

# REPORT ON SETTLEMENT AGREEMENT IN THE CHRISTENSEN CASE

## MILWAUKEE COUNTY JAIL AND THE HOUSE OF CORRECTIONS Site Visit May 1-4, 2018

### **Introduction**

The May 2018 visit was extremely encouraging with regard to the custody issues. There is a new Sheriff in Milwaukee and he has had a dramatically positive impact on the relationships between the detainees and custody. He has appointed four wellness captains whose responsibility it is to ensure that custody facilitates monitoring of the most vulnerable, either medically or mental health wise, detainees. An example of this was a detainee who was brought into the Jail three nights before my visit and apparently refused to eat even though she was over seven months pregnant. The medical staff had ordered Boost, which is a nutritional supplement, for her and the custody staff were monitoring and encouraging her to take in food as well as liquids. Fortunately, she was released on Tuesday and she appeared to be healthy. Besides the wellness captains who each monitor a housing area for at risk detainees, custody has implemented several policies which protect the water supply, including a directive tightening the order for shutting water off. In addition, when the water is shut off the officers are supposed to log it as well as a directive to limit access to the plumbing chases. They also have marked the valves more clearly and the lieutenants have been tested on the water shutoff policy. Finally, they will not move detainees out of the mental health unit unless the mental health staff fill out form PT23, so the mental health staff have agreed to the move. In addition, the policy on Nutraloaf was eliminated, thus detainees regardless of infraction will not receive Nutraloaf. I have also been informed by leadership at both facilities that there is a much more collegial relationship and they are working much better and more effectively between the institutions. The environment at the Jail no longer reflects excessive tension, and the custody staff has apparently welcomed the responsibility to protect the safety and health of the detainees. The working relationships with medical and mental health have also dramatically improved. These accomplishments within such a quick period of time are historic in my experience. I have been working with facilities and monitoring institutions for over four decades and I have never before Milwaukee seen such a rapidly dramatic improvement. Although all of the custody staff, including the custody leadership, is to be lauded, the responsibility for moving forward with these improvements rests with the Sheriff.

On the other hand, the personnel problems with regard to registered nurses have gotten worse. Instead of a roughly 50% vacancy rate it is now greater than 65% vacancy rate for registered nurses. There has been an improvement in the vacancy rate for LPNs. It has improved from 51% to 23%, and this is a significant improvement. The other significant categories where vacancies remain are with the Chief Psychiatrist position and the counselor positions. At the time of my visit there were three vacancies in the counselor positions and it has been over a year since they have had a Chief

Psychiatrist. This is particularly troubling since they use psychiatric registered nurse practitioners and they lack onsite access to a psychiatrist.

I cannot emphasize enough the positive impact that the new Sheriff has had on the relationship between the custody staff and the detainees. I, for one, am very optimistic about the probability of a successful conclusion to this litigation.

## I. HEALTH SERVICES PROGRAM STRUCTURE

**Compliance Status:** Partial compliance.

### **Findings**

They have reorganized the structure and there will be two Health Service Administrators, one for each facility. One HSA is a nurse at the Jail who appears to be quite energetic and conscientious. They have moved the Administrator from the Jail to the House of Corrections. Given her strengths, it will allow her to effectively deal with the program at the House of Corrections. The revised Attachment A was provided to me but without a month's data from actual historical data concerning the vacant shifts by institution and by discipline and day of the week. I was told that nurse foreign medical grads are hired regularly by hospitals and they come in substantial numbers with a contractual commitment to provide several years of service at the facility for which they are hired. This is a strategy that should be investigated. In addition, I was told that there will be a Director of Nursing for each facility as well as nurse supervisors for each facility. On the other hand, the Medical Director serves both facilities and the vacant Chief Psychiatrist will also serve both facilities.

### **Recommendations:**

1. Provide Attachment A data for April 2018 within 30 days of receipt of this report. This can be emailed to me. In addition, provide Attachment B as of August 2018 also by email by September 10, 2018.

#### **A. Program Administrator**

As I have already described, there will be two Health Service Administrators, one for each facility. Those positions are already in place.

#### **B. Medical Director**

The Medical Director has played a positive role overall and I was able to review her data on performance reviews as of this visit. In many of the reviews she offered suggestions of how to improve performance and this was clearly appreciated by me.

### **Recommendations:**

1. Perform performance reviews on any of the primary care physicians providing services, especially at the House of Corrections.
2. The Medical Director must provide me with death reviews of the four deaths that occurred in 2016 and the three deaths that occurred in 2017. A few have been

previously provided but I would like to see what, if anything, is the corrective action plan. Also, she should send me the entire seven death packet.

### **C. Physician HOC**

There is a locum physician who works full-time at the House of Corrections and there is a half-time vacancy.

#### **Recommendations:**

1. Fill the full-time locum position and after it is filled, perform a performance review of the primary care practitioner.

