

# Fourth 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 Fourth Monitoring visit, which took place June 9-14, 2013.

### **B. Medical Care**

#### **1. Policies and Procedures**

**Compliance Status: Substantial compliance drafting of policies; partial compliance, implementation of policies.**

#### **Findings**

The department of Health leadership at the Erie County Detention Facility medical programs continues to annually review and update policies. Most recently, we had the opportunity to briefly review the new TB control policy. The Department of Health is fortunate in that the Medical Director of their jail medical program is also the Department's chief tuberculosis control officer. Centers for Disease Control recommendations with regard to TB services in correctional facilities recommends that the local jail health program comply with local health department recommendations. Having the same person responsible for both areas guarantees that this will always be the case.

With regard to implementation, however, this is still a work in progress. In reviewing records at both the correctional facility and the holding center, we identified problems with implementation with regard to the sick call process, the chronic care program, the unscheduled offsite service program and the scheduled offsite service program. This is understandable in that there are many newly trained staff, especially at the holding center. In fact, with the new leadership team focusing primarily at the holding center, our review demonstrated that compliance with policies in these areas was better at the holding center than at the correctional facility. Prior to our review, the Health Service Administrator had already decided to station himself a majority of the time at the correctional facility. Clearly, through the program's own self-monitoring, they were aware that process performance at the correctional facility was problematic. We have been quite impressed with the excellence of the new leadership team. We have long admired the work of the Medical Director; however, we believe that both the new Health Service Administrator and the new Director of Nursing have greatly contributed to the creation of a strong leadership team. With their ability to work closely with what is also perceived as a strong custody leadership team, we anticipate relatively rapid progress which will be measureable at the time of our next visit.

### **Recommendation**

1. Continue to train staff at both facilities with regard to these operational policies and procedures and continue to monitor performance with regard to these processes through your quality improvement program.

### **2. Medical Autonomy**

**Compliance Status: Substantial compliance.**

### **Findings**

This area remains in substantial compliance because of the excellent working relationship between health care leadership and custody leadership at both facilities. All respond professionally to conflicts and resolutions of the conflicts are achieved relatively quickly.

**Recommendation:** None.

### **3. Privacy**

**Compliance Status: Substantial compliance.**

### **Findings**

We reviewed the new space for the intake process and find it well designed to provide both privacy and efficiency. We also revisited the rooms that are used for assessments in the pods and although the privacy was quite adequate, we did find the use of examination tables without the use of examination table paper on the tables and also without the use of any sanitizing fluid between patients. This of course is not a privacy matter but it clearly is a sanitation and hygiene matter and the leadership agreed that this had to be corrected immediately. The analogous rooms in the old jail are not yet equipped for assessments but they do afford some privacy for patient interviews. Only if these rooms are appropriately equipped should they be utilized for nursing or clinician assessments.

### **Recommendation**

1. When the program begins to utilize the new intake space, observe the processes for adequacy of the protection of privacy; sometimes even if the space is adequate, staff needs to be trained with regard to how they provide services so that it is done in a manner that protects privacy.

### **4. Training of Custody Staff**

**Compliance Status: Substantial compliance.**

### **Findings**

The training coordinator of the custody staff continues to maintain meticulous records documenting the receipt of training in the required topics. As we understand it, training regarding recognition of medical problems is only done for new officers. On the other hand, training with regard to alcohol and substance abuse and withdrawal symptoms along with suicide issues and CPR are redone annually. All officers completed the training in 2012 and this will be repeated later this fall. We did identify that an important topic for which they have not received training deals with the problem of MRSA. The Medical Director and Director of Nursing indicated that they would provide training to the officers so that they have a realistic understanding of how to respond to patients with MRSA.

### **Recommendation**

1. Provide the training to officers with regard to MRSA.

## **5. Management of Health Records**

**Compliance Status: Partial compliance.**

### **Findings**

Although there has been some improvement with regard to the organization of the health records, problems persist with regard to timely filing of important documents as well as maintenance of the problem lists. There is timely accessibility to old records and we visited a converted room that has well-organized, easily accessible filing cabinets as is found in a typical free world health care program. We were told that next week the use of the filing area outside of the jail would no longer be needed as within a five-day period records will be moved from that site to the new space described above. This is a substantial step forward and continues to demonstrate the County's good faith in meeting the obligations of the settlement agreement. With the old records onsite within the medical program space, access should never again present a problem. Additionally, plans for a new electronic record system are in the works and we look forward to when that process begins implementation. At this point there is a request for a proposal for which proposals will be submitted and a vendor selected. We look forward to working with the leadership team on implementation.

