Twelfth 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 Twelfth Monitoring Visit, which took place from May 1-5, 2017. The medical program is making progress, although it is not as rapid as many would like. I was particularly pleased with the outcome of the meeting we had with County Personnel and Labor Relations leadership. [redacted] We remain concerned about the Director of Nursing as well as the Assistant Director of Nursing with regard to those positions being allowed to directly supervise the staff they are responsible for. The County proposes to transfer these two positions to a bargaining unit; we are concerned that there may be an effort by any of the unions to inhibit their access to one or both of the facilities. This must not be tolerated. They have a job to do, which is a prerequisite for progress towards compliance with this Department of Justice Agreement. The County must find a way to support their efforts to acquit their responsibilities in overseeing and facilitating the improvement in performance. We are also pleased that the County has seen fit to approve additional fee for service positions for the nursing staff which may resolve some of the potential staffing shortages related to the County's unique strategy for implementing the Family Medical Leave Act. We have been told by the Director of Correctional Health that with the decrease in census at both facilities, the program may be able to reduce the number of required positions. I am therefore asking that at my next visit in late September 2017, I be provided with a staffing analysis based on this reduced population and a more efficient assignment of tasks. I caution the Director of Correctional Health that in my experience it is far easier to reduce positions than to create new positions and I would suggest that if the analysis demonstrates that fewer nursing positions are needed, those positions be retained but kept vacant for a period of time in order to determine whether the reduced census is in fact a real trend versus a temporary blip in the data.

I was pleased to meet the new Medical Director, who impressed me as a physician who is clearly invested in his patients' outcomes and who felt responsibility for all of his patients. This is a program that uses nurse practitioners for the vast bulk of its primary care services. That strategy may be more cost efficient as long as the quality is not jeopardized. The previous Medical Director was not comfortable providing clinical leadership for the nurse practitioners. However, this is a very important aspect of the Medical Director job. I am hopeful that the new Medical Director, who literally started within a week of our review, enjoys providing clinical leadership to the nurse practitioners and that this is demonstrated by the improvements in their performance

at the time of our next visit. Additionally, I was informed that at one point, three out of five nurse practitioner positions had been vacant. This greatly compromises the ability of the program to meet quality timeliness requirements. I have been informed that the correctional health program has successfully recruited and hired three nurse practitioners whose matriculation will be starting within the next month.

Although I reported that there are regular, twice daily meetings between the mental health group and the medical group occurring seven days a week, we nonetheless identified a case which clearly involved both medical and mental health issues in which the documentation failed to reflect any discussion of an interdisciplinary nature. Clearly this area needs improvement. At a meeting with mental health leadership, I was extremely disappointed to learn the Chief Psychiatrist was not utilizing the alert section of her desktop, which should be utilized by all clinical leadership, both in medical and mental health, in order to send an alert and attach the medical record at the relevant document so as to efficiently gain input from clinical leadership. I hope this problem is not widespread among mental health staff and I also hope it is not widespread among medical leadership. Finally, I had indicated in my last report that the transfer of responsibility from the Department of Health to the Sheriff's Department has been completed and appeared to be seamless. I was very favorably impressed with both the Sheriff's and the Chief of Administrative Services' contributions to the meeting we had with the Personnel and Labor Relations leadership from Erie County. [redacted]. Their contributions were absolutely critical to the positive outcome. My only concern is that when there are questions about issues related to clinical care, they be directed to the Director of Correctional Health rather than to anybody who is not responsible for clinical oversight.

As to Medication Administration, I propose that the program obtain data with regard to release medications being picked up at the outside pharmacy. The Director of Correctional Health does receive bills, but those bills do not contain the names of the individuals or the number of prescriptions for which the pharmacy has been contacted but medications not picked up. The Director of Correctional Health needs to work with the pharmacies so that that type of data is available not only for my review but for the review of the program in the future.

B. Medical Care

1. Policies and Procedures

Compliance Status: Substantial compliance.

