Seventh Monitoring Report
US Department of Justice v. Erie County New York

This report reviews the status of medical program conditions at the time of the Seventh Monitoring visit, which took place from November 17-21, 2014. This particular review was affected by a major snowstorm which fell heavily on southern Buffalo and prevented the team from accessing the Erie County Correctional Facility. Additionally, the storm created such disruptions to traffic flow that both correctional officers and health care staff found it difficult if not impossible to get to the facilities. Downtown Buffalo, which is where the Erie County Holding Center is located, did not have nearly as much snow, probably an accumulation of about 6-8 inches during the week. We were able to review all of the elements of the program at the Holding Center (except for medication administration) despite not being able to go to the Correctional Facility. The County staff were remarkably accommodating in assisting us through the process despite the multiple emergencies to which they had to respond. We are greatly appreciative of the efforts made by the Erie County custody and health care staff.

The major area affected by the weather in terms of my review was medication administration, which because of staff shortages due to the weather resulted in only emergency and critical medications being administered. The section related to medication administration will be described at that time.

B. Medical Care

1. Policies and Procedures

Compliance Status: Provisionally substantial compliance pending receipt and acceptance of modified policies.

Findings

The Director of Health Care Services informed me that there have been revisions to some of the policies and procedures within the past six months. These revisions are to be signed by the Commissioner of Health and the custody leadership. I was not able to be provided access to these changed policies and procedures; however, I will assess the compliance status as provisionally substantial compliance pending receipt of the modified policies and procedures.

The Chief Medical Officer or Medical Director should also participate in the promulgation and/or review of policies. Because this position has remained vacant there is no real opportunity for such participation. However, we will review the changes to the existing policies when we receive them.

Recommendations

1. Please forward the modified policies and procedures to the medical monitor when they are available.
2. Begin to implement per our discussion nursing professional performance enhancement reviews to expand on what you have already initiated.

2. Medical Autonomy

Compliance Status: Unable to assess.

Findings

Although the assessment was substantial compliance at our last visit despite the fact that the CMO position had been vacant for six months, I was modifying the method I used to make the assessment. Ordinarily I utilize discussions with both custody leadership and the CMO as well as the Nursing Director and any record reviews that raise questions in order to assess medical autonomy. Since medical autonomy had been in substantial compliance based on a very constructive working relationship between the clinical leadership and the custody leadership, I had reason to believe that this principle would not be violated. However, in the face of vacant clinical leadership for 12 months I am not able to fully assess medical autonomy. Custody cannot develop a relationship when there is a vacancy in the key clinical leadership position. I am not assessing partial compliance because I have no data that supports moving the compliance status backward. I have been apprised of the recruitment efforts made by the Department of Health over the last year. Those efforts have been significant. There may be a variety of reasons why the position has remained vacant for 12 months. The one apparent reason is that the compensation package has not been perceived as acceptable to the selected candidates. This suggests to the monitor that the Department of Health must use more creative strategies than sticking with the civil service system or a fee for service dollar figure that equals salary plus benefits. In this monitor's experience, correctional health programs can become fragile and deteriorate rapidly in the absence of dependable, constructive clinical leadership. This problem must be successfully addressed soon.

Recommendations

1. Fill the Medical Director position.

3. Privacy

Compliance Status: Substantial compliance.

Findings

Although we did not tour the areas where assessments are performed, we were assured that all assessments at both facilities are performed in an appropriate clinical space, both in the housing

units and in the clinic areas. I have also been assured that this program does not perform cell-side assessments.

Recommendations

1. Continue to emphasize with staff the obligation to insure that all assessments are performed in a manner that affords appropriate privacy.

4. Training of Custody Staff

This area has been in compliance for 18 months.

5. Management of Health Records

Compliance Status: Partial Compliance.

Findings

As a result of bureaucratic delays, the implementation of the electronic record has yet to begin. We do know that a contract has been signed and the vendor has been onsite and also remotely working with the correctional health staff in preparation for the implementation. These are encouraging signs. We also visited the record area and found the filing in both locations not excessively backlogged. During our record review, we did identify records, especially for people with multiple problems and incarcerated longer periods of time, to be somewhat disorganized, both with regard to the sections in which documents were filed and within a section with regard to correct chronologic order. We know these problems will be eliminated by the introduction of the electronic record. However, there remains a current obligation to maintain the records in such a way that they facilitate use by clinicians and thus facilitate better patient outcomes.