Medical staff continue to utilize the O for outcomes, F for follow up, I for infection control issues, R for any registrations and M for medical management methodology, insuring that content for each area is addressed when appropriate. In addition, the Medical Director has created some disease specific order sheets for cardiovascular diseases, viral diseases, hypertension, hyperlipidemia, asthma and neurologic problems. These are helpful in prompting the clinicians to write orders based on specific chronic disease guidelines.

### **Recommendations**

1. Work on implementing the problem list and medication list in the mental health section so that the record becomes more unified.
2. Continue efforts to pursue an electronic medical record that should help resolve several of the outstanding issues.
3. Make available for medical and mental health chronic care visits a copy of the active MAR and any monitoring data.

## **6. Medication Administration**

**Compliance Status: Substantial compliance.**

### **Findings**

We observed both a morning and evening medication administration process at the holding center. For both the morning and evening passes, we observed the pass performed in both the old and the new jail housing units. There was a substantial improvement with regard to the four nurses whose work we reviewed. They were well organized, they accomplished the sequence of steps required in the medication administration process so that the correct patient receives the correct medication in the correct dose and is observed ingesting it and that this is documented timely. The nurses utilized a process with the loose leaf binder such that at the beginning of the medication administration process the medication administration records were on the left side of the binder; as the meds were administered they were moved to the center of the binder and this enabled the nurses to determine whether all the patients who should have presented themselves for the medication administration were in fact presenting themselves. In some of the housing units the nurse was able to request that the officer contact a patient who had not shown up so that they could either receive the medication or refuse face-to-face with a nurse. This was a well-run medication administration process. The nurses also were conscientious in inspecting the mouths of patients post-ingestion.

We also checked at the window outside where patients receive their property and the appropriate form was available. This form provided a phone number to a pharmacy which would enable the patients to access a prescription in the community. This form also contains information regarding detoxification treatment as well as medical record requests and tuberculosis testing. At this visit, we did not review records in which we observed three refusals in a row. We will clearly review this the next time. It is also important that the quality improvement program monitor compliance with this requirement.

### **Recommendations**

1. The nursing QI program should continue to intermittently monitor the performance of nursing during the medication administration process.
2. Continue to monitor referral of patients after their three consecutive refusals. This is particularly important in the mental health housing units. These referrals must go to the

prescribing clinician, who must see the patient and determine whether the dosage schedule should be changed, the medication discontinued or some other strategy be implemented.

3. Continue to monitor medication errors by reviewing MARs of patients on multiple medications.
4. Continue to monitor the timeliness of availability of medications, both prescribed during the intake process and at other times during an inmate's stay.

## **7. Access to Care**

**Compliance Status: Partial compliance.**

### **Findings**

Quality improvement data continues to support the view that 80% of requests are seen within two days of receipt. In the record reviews we performed, the most common breakdown, which was worse at the correctional facility than at the holding center, was with regard to the referral to clinicians. We found several instances, again more commonly at the correctional facility than at the holding center, where a documented referral was not followed by a documented encounter in the records we reviewed. The reasons for this must be investigated. When the QI program performs a study and finds records where this is what was observed, it behooves them to, at that time, attempt to identify the causes. It is only by identifying the causes that your QI program can develop a targeted improvement strategy that will mitigate the cause and improve the outcome. It is also important for the professional performance part of the QI program and in this instance discipline-specific leadership, that is Medical Director for review of clinician performance and Nursing Director for review of nursing performance, to insure that the encounter addressed the issues raised on the Health Service Request form in a manner that results in adequate subjective data, adequate objective data and appropriate assessment/diagnosis and an appropriate plan. This must be done on an ongoing basis until such time as the professional performance has reached a satisfactory level. After that, these reviews should be intermittent, such as quarterly. Given the turnover of both advanced level provider staff as well as nursing staff, these types of professional performance issues are not at all surprising. As the nurses consistently receive feedback with regard to their performance, I am quite optimistic that they will achieve the threshold that the program expects.