Findings

I have been informed that the integration process for the Sheriff's Department, the correctional health program and the Erie County departments has been completed. I was able to review the remaining policies which I had not reviewed previously. The policies reviewed included

medication management, including pharmaceutical services, emergency preparedness, infectious disease prevention, quality improvement program and chronic disease management. I had a few comments for several of those policies and I was informed by the Director of Correctional Health that she will integrate my comments into the final copy that is then reviewed and signed off by the Sheriff. We were also informed that for all staff the policies and procedures are both available on the SharePoint document review strategy as well as a hard copy binder that will be available at each facility. The staff can read on SharePoint but certainly not make any changes. Once the changes have been completed, especially for such policies as emergency response and any that require the knowledge of the officers, they will be read at roll call on 10 consecutive days for each custody shift.

Recommendations

1. Complete the few changes to the policies and procedures which we discussed.
2. Insure that the health care staff understands not only the purpose of each policy but the critical elements housed within each policy.

2. Medical Autonomy

Compliance Status: Sustained substantial compliance.

Findings

Although the Medical Director position has changed very recently, I believe that custody leadership will insure that he is integrated quite closely into the program. I had been extremely impressed with the coordination let alone cooperation between custody and the health care program. In this area, this program is a model of integration of health care services with custody.

Recommendations None.

3. Privacy

Compliance Status: Substantial compliance.

Findings

We again reviewed and visited the rooms used for exams at the correctional facility. These rooms provide the required privacy and are adequately equipped. They are also beginning to be utilized by the clinicians and this diminishes the use of custody resources.

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

Although the electronic controlled substances record has been implemented, it has been reported to me that there are problems yet remaining. I talked both with the Director of Correctional Health as well as the IT company. It is not clear whether the remaining hitch, which creates more work for the practitioners, is an IT problem or a registration problem related to the lack of effective registration with the system. This clearly needs to be resolved as soon as possible. Whether it is an IT issue or a correctional health program practitioner registration issue, it needs to be determined as quickly as possible and the strategy to mitigate the problem must be implemented. It was also made clear that the IT company that supports the software expects at each major jurisdiction to be working with an IT person locally who knows the software and how to utilize it, so that when a problem arises the local IT person may communicate with the Fusion support to resolve issues. My understanding is the County is investigating the need for a local resource, whether that be through a contract or as an employee.

Recommendations

1. Resolve the E-prescribing, which creates an extra step for the practitioners.
2. Before my next visit the correctional health program should identify what kind of local IT resource they need in order to work with the Fusion IT company.

6. Medication Administration

Compliance Status: Substantial compliance.

Findings

We again visited and observed medication administration and the process was both efficient and without any significant problems. The implementation of the electronic medication administration record not only is efficient to utilize but it is also efficient for the practitioner who was looking up the patient adherence records. The inmate wristbands are 100% completed with the introduction of the barcodes. The barcoding and wanding system has not been fully implemented but this can and will be accomplished in the relatively near future.

Recommendations

1. Implement the barcoding as a strategy to diminish the probability of staff errors.

2. The Director of Correctional Health should meet with the pharmacies so that she receives adequate data in order to determine how effective not only the reentry program is but also the effectiveness of her clinicians in educating the patients with regard to health care maintenance on the outside.
3. Perform a study looking at patients on chronic medications and the extent to which they are calling for their medications.
4. In that study, also identify the extent to which they are picking up the medications and therefore correctional health is being billed.
5. Continue to perform timeliness studies between order for medications and receipt by the patients, both for those who are newly entering the jail as well as those who have been at the jail for some time.

7. Access to Care

Compliance Status: Partial compliance, near substantial compliance.

Findings

The access process continues without change. Inmate requests are collected nightly, both from general population units and from lockdown units. Before the slips are scanned into the medical record software, a registered nurse triages the slips. Every night there is a shift summary report that includes the number of slips collected and described as asymptomatic versus symptomatic. Of the medical slips collected, 10-15% are non-symptomatic and 85% are symptomatic. As far as can be ascertained, there are no substantial problems of access to care within the lockdown units. When we reviewed records, one of the records we reviewed demonstrated both medical problems as well as a tendency to somatize the symptoms. The patient was both followed by medical and by mental health and yet there were no discussions of a multidisciplinary nature regarding his problems. We believe this patient would have benefitted from a multidisciplinary approach. Most of the records demonstrated an adequate collection of subjective as well as objective data. However, there was one patient who complained of a new knot in his knee but there was no description of any tenderness or soreness with regard to the physical examination.