Recommendations

1. Have medical records staff focus on insuring appropriate record management, including filing, in those records which are thicker.
2. Continue the groundwork being laid with the selected vendor so that implementation goes as smoothly as possible.

6. Medication Administration

Compliance Status: Unable to assess.

Findings

As a result of the massive snowstorm resulting in up to eight feet of snow in some parts of south Buffalo, it became impossible to insure that both custody staff numbers and health care staff numbers were adequate for the medication administration. In light of this, critical medications were identified and these were administered, as far as we understand, on each and every day. However, without adequate staffing it became impossible to meet with routine medication

administration demand. Additionally, we discussed the issue of both the nursing and the health care staff response to repeated missed or refused medications. The policy requires the nurses to notify the clinicians regarding three doses refused or missed in a row. This notification should include scheduling the patient with the clinician. At that visit, the clinician is obligated to query the patient as to why this is happening and based on the response, either develop a plan that is likely to facilitate adherence or decide that this particular medication is no longer indicated. In our last review, when clinicians were informed of the sequence of refusals or missed meds, nothing was changed. An internal study was performed by the Office of Health Services and a separate study was performed by forensic mental health. Both studies showed some improvement but the problem had not yet been resolved.

Recommendations

1. Continue working with both nursing staff and clinician staff about their responsibility to respond to a sequence of missed or refused medications.
2. The quality improvement program should select MARs that reflect the work of a variety of nurses, selecting MARs for patients who are on multiple medications multiple times per day. In reviewing these medication administration records a calculation should be performed of the error rate, meaning the rate of blank spaces versus the total number of expected doses administered. This error rate should not only be used to improve performance but it should also be reported in the quality improvement minutes at least quarterly.

7. Access to Care

Compliance Status: Partial compliance.

Findings

We have good news in that in our review of records of patients who have submitted sick call requests, they were almost always seen within one day. However, the infrastructure to monitor timeliness has still not been developed because the logbook that would allow visual tracking from fields that list date of receipt versus date of face-to-face assessment has not yet been set up. As indicated previously, this allows very rapid review of a substantial amount of data without a great deal of effort. We strongly encourage setting up this methodology. Additionally, we found the professional performance by the nurses inconsistent. Some performed well and others performed not as well. The problems we identified included inadequate history taking, inadequate assessment and inadequate plan. The types of inadequate history included not querying regarding all of the symptoms listed on the sick call slip but also not querying sufficiently with regard to specific types of symptoms. The problem of not reviewing with the patient the specific symptoms listed on the request stems from an urgent care type of approach in which the patient is seen without any records. Sick call is not an urgent care encounter because

there is a written request from at least one day earlier and that request has to be addressed. This should be reviewed with all nurses who perform sick call.

Recommendations

1. Set up a log book that allows visual tracking of symptom complaints for date of receipt, presenting complaint, date of nurse assessment as well as disposition (referral to ALP or not).
2. The QI program should present data from these logbooks with regard to average timeframe between receipt of request and nurse face-to-face assessment.
3. The QI program should monitor the average timeframe from nurse referral to advanced level clinician with a timeframe target of no more than five business days for the referral to be accomplished.

8. Emergency Care

Compliance Status: Substantial compliance.

Findings

We again reviewed seven records of patients seen urgently and all except one were sent offsite on an emergency basis. Overall, these patients were assessed timely prior to send out. An advanced level provider was notified and recommended the patient be sent out. When the patient returned, the appropriate offsite documents were available and the patients were seen by a nurse and subsequently by an advanced level clinician within a few days after return. In most of these follow-up visits there was documentation of a discussion regarding the findings and plan. However, we continued to find a record in which there was no emergency room report, another record in which there was a missing nursing note upon return and one or two records in which either the follow-up visit did not occur or what should have been a follow-up visit that included a discussion of the findings and plan lacked that discussion. Because we did not find a pattern of any of these deficiencies, we continue to rate the service as being in substantial compliance. We continue to believe that the quality improvement program could identify explanations for why these things are happening and from that analysis could lead to improvement strategies which would eliminate the problems.