### **Recommendations**

1. Review the timeliness and circumstances surrounding the 20% of requests that are not addressed within two days.
2. Insure that the professional performance review monitors whether all symptoms described on the paper request have in fact been addressed during the encounter.

## **8. Emergency Care**

**Compliance Status: Partial compliance.**

**Findings**

The emergency response (man down) continues to be handled well. However, there are sometimes process issues with regard to insuring that a nursing note accompanies each send out offsite. There is now an urgent care log maintained at each facility that documents patient name, date and time. It needs to continue to document the presenting complaint but in addition it must include the ultimate disposition for the patient. These dispositions could be “returned to housing unit,” or “send out to emergency room” or sometimes “maintain in clinic for observation.” It is also important that patients are seen by a nurse at the time of return, where that nurse documents the presence of required paperwork from the offsite service or, if that paperwork is not available, takes steps to retrieve it. More often than not, the patient was seen by a primary care clinician timely. However, we did not find this 100% of the time. As you continue to monitor both the process and professional performance through your quality improvement program, we anticipate compliance with the policies.

**Recommendations**

1. Insure that the urgent care log at both facilities contains a field for presenting complaint and a field for disposition. You may want to add other fields that you would find helpful.
2. The urgent care log should be reviewed on a regular basis by both the Medical Director and Director of Nursing in order to provide feedback to clinicians and nurses with regard to professional performance.
3. Nursing staff should be retrained with regard to their obligations regarding documentation, both at the time of send out of unscheduled services and at the time of return.
4. The QI program should monitor nursing performance with regard to the services.
5. The QI program should also monitor clinician performance with regard to both initial assessments and follow up visits after unscheduled services are provided.

**9. Follow Up Care**

**Compliance Status: Partial compliance.**

**Findings**

We will continue for this item to refer to the follow-up care after scheduled offsite services. This includes both specialty consults as well as procedures. Our review of records included samples from both the correctional facility as well as the holding center. Critical to this service is an adequate justification by the clinician for the need for this service. Recently, the Medical Director implemented a prior review and approval before such services are scheduled. What is critical for the Medical Director is if his assessment reveals that the recommended service is not best for the patient, he should recommend an alternative plan of care. He should not view this as

purely approving or denying, since denying does not address the patient's ongoing problem. Once the service is approved or there is an alternative plan of care, the patient must be notified and then the service scheduled or the alternative plan implemented in a timely manner. When the offsite service is approved, the return of the patient should require that custody bring the patient to a nurse. This was happening at the holding center; however, it was not always happening at the correctional facility. When the patient is seen by the receiving nurse, the nurse should determine if the appropriate paperwork has accompanied the patient and if not, arrange for the report to be retrieved. For consultations, almost invariably the paperwork accompanies the patient. For procedures which require a dictation and a transcription after the service is reviewed, it is possible there may be a two-to-four day delay. Either the nurse or more commonly the scheduler should be aware of the expected timeframe for return of the report and contact the service when that timeframe has elapsed. Once the report is available, the patient should be scheduled for a follow-up visit with the primary care clinician, who should document a discussion with the patient regarding the findings and plan and the patient's understanding thereof. There were problems at both facilities with this service in the records we reviewed; however, the frequency of the problems was greater at the correctional facility.

### **Recommendations**

1. Insure that, especially at the correctional facility, patients returning from all offsite services that are scheduled or unscheduled return through a nurse.
2. The Medical Director should insure that where a recommended service is not approved, there is a recommended alternative plan of care which gets implemented.
3. Both facilities must have a process in place to insure that after reports have returned, there is a follow-up visit with the primary care clinician in which they document a discussion with the patient regarding the findings and plan and the patient's understanding.

## **10. Chronic Disease**

**Compliance Status: Partial compliance.**

### **Findings**

There has been some progress with the chronic disease program, including the implementation of some disease specific order sheets along with the introduction of a disease specific follow-up visit form that can be used for patients with multiple chronic diseases. The form is modeled after the National Commission on Correctional Health Care follow-up form and does contain the content that is required in that form. Currently, there is no form used for the initial visits and, as a result, several of the initial visit encounters we reviewed lacked some of the required disease specific history that should be collected on patients with those specific diseases. The Medical Director indicated that he would be implementing a variation of the NCCHC initial visit form which I have reviewed. He is also training his clinicians to utilize the framework of disease

control as the basis for the program, with the philosophy that it is the clinician's responsibility to work with the patient to bring the disease or diseases into good control as expeditiously as is clinically appropriate. Many of these changes are very recent and we look forward to reviewing records on the next visit when we should see improved performance. Although the chronic disease list was generally appropriate, we did find at least one inconsistency with the list that we received.

