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

This report will review the status of the medical program conditions at the time of this Eleventh Monitoring Visit, which took place from October 17 through October 21, 2016. In my view the program is making progress despite several of its serious challenges. Among those challenges, the greatest challenge stems from the staffing configuration. The County performed a staffing analysis which indicated that there is a fairly consistent predictability to the leave time utilized by employees. It has made the decision not to increase the number of positions. As an alternative it could increase the fee for service contracts or do other things which other jurisdictions have implemented to reduce the number of hours of leave time taken by its staff. It also utilizes an agency to fill in for staff who are utilizing leave time. The problem is that working in a correctional health environment and utilizing an electronic record takes a significant amount of preparation and as a result of the inadequate preparation agency nurses are able to experience, the quality of the services provided are impacted negatively. It is not clear to me that with the persistent use of agency nurses rather than fee for service or an increase in civil servant positions or a decrease in leave time taken, that on many of the care issues the program is likely to achieve substantial compliance. This structural staffing challenge is the major obstacle from our review. Studies have been conducted that demonstrate that there is far more increase in turnover of agency staffing than employee staffing and there is also poorer professional performance by agency staff than by employees. These findings are somewhat to be expected and the County is responsible for implementing one of the strategies that is available to them, including reducing the amount of leave time taken, increasing the number of fee for service positions, increasing the number of authorized positions, or implementing some other strategy that results in greater stability and consistency of the nursing staff.

Finally, when the County addresses the staffing structural problems, I believe the program is much more likely to achieve substantial compliance in the clinical areas. Currently there are nine items in the medical area which have achieved substantial or sustained substantial compliance but also nine areas that remain in partial compliance. Unless the structural issues are addressed, I am not optimistic about the remaining nine areas moving into substantial compliance.

On the other hand, things that are under the control of the correctional health program have demonstrated progress. One of the areas is regular multidisciplinary meetings which are occurring twice daily, seven days a week between medical staff and mental health staff. This is designed to facilitate communication and impact in a positive way the quality of both medical and mental health services. This is a significant step forward.

Also, the implementation of the electronic record is almost completed with the exception of the e-prescribing mandated by the state of New York. We talked with the vendor and these remaining elements should be implemented by early December. It appears that the staff find the software relatively user friendly and it does support improved quality of the documentation and of services.

The transfer of responsibility from the Department of Health to the Office of the Sheriff has been completed. We queried staff about that and it appears to the staff to have been seamless. On the other hand, the leadership people feel they have far more support in their efforts to improve services under the new arrangements. In particular, they now control their own budget and the Office of the Sheriff has allowed them to utilize the monies more efficiently.

B. Medical Care

1. Policies and Procedures

Compliance Status: Partial compliance.

Findings

During this visit I have reviewed a large number of documents. Those documents include policy 6-06-00, Discharge Medications, 11-00-00, Medication Management, 15-00-00, Infection Control, and 18-00-00, Quality Improvement. In addition to those policies reviewed, we also reviewed medical records, the policy on refusal on forensic mental health services, staffing analyses from 2015 and 2016, the policy and procedure on the grievance process, the registered dietician monitoring reports, and quality improvement minutes from June, July, August and September. We reviewed minutes of the pharmacy and therapeutics committee meeting. We reviewed quality improvement forms, quality improvement studies, a study on nurse screening, a study on pregnancy, a study on detoxification and patients sent to the hospital, a study on unscheduled off sites, a study on hospital admissions, a study on chronic care. We also reviewed reviews of nursing performance as well as clinician performance, reviewed documentation from the dental program, we reviewed clinician productivity data and finally, we reviewed a summary of scheduled offsite services.

With regard to the policy and procedures, we had some suggested changes which we discussed with the leadership team. We were very impressed with the efforts being made to improve the program. It is clear in this reviewer's experience that originally beginning in the discovery phase of this litigation, this was one of the most underdeveloped programs I have reviewed in recent years.

Recommendations

1. Complete the changes to the policies and procedures which we discussed.

2. Make sure the staff understands the purpose of each policy and the critical elements housed within each policy.

2. Medical Autonomy

Compliance Status: Substantial compliance (moving towards sustained).

Findings

The Chief Medical Officer has been in his position for about a year. He is working quite closely with custody and indicates that whenever he notifies custody about a required offsite service need custody quickly accommodates that need. I emphasized with him that unless he articulates the need to custody leadership they cannot be expected to facilitate access.

Recommendations None.

3. Privacy

Compliance Status: Substantial compliance.

Findings

We reviewed and visited the rooms used for exams at the correctional facility. These rooms are upstairs from the housing units but do not require leaving the housing unit in order to utilize them. Thus, the custody needs for resources are reduced. The exam rooms are completely equipped and are being utilized by the nurses. I also discussed with the clinicians the need to utilize these exam rooms.

Recommendations:

1. Continue to emphasize the need for patient privacy as well as professionalism and treating patients with dignity.

4. Training of Custody Staff

Compliance Status: Sustained compliance.

This area has been in compliance for more than 18 months.