### **D. Chief Psychiatrist**

This position continues to be vacant and I have insisted that it be filled. There are a total of 48 hours of psychiatrist, 20 of which are of the Chief Psychiatrist per week and they are considering telepsychiatry, both at the Jail and at the House of Corrections.

#### **Recommendations:**

1. Fill the Chief Psychiatrist position as soon as possible with someone who is present a minimum of 20 hours per week during prime time.
2. Recruit for the additional 0.20 full-time equivalent psychiatrist for the House of Corrections.

### **E. Nursing Director**

There is a Nursing Director for each facility and although I did not meet the Nursing Director at the Jail, I did have an opportunity to chat with the acting Nursing Director at the House of Corrections. The positions of Nursing Director have turned over, I would argue, excessively over the last four years. I believe it may help in the stability of the program to fill these positions with long-term people. Although I did not meet the Nursing Director at the Jail, I am told that she is well qualified.

**Recommendations:** None.

### **F. Nurse Practitioners**

There are 10 primary care nurse practitioners, so all the positions are filled, although two are filled by four half-time people. There are three psych ARNP positions and 2.5 are currently filled. However, without the onsite Chief Psychiatrist their situation clinically is quite fragile. Currently, due to the vacancies of registered nurse positions at both facilities, one primary care nurse practitioner has been delegated to perform RN sick call at each facility. And if this continues I would be willing to reassess the requirement for registered nurse positions.

**Recommendations:**

1. Decide whether the nurse practitioner assignment is relatively permanent and then I will revisit the RN staffing required numbers.

## **G. Staffing**

According to Attachment B, there is an overall 29% vacancy rate, but that vacancy rate is clustered, especially with RN vacancies, and also with counselor vacancies.

### **Recommendations:**

1. Continue to recruit and fill positions despite the fact that an RFP may be released to the public.

## **II. MEDICAL SERVICES**

**Compliance Status:** Partial compliance.

### **Findings**

#### **A. Intake Screening**

The nurses appear to be doing a very good job with regard to the timing of the nurse screening and the appropriateness of the acuity level that is being assigned to each patient. According to quality improvement data, the percent late for levels 1, 2 and 3 were between 25 and 30%. This may be due in part to the reassignment of primary care nurse practitioners to perform RN sick call.

### **Recommendations:**

1. Continue to perform QI studies of the timeliness and the professional performance of the nurse screen. Review also the timeliness of the performance of the history and physical exam by acuity level.
2. If the RN vacancies are to improve, Armor should try a longer-term strategy despite the impending RFP.

#### **B. TB Screening**

**Compliance Status:** Partial compliance.

### **Findings**

There is a new QI/Infection Control Nurse and she seems to be very energetic and conscientious. She has performed several different studies. With regard to the TB studies, both the House of Corrections and Jail were achieving placements and readings on greater than 90%. However, the criteria for higher risk people requires the planting and reading to occur at much prior to 13 days. I am particularly concerned about higher risk patients; those at higher risk are those with a history of homelessness as well as foreign born or significant alcoholism or other substance abuse and immunocompromised status, such as HIV. These patients must be tested and tested earlier because of their higher risk status. Based on these four categories, it is important

that they be identified during the nurse screen, and the placing and reading occur within the first week.

**Recommendations:**

1. Implement through the use of the electronic medical record a strategy to designate higher risk patients for tuberculosis and insure that those patients get tested for tuberculosis.
2. Once that is implemented, perform a QI study looking at those groups of people.

**C. Physical Examinations**

**Compliance Status:** Partial compliance.

**Findings**

Probably the reassignment of primary care ARNPs to perform RN sick call has somewhat depleted the ranks of the eligible people. The finding that for all three acuity levels there was between 25 and 30% of those history and physicals at each level were performed late by criteria is suggestive of the link between the two.

**Recommendations:**

1. The QI program should review whether the practitioners are covering in their history and physical exams salient positives from the nurse intake screen.

**D. Sick Call**

**Compliance Status:** Partial compliance recently (if there is a return to RN sick call I will rereview).

**1. Nurse Sick Call**

**Findings**

We continued to review the performance prior to the use of ARNPs at each facility to perform RN sick call. Although the ARNPs are over credentialed, it is a practice that I understand, given the shortage of registered nurses. We found that out of a little less than 10 records there were areas for improvement within each record. Some of the problems we encountered were incompleteness of historical data gathered, absence of the assessment portion completed, and absence of required follow up occurring.

**2. Advanced Level Provider Sick Call**

We did not review records at this time with regard to practitioner sick call because we were informed that this is a temporary strategy until the RN positions get filled.

**Recommendations:**

1. The Medical Director should at least quarterly review the performance of the practitioners when providing sick call services. If the performance is reviewed and it is determined that a particular practitioner is performing in a substandard

manner, this practitioner's performance must be reviewed monthly with feedback until adequate performance is achieved.