### **Recommendations**

1. Continue to work on validating the completeness of the chronic disease registry.
2. Continue to review the professional performance, particularly with the utilization of the chronic disease order forms and the chronic disease initial visit and follow-up visit encounter forms. If, despite the aid of these forms, performance does not improve, which is unlikely, it suggests that continuation working for the jail health service may not be appropriate.
3. Consider a procedure that requires the advanced level clinicians to refer any patient whose disease is poorly controlled and does not improve at the follow-up visit to the Medical Director. This should enable the Medical Director to be involved with the sickest patients.
4. Insure that the first database visit occurs no later than Day 30 after intake for patients who are well controlled and significantly earlier for patients who are less well controlled.

## **11. Dental Care**

**Compliance Status: Substantial compliance.**

### **Findings**

The dental program which has been handicapped by the availability of resources is now more appropriately staffed. In our review of the dental program at the holding center, it did appear that restorations as well as extractions and assessments are being provided and generally they are being provided timely. There is still one day a week when there is no dental assistant, but that day is utilized to conduct assessments. It appears that there are now adequate resources to insure timely services.

### **Recommendations**

1. Given the new dental schedule, continue to monitor the timeliness of access to analgesia for patients who request assistance with dental pain.
2. Continue to monitor the ratio of restorations to extractions.
3. The QI committee, including its infection control nurse, should monitor the rate of post-extraction infections.
4. The dental program should continue to report to the infection control coordinator sterilization monitoring data on a quarterly basis.

## **12. Care for Pregnant Prisoners**

**Compliance Status: Substantial compliance.**

### **Findings**

Since the care provided by the Erie County Medical Center OB/GYN program is consistent with American College of Obstetrics and Gynecology Guidelines and since the records of these encounters are now available in the Erie County records, this program is now in substantial compliance.

**Recommendation** None.

## **13. Dietary Allowances and Food Service**

**Compliance Status: Partial compliance.**

### **Findings**

There is still no access to a dietitian or nutritionist services. It is unclear to me why in Erie County with a population of several hundred thousand it is impossible to develop a small part-time contract with an available dietitian. Problems do arise with patients with special needs and those problems should have the input from a dietitian. Neither of the food service managers is credentialed in the nutritionist field and therefore they cannot be expected to know how to respond to such demands. I am aware that the department is again looking into the possibility of moving to a heart-healthy diet and I would strongly encourage that because it dramatically reduces the work required to maintain a substantial number of special diets that are disease based. We are aware that the Medical Director has continued to reduce the number of previously ordered preference diets.

### **Recommendations**

1. Acquire the services of a part-time dietician consultant.
2. Consider adopting a heart-healthy master menu.

## **14. Health Screening of Food Service Workers**

**Compliance Status: Substantial compliance.**

### **Findings**

As indicated previously, food service workers at the holding center are not involved in food preparation. They are only involved in serving and cleaning. At the correctional facility, food service workers are involved in food preparation. In both facilities, there is a daily effort to screen out individuals who could potentially spread foodborne illness. This effort consists of insuring that workers are not suffering from any gastrointestinal disease and have no open lesions on their arms or hands. In both facilities, there is a prior clearance that is performed that

insures that all eligible workers are physically and mentally capable of working in the assigned area. The current methods for screening are satisfactory.

**Recommendation** None.

## **15. Treatment and Management of Communicable Diseases**

**Compliance Status: Partial compliance.**

### **Findings**

There is a new Infection Control Coordinator and she is well experienced, having had the same responsibilities in hospitals. However, at the time of this visit, she has not yet organized the program to be able to present data to the quality improvement committee or to me. Due to the absence of data with regard to TB control, MRSA, reportable diseases, sexually transmitted diseases and any outbreaks, this area remains in partial compliance. I would expect that this finding should change at the time of our next visit.