Recommendations

1. The QI program should be monitoring emergency offsite visits and insuring that the offsite service reports are retrieved timely, reviewed by the clinician and then discussed with the patient at a visit shortly after the emergency room trip.

9. Follow-Up Care

Compliance Status: Partial compliance.

Findings

We reviewed eight records of scheduled offsite services, including a mixture of both consultations with specialists as well as procedures. We continued to find a mixture of quite common deficiencies; in fact, a majority of the eight records contained one or more of the following deficiencies. Those deficiencies included the absence on return of a note by a nurse, the absence of a follow-up discussion between an advanced level provider and the patient and in a few instances, the absence of the offsite service report. This area continues to be a problem and merits special attention by the QI program. We did not review records from the correctional facility which, in our previous visit, contained even a higher percentage of deficient records. We are concerned that not only has this service not progressed but in fact it may have taken a step backward.

Recommendations

1. The quality improvement program should monitor at each site a sample of patients sent offsite for scheduled offsite services. The monitoring should include the timeliness of the appointment, the presence of the offsite service report upon return and the follow-up visit with an advanced level clinician in which they document a discussion of the findings and plan with the patient. When there is a breakdown in any of these steps, the QI program should assess the contributing factors and develop improvement strategies to mitigate the occurrence of these factors.

10. Chronic Disease

Compliance Status: Partial compliance.

Findings

It is not surprising with a vacant Medical Director position for the last 12 months that we are not seeing substantial progress in the area of chronic disease management. This is an area that requires the Medical Director to review and work with the advanced level clinicians in order that their performance be improved. During this visit we looked at a variety of diseases, focusing as we had before on diabetes as well as HIV, asthma and seizure disorder. We also reviewed a record of a patient receiving anticoagulation. Of the 11 records we reviewed, four were of patients with diabetes. Among the records reviewed were patients with both type 1 and type 2 diabetes; however, it was common for the problem list and the notes not to reflect the type of diabetes that the clinician was addressing. Given the difference in physiology between the two types of diabetes, not appreciating this difference is likely to lead to care problems. We found that in the initial chronic disease history there was no effort to identify the age of onset of the disease, which is very important in determining whether the patient has type 1 or type 2 diabetes. We also found that patients with asthma did not have a peak flow measurement whether they were being assessed during an acute attack or whether they were being assessed when they were stable during a chronic clinic visit. In fact, one patient who by history was having 2-3 nighttime

awakenings per week and was on inhaled steroids did not have his degree of control assessed nor was the patient given a follow-up visit sooner than three months. With regard to HIV disease, it is not clear why at the first chronic clinic visit, although a CD4 count was ordered, no viral load was obtained. When the patient was sent to the offsite clinic, the clinic recommended to have the patient return with a viral load. Also, it was not clear that the primary care chronic clinic clinician was querying the patient regarding side effects of the treatment regimen. On the positive side, when we reviewed significantly diminished serum Dilantin levels, each patient was seen by a clinician after the lab test was reviewed and discussions regarding adherence and/or changing doses were documented. It is critical to fill the Medical Director position so that the advanced level clinicians can improve their clinical performance. In the absence of feedback and discussion, it is guaranteed that performance will not improve.

Recommendations

1. Have the lab send a list of individuals who have had a hemoglobin A1c within the prior month along with the name of the patient, the specific results and the date that the lab test was performed.
2. Have the consulting Medical Director review the records of patients whose hemoglobin A1cs are above 9.0, indicating poor control.
3. Reinforce with the nursing staff and the clinicians the importance of assessing asthma by use of the peak flow meter.

11. Dental Care

Compliance Status: Provisional substantial compliance.