Overall, there has been nursing care improvement observed with most records. Also, we found in some records the nurse described referral to an advanced level provider and yet despite the patient remaining in the jail, there was no order reflecting this nor was there any documentation. The Director of Correctional Health requested modification for the nurse sick call screen and this was agreed to by the monitor; however, the monitor understood that this would apply to the sick call physical assessment form. Instead, both the subjective and objective documentation were modified based on a system created by the military. Although the system appears less logically formatted, the monitor has agreed to it, since this is the system taught in nursing schools. Although in the monitor's experience nurses have performed well in other jurisdictions during the 1980s and 1990s using the prior format, if this is the approved nursing school format it is

accepted by the monitor. The performance was near substantial compliance. Overall, the access was consistently timely as patients were seen within 48 hours of receipt of the request.

Recommendations

1. The ADON and DON must provide feedback on a regular basis to the nurses performing sick call.
2. This must be done via a face-to-face discussion of records having been reviewed, with an emphasis on strategies to improve performance.

8. Emergency Care

Compliance Status: Sustained substantial compliance.

Findings

Records we reviewed consistently contained the offsite service report and follow up was appropriate.

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 Medical Director and Director of Nursing and ADON should monitor the onsite responses that did not result in send outs to ensure that decisions are being made appropriately.

9. Follow-Up Care

Compliance Status: Partial compliance.

Findings

We reviewed eight records and found a few with problems of either scheduling delays or delay in the timeliness of follow up. One example discussed in some detail was from an order that was written in October 2016 to the urologist and this was not scheduled until February 15, 2017. There was also no documentation regarding efforts to move the appointment to an earlier time. We also reviewed a second case in which an MD requested an MRI on December 9 but the MRI was not scheduled until mid-February, more than two months later. These delays fortunately were not typical but were not recognized by the staff, at least insofar as there is any documentation to suggest that staff appreciated the delay and urged an earlier appointment.

Recommendations

1. The QI program should continue to monitor the timeliness of the scheduling of appointments using routine requests as acceptable if the appointment occurs within 30

days. If not, the Medical Director should be notified and document whether or not an effort was made to arrange an earlier appointment.
2. 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.
3. Measure the timeframe between clinicians ordering and the Medical Director approval.
4. The QI program should monitor the follow up of scheduled offsite services and insure that 100% of the time appropriate follow up occurs timely.

10. Chronic Disease

Compliance Status: Partial compliance.

Findings

We are aware that at some point since our last visit there were three vacant nurse practitioner positions. Clearly, this is likely to result in delays with regard to timeliness of follow up of chronic problems. In addition, in records we identified, the practitioners were not always either documenting the disease control nor accurately assessing the disease control based on published definitions. Also, a patient was identified whose clinical findings put him in the highest risk category and yet he did not have an initial practitioner assessment until three weeks after he entered the facility. This patient should have been assessed within 24 hours and should have been monitored because of his high-risk status until he was assessed. A second patient who was not as high risk but entered with a history of hypertension and his disease control was fair control, did not have his practitioner initial assessment until one month later. The challenge for the new Medical Director remains working with the nurse practitioners so that they share his sense of urgency when it is clinically indicated and their performance is consistent with his training for them.

Recommendations

1. The Medical Director should provide a review of the common chronic diseases and, where indicated, provide guidance as to the types of responses needed for particular blood pressure or blood sugar elevations as well as high risk blood pressure and finger stick reductions that create risk to the patient.
2. Continue the professional performance enhancement review program of at least four or five records per clinician per month until performance is consistently acceptable and then it may be reduced to once per quarter.
3. 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

The monthly data that documents the rate of extractions to restorations continues to be extremely disappointing. During most months, few if any restorations were performed, even though the average age of inmates is relatively young and they are more likely to have adequate dentition to support the provision of restoration services. We are aware that the County has created both a dental and dental assistant position and there is an effort underway to fill those positions. The dental staff should be aware that we will be tracking the ratio of extractions to restorations and that we expect to see data that reflects not the same as would occur in a private practice but at least at some point a frequency of restorations that compares to the frequency of extractions.

