prisoners with written instructions including a fax number where future medical providers can request a summary of the prisoner's medical treatment.

## 6. Medication Administration

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed policies 0.6.03.00 through 0.6.04.00. We did review the medication administration process on Echo Northeast and Southwest as well as letter B linear. From our observation, medical staff who administer medications were all nurses, either licensed practical nurses or registered nurses, who were working within the scope of their license. We were unable to verify that greater than 90% of medications were received by the patient within 48 hours of the order. Due to the underestimation of time required to complete the monitoring review, we were not able to perform a study which would have allowed us to reach a conclusion regarding the timeliness of receipt of medications. This was true both for patients who had been in the

facility as well as new arrivals. We did observe that medical staff who administer the medications document on the medication administration record the date and time medication is administered. However, there were two major problems with the medication administration process. First, patients who did not show up were treated as refusals, which may not always be the case. There must be a more concerted effort to identify the reasons for patients not receiving their medications. In addition, although there was good coordination with custody staff during the medication administration process, in general there was no mouth check after the medication was ingested.

We were unable to review the process to provide medications during transit nor were we able to review the process for providing access to medications upon release for those in house 30 days.

**Recommendations**

1. Perform a study looking at the timeliness between medication order and patient receipt of medication.
2. Perform a study looking at timeliness of receipt of medications identified as necessary during the intake process.
3. Implement a procedure so that medication refusals are in fact documented on the basis of patient description as opposed to patients not showing up.
4. Implement a procedure so that ingestion of the medication is witnessed after mouth inspection by the correctional officer.
5. Perform a study of patients being transferred to other facilities and look at whether medications are transferred with them.
6. Perform a study looking at patients who have been in the facility 30 days and are released and whether or not they receive a seven-day supply of medications. Both of these studies will require excellent cooperation with custody.

## 7. Access to Care

**Compliance Status: Partial compliance.**

**Findings**

We reviewed policies 0.8.00.00 through 0.8.09.00. We do know that the process includes slips being available seven days per week and picked up daily by medical staff. We are also aware that the process is to include an immediate screening by an RN or advanced level practitioner within 24 hours of collection. Patients with symptoms are to be seen in no more than 48 hours or sooner when indicated. In a brief review of the sick call process we found some instances of patients being seen timely but others in which we could not locate a documented note within the medical record.

**Recommendations**

1. Conduct a study in which the timeliness of both initial triage and face-to-face visit are tracked by housing area to insure that each housing area is in compliance with this agreement.
2. Conduct a study reviewing the nursing professional performance with regard to nursing assessments for sick call symptoms. This study should be part of an ongoing process of professional performance enhancement such that nursing skills are continually refurbished.

## 8. Emergency Care

**Compliance Status: Partial compliance.**

**Findings**

We reviewed policy 11.01.00. We had several recommendations which are included in the attached letter. In the letter is a restatement of the need to create both an emergency medical care policy and an urgent care policy. We are strongly recommending that each be developed. Emergency care most commonly refers to man down situations and may result in offsite referrals. We did review several records in which emergency care services were provided. That documentation is consistent with at least a partial compliance status.

**Recommendations**

1. A logbook should be maintained which has the date, the time of the emergency, the patient name, the presenting complaint and the disposition.
2. Similarly for urgent matters such as a patient telling an officer they have developed a severe abdominal pain, a similar log book maintained in the nursing station should track urgent complaints, most of which will not result in an offsite referral but must result in a nursing assessment. The same fields should, however, be tracked. On a regular basis, at least once per month, a study should be done looking at selected emergency send offs as well as urgent symptoms treated onsite. In both studies, appropriateness and timeliness of response is critical as well as follow up after the fact.

## 9. Follow Up Care

**Compliance Status: Partial compliance.**

**Findings**

We reviewed policy 07.01.00, which addresses offsite diagnostic and treatment services, including their follow up, after our site visit. Without the policy and procedures at the time of the

visit, we did not look carefully at patients who underwent offsite referrals. However, what is important is that the sendoff is performed timely and the follow up on return begins with an assessment when the patient returns to the facility and is completed when the necessary paperwork is available and the patient is seen in follow up by the primary care clinician who documents a discussion with the patient regarding findings and plan. This is true for emergency department visits offsite, hospitalizations offsite, outpatient specialty procedures as well as consultations. The same elements must be in place for all of these services to be adequately followed up.

**Recommendation**

1. Implement a policy and procedure conjointly with custody that insures that when patients return from offsite services there is a medical person who reviews the material and if critical information is unavailable makes sure that the offsite documents are available and where indicated, acted upon. In addition, a follow up visit with the primary care clinician must take place.

## 10. Chronic Disease

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed the chronic disease policy 08.03.00. We know that patients are being followed regularly for certain chronic diseases, but we did not have an opportunity to review a significant sample of records. We strongly encourage the Medical Director to selectively review records of those patients who are the most poorly controlled or the sickest. This review should occur on a regular, monthly basis so that feedback can be provided to the primary care clinicians that may help improve their responses.

**Recommendations**

1. Add a general medicine clinic for less common chronic diseases so that diseases such as hypothyroidism and rheumatoid arthritis may be followed in such a clinic.
2. Begin reviewing a sample of records, if possible, of patients who are least well controlled. If there is any question on how to do this we would be happy to help.
3. The program must insure that all patients with chronic diseases have these diseases listed on the problem list in the medical record.

## 11. Dental Care

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed policy 08.06.00 on dental care. For purposes of this Agreement, our concerns focus on the following areas:

1. Treatment decisions are based on clinical factors only and not overarching policies.
2. There is a system in place to insure that patients are able to receive timely temporary relief from pain through accessing a nurse who uses a protocol before being assessed by the dentist.
3. The dental program must have a viable infection control component, including sterilization, monitoring of biologicals, etc.