### **Recommendations**

1. Although the infection control nurse should collect data monthly, she should summarize it on a quarterly basis for the quality improvement committee. Particular areas to be reported on include TB control and prevention, the tracking and trending of skin infections including both presumptive and culture confirmed MRSA, the incidence of sexually transmitted diseases, the occurrence of reportable diseases along with dental post-op infections and a dental sterilization monitoring report.

## **16. Sexual Abuse**

**Compliance Status: Substantial compliance.**

### **Findings**

The program has insured that both medical and custody staff are trained in this area and in addition, in the one record we reviewed, the patient was sent offsite for an assessment by a credentialed sexual abuse nurse examiner. There was no documentation that the patient was afforded a rape crisis counselor. This service should also be offered. It is now required that all sexual abuse in correctional facilities must be officially reported. It is important that inmates be aware of this requirement; they can be made aware through a notice in the inmate handbook as well as signage in the institution, most especially in the medical clinic area. We also encouraged the Health Service Administrator to meet with the Erie County Medical Center leadership team in order to make them aware of the requirements under law with regard to not only an examination by a sexual abuse nurse examiner or forensic examiner but also the provision of a sexual abuse crisis counselor.

### **Recommendation**

1. The Health Service Administrator should meet with the ECMC leadership to inform that of the requirements under federal legislation with regard to services required through the Prison Rape Elimination Act.

## **17. Quality Management**

**Compliance Status: Partial compliance.**

### **Findings**

There continues to be significant amount of work in this area. In fact, the program is now providing two quality improvement meetings per month; the first meeting is one in which data collected is reviewed and commented on and the second meeting is supposed to include a review of infection control data and any analysis of the prior data reviewed and any proposed changes to policy or procedure. The activities that formed much of the work by the quality improvement committee in the last six months included a review of professional performance with regard to the approach to diabetes, a review of the sick call process emphasizing timeliness and this included an analysis of outliers, a review of the medication administration process, looking especially at professional performance and in fact, this in all likelihood contributed to the improvement as documented in my assessment, going from partial to substantial compliance. There continue to be a review of the timeliness of receipt of medications compared to the time of order. There was also a review of the completeness of the intake process as well as the timeliness of the intake process and there continues to be a review and analysis of medication errors. As I have indicated previously, in this report there are several areas that I have recommended quality improvement monitoring, including sick call or access to care, emergency care, follow-up care, chronic care and the medical record program as well as the dental program. This review, analysis and implementation of changes should facilitate the development of substantial compliance in all areas.

### **Recommendations**

1. Review the earlier sections of this report and insure that some activities are implemented as part of the QI program between now and the next report.

## **18. Review of Clinical Care by Responsible Physician**

**Compliance Status: Substantial compliance.**

### **Findings**

I have reviewed not only the forms but also the specific content of reviews with counseling by the Medical Director of his clinicians and am impressed with his efforts to use the process in a constructive manner. I am also impressed with the fact that when the performance is below threshold, he repeats the review more frequently so as to facilitate more timely improvement. This puts this section into substantial compliance. He is also assuring me that he is, when

reviewing performance, selecting records that tend to be of patients who are more complex or high risk or more poorly controlled.

**Recommendations** None.

### **III. Protection from Harm**

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

**Compliance Status: Substantial compliance.**

**Findings**

Both the policy and the training are consistent with an assessment 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.

**Recommendation** None.

#### **J. Suicide Prevention Program**

##### **e. Privacy**

**Compliance Status: Substantial compliance.**

**Findings**

See number 3 under Medical Care section.

**Recommendation** None.

##### **f. Assessment of Inmates in Detoxification**

**Compliance Status: Substantial compliance.**

**Findings**

The problem of initiating CIWA screens in the detox area seems to have been resolved. With the move into the new housing unit this, of course, will facilitate improved compliance.

**Recommendation**

1. Monitor the detoxification program by the quality improvement program.

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

**Compliance Status: Substantial compliance.**

**Findings**

See number 4 under Medical Care section.

**3. Detoxification Training Program**

**Compliance Status: Substantial compliance.**

**Findings**

All of the required medical staff have had this training.

**Recommendation** None.

Respectfully submitted,

R. Shansky, MD  
Medical Monitor

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