Recommendations

1. Continue efforts to fill the newly created positions, which will be shared by both facilities.
2. Continue to provide a monthly report of both percentages of scheduled patients seen as well as the ratio of extractions to restorations.

12. Care for Pregnant Prisoners

Compliance Status: Sustained substantial compliance.

Findings

The QI program must continue to monitor, with guidance from the Medical Director, the care of pregnant prisoners.

Recommendations

1. The QI program is to continue to monitor the care of pregnant prisoners.

13. Dietary Allowances and Food Service

Compliance Status: Sustained substantial compliance.

Findings None.

Recommendations

1. The QI program should continue to monitor via the dietician the congruence between the actual plated special diets and the dietician's recommendations for diet substitutions.

14. Health Screening of Food Service Workers

Compliance Status: Sustained substantial compliance.

Recommendations None.

15. Treatment and Management of Communicable Diseases

Compliance Status: Partial compliance.

Findings

The communicable disease nurse seems to be clearly invested in her responsibilities.

Recommendations

1. As we look for her monthly reports, she must track the number of individuals identified for whom TB screening is necessary each month and, for those patients, she must indicate what was done as part of the TB screening and what could and should have been done if the screening is incomplete.
2. With regard to skin infections, the Medical Director must instruct the nurse practitioners to send the communicable disease nurse a flag with the record attached at the note in which they are addressing skin infections and especially those where presumptive treatment for MRSA occurs. She must report both the presumptively treated cases each month as well as they culture proven MRSA cases each month. The data shows that she has recently led a program to insure that patients who are high risk for TB that have been in the facility are also screened for TB. She plans to also identify patients with hepatitis C and arrange for TB screening of them also.
3. Report the numbers of high risk people each month who are screened for TB and identify where screening should have been done and could have been done as well as reasons for the screening not being completed.
4. Report each month the number of presumptively treated skin infections for MRSA and also culture proven MRSA.

16. Sexual Abuse

Compliance Status: Sustained substantial compliance.

Findings None.

Recommendations None.

17. (a) Quality Management

Compliance Status: Partial compliance.

Findings

We continue to be impressed with the efforts by the quality management nurse who was also responsible for infection control. She has performed several studies in each of the recommended service areas that are covered by this agreement. I have discussed with her in detail how these

studies could be improved. I continue to request studies for access to care, emergency care, follow up of scheduled offsite services, chronic care, as well as intake with regard to both the adequacy of the performance of the nurse screen as well as the adequacy of the performance of the nurse practitioners during the initial practitioner assessment. For each service, both the timeliness as well as the professional performance must be reviewed. In the cases that we reviewed, although the nurse intake screen was timely, there were frequent records where the initial practitioner assessment was delayed. With the hiring of three new nurse practitioners, the data with regard to timeliness of practitioner initial assessments should dramatically improve. Both the Medical Director as well as the Director of Nursing and the Assistant Director of Nursing should review their respective areas with regard to professional performance improvement.

Recommendations

1. Formal training should be provided to the Quality Improvement Coordinator.
2. Studies must continue to be performed as described in the findings section.

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

Compliance Status: Partial compliance.

Findings

The new CMO, even though he started less than a week before my visit, has reviewed three records from each practitioner. I discussed those reviews with him and I will not describe those discussions.

Recommendations

1. Before the next visit, he should review the performance of the nurse practitioners with regard to access to care, chronic disease performance, unscheduled service performance, and follow up from scheduled offsite services as well as intake (practitioner initial assessment).

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.

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

Although the pace of improvement has been less than anticipated, partly due to turnover and vacancies, I remain quite optimistic, especially with the additions and changes in the leadership team, including nursing and Medical Director. I am looking forward to a substantial breakthrough at the time of my next visit. Clearly, the leadership team has the commitment to provide not just adequate care but excellent care. I will do whatever I can to facilitate their accomplishing their goals.

Respectfully submitted,

R. Shansky, MD
Medical Monitor

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