Findings

We learned that the x-ray equipment at the correctional facility is broken and needs to be repaired. As a result, certain procedures such as extractions cannot be performed, since it is a standard of practice to have an x-ray prior to any extraction. We discussed with the dentist and the Director of Correctional Health the possibility of utilizing the x-ray unit at the holding center on a weekend day and bringing 10 patients a week from the correctional facility to the holding center to obtain these x-rays. Custody indicated they would be fully supportive of this strategy to be used on an interim basis until the x-ray equipment at the correctional facility is in fact repaired. The provisional substantial compliance is based on implementing this strategy and in addition, repairing the equipment so that it is ultimately functional.

Recommendations

1. Get the x-ray equipment repaired.
2. Implement a system to have x-rays performed on correctional facility patients at the holding center on weekends until those services are no longer needed because the x-ray equipment at the correctional facility has been repaired.

12. Care for Pregnant Prisoners

Compliance Status: Substantial compliance.

Findings

We reviewed the two records of pregnant patients currently housed at the holding center. In both cases, the pregnancy was identified during intake, the patient was seen by an advanced level provider onsite and then followed up at Women and Children's Hospital in the prenatal clinic. In addition, in both cases the relevant documents from the prenatal clinic were available and reviewed by the onsite clinicians. One patient, during the course of her stay, delivered a baby and the records reflect both the prenatal and post-delivery care.

Recommendations

1. The quality improvement program should continue to track the timeliness of initial advanced level provider assessment after determination of pregnancy as well as timeliness of offsite service obstetric visits from time of diagnosis.

13. Dietary Allowances and Food Service

Compliance Status: Substantial compliance.

Findings

We toured the kitchen at the holding center and interviewed the Director of Food Services. We were unable to go to the correctional facility and also unable to interview the dietitian. We hope to interview the dietician during our next visit. In looking at the special diets currently assigned, we queried the Food Service Director as to which items from the standard menu would have to be substituted for, as an example, a diet for diabetics. He appeared knowledgeable and answered our questions both timely and correctly. Although we would have liked to have discussed this with the dietician, we will await that interaction for our next visit. The Director of Food Services appeared knowledgeable enough to appropriately make the special diet substitutions.

Recommendation None.

14. Health Screening of Food Service Workers

This area is in sustained compliance.

15. Treatment and Management of Communicable Diseases

Compliance Status: Partial compliance.

Findings

We were informed by the Director of Correctional Services that there has been approval of a nurse to be hired with responsibilities to both direct the quality improvement program and

function as the infection control nurse. We are encouraged by this since there are several functions which need to be better organized. The infection control nurse should collect data presented at a quarterly quality improvement meeting with regard to both the TB surveillance program as well as the skin infection program. In addition, there is a requirement to summarize the data on reportable cases also. Finally, the areas in which assessments are performed need to be monitored at least monthly and assurance be provided that effective sanitary procedures have been implemented. We look forward to the hiring of this nurse, both for the infection control program and for the quality improvement program.

Recommendations

1. Hire the person who will be responsible for both infection control and quality improvement leadership.
2. Establish a system to monitor both culture proven and presumptively treated MRSA cases on a monthly basis.
3. Report both categories of MRSA cases at the QI meeting on a quarterly basis.

16. Sexual Abuse

Compliance Status: Partial compliance.

Findings

We were provided with the sexual abuse allegation log and attempted to identify cases which were sent offsite and for which a SANE exam was provided. It was extremely difficult to read the log and it would have helped if the log contained a field for "sent to the hospital" and a second field for "SANE exam completed." The sexual abuse coordinator indicated he would modify the log in the future. We reviewed two records of patients sent offsite for which a SANE exam was performed. It is not clear whether others may have been performed but we were unable to discern them. The sexual abuse coordinator believes that is the case. Of the two cases we reviewed, it was clear that a SANE exam had been performed; what was not clear was any direction given to both the medical and mental health staff with regard to follow up. The PREA standards specifically require follow up based on the nature of the assault and gender of the victim with regard to sexually transmitted disease treatment as well as pregnancy counseling. When you receive a report from a hospital that only indicates "exam performed," you have no guidance as to what their recommendations are. In addition, we had no documentation that rape crisis counseling was provided and whether more mental health services were recommended. Because of the absence of guidance from the hospital this area remains in partial compliance. We discussed with the Director of Correctional Health Services his need along with relevant custody staff to meet with the leadership at the hospital so that the communication back to the holding center does provide the necessary guidance.