**Recommendation**

1. Begin also monitoring the ratio of restorations to extractions as part of your quality improvement program.

## 12. Care for Pregnant Prisoners

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed policy 08.04.00. We do know that a County obstetric service is made available. Our expectation is that practice is consistent with the American College of Obstetrics and Gynecology guidelines, including prenatal monitoring, testing, etc. Offsite documented encounters must be available in the ECHC medical record.

**Recommendation**

1. Insure that documented offsite obstetric encounters are part of the Erie County medical program's medical record.

## 13. Dietary Allowances and Food Service

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed policy 06.09.00 and this policy is generally acceptable. We did not have a chance to review this area in any detail. However, we believe the medical care section is only responsible for insuring medical diets' appropriateness and availability. Religious diets are best reviewed by another area.

**Recommendations**

1. Perform a study of the timeliness of the availability of medical diets, from the time of the medical order to the time the patient receives the diet.

## 14. Health Screening of Food Service Workers

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed policy 02.11.00 and find it to be acceptable. All food service experts now believe that the best way to prevent food borne illnesses is a daily screening by the food service supervisor looking for open lesions on hands and arms and a history of any recent diarrhea. This screening should be done by dietary supervisors and not by healthcare staff. Healthcare staff may in fact clear people to work in the area in the sense that they are physically and mentally capable. Beyond that the responsibility rests with food service supervisors.

**Recommendation:** None.

## 15. Treatment and Management of Communicable Diseases

**Compliance Status: Partial compliance.**

**Findings**

This is a County program managed by the Department of Health. We have reviewed policies 08.08.00 through policy 08.09.00. These policies are comprehensive. Implementation should be monitored as an aspect of your quality improvement program.

**Recommendation**

1. Begin monitoring appropriate elements of the communicable disease program as part of your quality improvement program.

## 16. Sexual Abuse

**Compliance Status: Partial compliance.**

**Findings**

The County is obligated to report and protect individuals who are at risk for sexual abuse. We have reviewed policy 02.02.00 and it appears to address MOA issues.

**Recommendation**

1. Develop a log so that allegations of sexual abuse are trackable and records can be reviewed on the basis of log data.

2. Send any studies, meeting minutes or other documentation that is consistent with a systematic effort to identify problems and mitigate them.

## 17. Quality Management

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed policies 12.00.00 through 12.02.00. These policies, in general, contain the elements one would expect to see in a correctional quality improvement program. If the County chooses, this Monitor would be happy to do a training program for the staff with regard to a corrections quality management committee program. Because this is a baseline visit, we certainly have not anticipated that this area would have gone beyond noncompliance.

**Recommendation**

1. Begin implementation of your quality improvement program.

## 18. Review of Clinical Care by Responsible Physician

**Compliance Status: Partial compliance.**

**Findings**

We have reviewed the policy on peer review, 12.02.00. It provides for a systematic review of clinical work by the supervising physician. We are unaware of a systematic review by the responsible physician. We will work closely with the responsible physician so that he will develop an efficient methodology to sample records in order to help improve the care.

**Recommendation**

1. Develop a systematic process for review of clinical care, focusing on care of those whose disease process is least well controlled.

## Summary

In many areas, we have now reviewed policies which have been drafted and approved. In an accompanying letter we are going to suggest some changes. However, we wish to commend the staff of the Erie County Department of Health for developing this substantial number of policies and procedures. We look forward to monitoring the implementation of many of these policies and procedures. We would like to see a schedule for training and implementation of as many of these policies as possible. We look forward to being able to monitor and find successful implementation in many of these areas at the time of our June visit.

Respectfully submitted,

R. Shansky, MD

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**APPENDIX (compliance indicators)**

5. Management of Health Records

Compliance indicators:
a. Amount of loose filing available at the time of visit as a reflection of timeliness of filing of documents.
b. A form provided to inmates, including a fax number where future medication providers can request a summary.

6. Medication Administration

Compliance indicators:
a. Documentation of training for officers which includes inspection of mouths after ingestion.
b. Documentation of a procedure which instructs nurses to only document refusals when the patient is present to refuse.

7. Access to Care

Compliance indicators:
a. Use of a log that tracks receipt by health care staff of request slips documenting patient's name and number as well as date of receipt, nature of complaint and timeframe for patient to be seen by a nurse.
b. Using this log, studies that document timeliness of both initial triage and face-to-face visits.

8. Emergency Care

Compliance indicators:
a. Presence of a logbook for emergency services as well as one for urgent services that allows studies of both timeliness and appropriateness to be performed.

9. Follow Up Care

Compliance indicators:
a. Policies and procedures which insure that when patients return from either scheduled or unscheduled offsite services, they are brought to the medical area for review of offsite documentation including efforts to obtain such if not available.
b. The scheduling of follow up visits with an advanced level clinician so that the findings and plan can be discussed with the patient. Studies of timeliness of access, both for urgent and routine care, are documented.

11. Dental Care

Compliance indicators:

a. Studies from the sick call log of nursing responses to toothaches for both timeliness and appropriateness.
b. Documentation of the ratio of extractions to restorations are maintained on a monthly basis.

15. Treatment and Management of Communicable Diseases

Compliance indicators:
a. The presence of an infection control nurse.
b. The tracking of the incidence of MRSA infections, TB infections as well as active disease and the tracking and incidence of sexually transmitted diseases.

16. Sexual Abuse

Compliance indicators:
a. A logbook that documents names and identifiers for patients who have made these allegations.

17. Quality Management

Compliance indicators:
a. Policies and procedures.
b. Minutes of quality improvement committee meetings.
c. Quality improvement studies looking at particular areas in systematic ways with an eye towards identifying problems and mitigating them.