5. Management of Health Records

Compliance Status: Partial compliance (near substantial).

Findings

The major element yet to be implemented is the e-prescribing with the mandate by the state to use Sure Scripts so that verification can be achieved with each controlled substance prescription. I queried the clinicians and they found the software relatively user friendly. In addition, I observed medication administration and there were no Wi-Fi breakdowns as had occurred

before. Thus the installation and implementation of Wi-Fi in the housing units, both at the correctional facility and at the holding center, appears to be remarkably successful.

Recommendations

1. Complete the implementation of the e-prescribing, including the verification process required by the state.
2. Continue to work with the IT consultant both in modifying encounter forms and in developing reports.
3. Identify a staff member whose interests are consistent with computer technology such that the staff member may become facile with queries and reports.
4. Also implement version 12.2 of Centricity.

6. Medication Administration

Compliance Status: Substantial compliance (next visit will achieve sustained).

Findings

We visited and observed medication administration and it was conducted quite efficiently and without any technologic problems. The utilization of the electronic record including the electronic medication administration record appears to be a success. The next phase appears to be utilizing barcodes on both the inmate wristbands and the medications. The inmate wristbands are about 75% completed with regard to the introduction of the barcodes. There is discussion with the vendor about barcoding the medication. This system is designed to reduce human error. The patients in each of the housing units were seen efficiently and the patients were completely cooperative with regard to bringing liquid to the ingestion and participating in the post-ingestion mouth inspection. I remain concerned about the wording of the policy on release medications, in that the medical program is only, according to policy, responding to an inmate's request to be provided with medications at the time of release. I will be interested to see how successful this policy is in insuring that a significant percentage of the detainees are provided with medications at the time of release. As I had indicated previously, they may also be provided with a prescription for a pharmacy from which they can receive previously phoned in prescriptions.

Recommendations

1. Perform a study looking at patients on chronic medications and the extent to which they are calling for their medications.
2. In that study, also identify the extent to which they are picking up the medications.
3. Continue to perform timeliness studies between order for medications and receipt by the patients, both those who are newly entering the jail as well as those who have been in the jail for some time.

7. Access to Care

Compliance Status: Partial compliance.

Findings

We reviewed several records with the staff. We again found some problems with regard to adequacy of either subjective data collected or adequacy of objective data collected as well as absent or problematic assessments. We had a lengthy discussion with the nursing supervisory group regarding the expectations of nurses today in the community. From that discussion the Director of Correctional Health Services indicated that she would draft a nursing physical assessment form that required nurses to document consistent with current nursing standards. We were impressed with the self-monitoring of the nursing performance, both at the holding center and the correctional facility. However, reviewing the work of nurses filling in from the agency becomes a special challenge for the supervisors. Under the current structural impediments, unless more positions are added or fee for service positions are created or there is a reduction in leave time utilized, we believe that it will be very difficult to get consistent quality performance from the nursing staff whose work is reviewed. The responsibility of the supervisors is to review the performance of those on site providing services, even if that number of nurses to be reviewed is far larger than it should be.

Recommendations

1. The Director of Correctional Health is to develop with the IT consultants a nursing physical assessment form that contains each of the organ systems to be assessed.
2. If nursing wishes to abandon nursing diagnoses as they exist in the encounter form currently then they must submit to me for my approval the alternative for documentation during sick call assessments.

8. Emergency Care

Compliance Status: Sustained substantial compliance.

Findings

We reviewed a record of a patient sent out on an emergency basis and the documentation was available from the offsite service and the patient was followed up appropriately.

Recommendations

1. The QI program should continue to monitor these unscheduled offsite service encounters for completeness of documentation and follow up.
2. In addition, the Chief Medical Officer and Director of Nursing should monitor the onsite responses that did not result in send outs to insure that decisions are being made appropriately.

9. Follow-Up Care

Compliance Status: Partial compliance.

Findings

One of the records we reviewed for a service provided in June did not receive the report until August 10th. There was no documentation of efforts to acquire the report. All documentation must be available timely for utilization for a follow-up visit by the clinician. The clinician must use the report to discuss whatever findings were documented as well as a plan. The quality improvement program must take responsibility for insuring that this service works timely and well.

Recommendations

1. The QI program should monitor the follow up of scheduled offsite services and insure that 100% of the time appropriate follow up occurs timely.
2. Continue to monitor the timeliness of the scheduling of appointments in relationship to the orders.
3. Consider the strategy of utilizing the clinicians to suggest a consultation or procedure but the actual order does not get initiated until sanctioned by the Medical Director.

10. Chronic Disease

Compliance Status: Partial compliance.

Findings

There has been some turnover in the clinician staffing and some of the problems we found were an absence of timely follow up, inadequate objective data, inadequate subjective data and failure to assess degree of control. Partly this was attributable to lack of appropriate completion of the electronic forms. Clearly, the Chief Medical Officer has some work to do and it will help if there is some stability to the staffing, which we hope becomes the norm.