Recommendations

1. Modify the sexual abuse assault log to add fields for both sent out to hospital and SANE exam done.
2. Meet with the leadership of the hospital and convey to them the need for follow-up guidance to be provided as a result of the SANE exam and/or the rape crisis counseling. This guidance should be part of the paperwork that returns to the facility.

17. Quality Management

Compliance Status: Partial compliance.

Findings

Although there is no Quality Improvement Coordinator, we have been assured by the Director of Correctional Health Services that a position has been approved and he intends to hire after the first of the year. Not surprisingly, the quality improvement program is substantially underdeveloped. There have been studies which we have reviewed with regard to medication errors, medical incidents, completeness of nursing documentation, CIWA assessment performance and missed medications. The studies that I reviewed were incomplete in that they contain data but no analysis against a standard, no determination of whether the performance was satisfactory and if the performance was not satisfactory, no development of an improvement strategy. These are all the requirements of an adequate quality improvement program. I will be happy to spend time with the Director of Correctional Health Services, the Director of Nursing and the new Quality Improvement Coordinator indicating my expectations with regard to the requirements of the quality improvement program as it addresses the areas in this Memorandum of Agreement. I look forward to working with the leadership team and expect that progress will be made soon.

Recommendations

1. Fill the Quality Improvement Coordinator position and the Assistant Director of Nursing position as soon as possible.
2. Work with the IT consultant regarding the ability to track critical elements through the electronic medical record by recustomizing encounter forms where indicated.
3. Perform the studies referred to under the recommendation section consistent with the recommendations we have made. If necessary, please feel free to contact the medical monitor.

18. Review of Clinical Care by Responsible Physician

Compliance Status: Non-compliance.

Findings

The 12 month vacuum in this position creates potential insecurity for the advanced level clinicians as well as lack of oversight of significant clinical decision making. This position needs

to be filled as soon as possible with the appropriately credentialed clinician. The County must become creative in designing an attractive package for any applicants.

Recommendations

III. Protection from Harm

E. Training of Officers with Regard to Sexual Abuse and Policy on Handling Sexual Abuse

Compliance Status: Sustained substantial compliance.

Findings

Both the policy and the training are consistent with the continuation of substantial compliance.

Recommendation None.

I. Training of Medical and Mental Health Staff

Compliance Status: Substantial compliance.

Findings

Both the medical and mental health staff have completed their training with regard to the handling of sexual abuse. The percent trained is well above 90%.

Recommendation None.

J. Suicide Prevention Program

e. Privacy

Compliance Status: Sustained substantial compliance.

Findings

See number 3 under Medical Care section.

Recommendation None.

f. Assessment of Inmates in Detoxification

Compliance Status: Substantial compliance.

Findings

The detoxification unit continues to function as a well-designed program.

Recommendation

1. The QI program should continue to monitor the compliance of the nursing staff in performing the CIWA assessments.

D. Training of Officer Staff with Regard to Suicide Prevention Training

Compliance Status: Sustained substantial compliance.

Findings

This area remains in substantial compliance and has achieved sustained compliance.

3. Detoxification Training Program

Compliance Status: Sustained substantial compliance.

Findings

All of the required medical staff have had this training.

Recommendation None.

Summary of Findings

This monitoring visit was clearly affected by the challenging weather conditions. We were impressed with the ability of the custody staff and their leadership team to respond to the challenges with which they were presented. We appreciated the accommodations in their schedules in order to facilitate our review. Although this monitor was unable to review the program at the correctional facility and also unable to review medication administration under normal conditions, nonetheless the rest of our monitoring visit was completed within the expected timeline. We cannot emphasize enough the need to fill the Medical Director position and use some flexibility and/or creativity in developing a compensation package that is satisfactory. We also want to emphasize the importance of filling the Infection Control/Quality Improvement Coordinator position as well as the Assistant Director of Nursing. Although only two areas moved from partial compliance to substantial compliance, we were encouraged that in the absence of clinical leadership, greater deterioration had not occurred. We look forward to working with the team including the new leadership when these key positions are filled and also witnessing the implemented electronic record system.

Respectfully submitted,

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Medical Monitor

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