Recommendations

1. Continue the professional performance enhancement review program of at least four or five records per clinician per month until performance is acceptable and then it can be reduced to once per quarter.
2. Insure that patients with unusual or problem prone diseases are referred to the Medical Director as well as patients with end stage disease, patients whose disease is difficult to control and patients with more than three chronic diseases.

11. Dental Care

Compliance Status: Partial compliance.

Findings

We found that there was significant variability from month to month between the number of restorations performed versus extractions. If there are dentists who are not performing restorations even though the dentition otherwise is good, they must be replaced with dentists who perform at least at the level of a community standard. In our experience, the dentists in correctional facilities need to have their work reviewed and strongly encouraged to perform restorations. A practice of exclusively performing extractions is counter to the community standard.

Recommendations

1. Continue to provide a monthly report of both percentages of scheduled patients seen as well as the ratio of restorations to extractions.

12. Care for Pregnant Prisoners

Compliance Status: Sustained substantial compliance.

Findings

We reviewed the record of one pregnant female who developed withdrawal signs and symptoms during her first week in the jail. She was sent out immediately to ECMCC Hospital and was released from there three days later. This was a potential problematic case that was well handled by the medical staff. As a result, a serious negative outcome was avoided.

Recommendations

1. Implement a policy such that there can be no pregnant patient refusals of visits with the primary care clinician unless the patient is brought to the clinician and refuses face-to-face despite the clinician's counseling.

13. Dietary Allowances and Food Service

Compliance Status: Substantial compliance.

Findings

We reviewed the reports from earlier this year where the dietician came on site to observe the meal process. Her reports indicate that there is consistency between the master menu and the substitutions that are consistent with various special diets. She also has observed that the plating is consistent with her recommendations.

Recommendations

1. The dietician should continue to monitor the congruence between the actual plated special diets and her recommendations for diet substitutions whenever she visits.

14. Health Screening of Food Service Workers

Compliance Status: Sustained compliance.

Recommendations None.

15. Treatment and Management of Communicable Diseases

Compliance Status: Partial compliance.

Findings

The quality assurance/infection control nurse understands what data we are looking for. She has not yet assembled the data for our use. That data has to include the TB control process as well as documentation of skin infections, both presumptively treated as well as culture proven. We expect that at our next visit the data will be forthcoming.

Recommendations

1. Please contact me with any questions regarding the implementation of the communicable disease program.

16. Sexual Abuse

Compliance Status: Sustained substantial compliance.

Findings

We reviewed a few cases from the Sexual Abuse Prevention Coordinator log and found that the records supported the findings in the log. We perceive strong leadership in the area of compliance with the sexual abuse prevention requirements.

Recommendations None.

17. Quality Management

Compliance Status: Partial compliance.

Findings

We were impressed with the number of findings generated in the past six months. Clearly there has been a lot of work done. What we would like to see is more discussion of the data at the quality improvement committee meetings and an analysis of the causes of performance that is less than acceptable with regard to potential causes. We would also like to see documentation at these meetings of the relationship between improvement strategies and the results of the analysis of causes for substandard performance. The focus of the quality improvement program should continue to be the intake program, sick call, chronic care, pregnant patients, urgent/emergent care, scheduled offsite services, medication management as well as dental services and communicable disease services. Within medication management, compliance with the three

refusals by patients generating a counseling with the clinician must be performed. I am encouraged that studies are being generated. The next step is discussion, analysis and, where performance is not acceptable, the relationship between the analysis and the improvement strategy that is implemented must be clear.

Recommendations

1. Continue performing studies with regard to the above-mentioned services which then become discussed in the quality improvement committee meetings.

17.(b) Review of Clinical Care by Responsible Physician

Compliance Status: Partial compliance.

Findings

There has been some turnover of the staff and therefore the Chief Medical Officer has to start over with the new employees. It is important that he be available onsite and involved in formulary creation and the development of other clinician policies and procedures. My sense is that he could be and must be more assertive with the clinicians so that their practices more easily conform to his expectations. I cannot emphasize enough that his review of their work must be perceived by them as educational.

Recommendations

1. The Chief Medical Officer should contact me monthly regarding progress he is making with the clinicians.

III. Protection from Harm

III.A.5.k Training of Officers with Regard to Sexual Abuse and Policy on Handling Sexual Abuse

Compliance Status: Sustained substantial compliance.

Findings

Recommendations

III.5.l Training of Medical and Mental Health Staff

Compliance Status: Sustained Substantial compliance.

III.A.1 Suicide Prevention Program

III.A.1.e Privacy

Compliance Status: Sustained substantial compliance.

III.A.1.f Assessment of Inmates in Detoxification

Compliance Status: Sustained substantial compliance.

III.A.2 Training of Officer Staff with Regard to Suicide Prevention Training

Compliance Status: Sustained substantial compliance.

III.A.3 Detoxification Training Program

Compliance Status: Sustained substantial compliance.

Summary of Findings

When the structural staffing problems are effectively addressed it is likely that the remaining items will reach substantial compliance. Until that happens, I remain concerned. However, I am pleased with the progress in the quality improvement area.

Respectfully submitted,

R. Shansky, MD
Medical Monitor

RS/kh