## **E. Chronic Care**

**Compliance Status:** Partial compliance.

### **Findings**

The quality improvement studies demonstrated data that patients with poor control were not seen for greater than 30 days for 10% of the time. Patients with fair control were not seen for greater than 30 days for 5% of the time. And good control must be seen within 90 days and this did not happen for 42% of the time. The definitions of good, fair, and poor control were provided to me by the program. It would be understandable to attribute these delays in chronic care follow up to the reassignment of two primary care practitioners to RN sick call. It is not clear whether this is the case. It might be helpful if the QI coordinator is able to review the outliers with regard to why they were not seen within the required timeframe.

### **Recommendations:**

1. Review a sample of patients with chronic diseases whose services are provided by each of the practitioners for compliance with chronic disease policy and guidelines (Medical Director).
2. Perform a review of the timeliness of follow up again by the QI nurse and then those outliers should be reviewed by the Medical Director to determine the reason for the late follow up.

## **F. Urgent/Emergent Care**

**Compliance Status:** Substantial Compliance.

### **Findings**

The QI program performed a study that demonstrated that offsite service documents were overwhelmingly available timely. The clinician follow up was also timely.

### **Recommendations:**

1. The QI program should continue to study the timeliness and professional performance of the urgent/emergent care services.

## **G. Specialty Services**

**Compliance Status:** Substantial compliance.

### **Findings**

These services were performed well according to the QI data.

### **Recommendations:**

1. The QI program should study the timeliness and professional performance of the specialty services as well as the follow up.

## **H. Infirmary**

**Compliance Status:** Substantial compliance.

### **Findings**

This area was not reviewed; however, this area was also not reviewed by the QI program.

### **Recommendations:**

1. The QI program should perform a review of this service, looking at timeliness of documentation by both clinicians and nurses in accordance with the level definitions.

## **I. Medication Distribution**

**Compliance Status:** This area has been in substantial compliance.

### **Findings**

There were no problems that we heard were reported regarding the medication administration program.

### **Recommendations:**

1. The QI program should review this program along with the Director of Nursing.

## **J. Women's Health**

**Compliance Status:** This area was previously in substantial compliance.

### **Findings**

This area was not reviewed.

### **Recommendations:**

1. This area should be reviewed by the Medical Director as part of the QI program.

## **K. Therapeutic Diets**

**Compliance Status:** This area was previously in substantial compliance.

### **Findings**

We did not review this area at this time.

### **Recommendations:**

1. Consider moving to a heart healthy diet on the master menu.

2. The Medical Director should review the special medical diet list and determine which ones are medically indicated.

### III. Mental Health Services

**Compliance Status:** Partial compliance.

#### **Findings**

Currently, the Chief Psychiatrist position remains vacant. We did get a chance to meet with the licensed psychologist and find that he has started work at the facility within the last two weeks. He has a good understanding of his assignments. He should be a valuable asset to the team.

#### **A. Intake and**

#### **B. Program**

#### **Findings**

Although there are three counselor positions vacant, the program has managed to do well with regard to timeliness studies.

#### **Recommendations:**

1. The QI program should continue to monitor both timeliness as well as professional performance.

#### **C. Pharmacy**

#### **Findings**

Although this area was not reviewed it was discussed and there is a sense that the program is working well.

#### **Recommendations:**

1. The QI program should begin to monitor the quality control as well as the timeliness of the availability of appropriate medications.

#### **D. Urgent/Emergent and Emergency Psychiatric Services**

#### **Findings**

The QI program did not perform any studies of psychiatric services; however, this should be done.

#### **Recommendations:**

1. Perform a study of the timeliness of the mental health responses as well as the quality of the assessment and plan for mental health services.



## IV. Dental Services

**Compliance Status:** Partial compliance.

### **Findings**

There is inconsistency in access to the services; however, there has been slow but steady improvement. Around 70% are seen on a daily basis of the people appointed. Also, the ratio of restorations to extractions clearly could be improved.

### **Recommendations:**

1. Continue to work with custody to improve access.
2. Continue to improve the number of restorations versus extractions.

## V. Support Services

**Compliance Status:** Substantial compliance.

### **A. Medical Records**

#### **Findings**

The same electronic medical record is being utilized.

### **Recommendations:**

1. Continue working on the responsiveness of the electronic medical record.

### **B. Pharmacy**

#### **Findings**

The error rate seems to be quite low.

### **Recommendations:**

1. Continue monitoring by the QI program the pharmacy performance.

## VI. Miscellaneous

### **A. Physical Plant**

**Compliance Status:** Substantial compliance.

**Findings None.**

**Recommendations:** None.

### **B. Quality Improvement Council**

**Compliance Status:** Partial compliance (nearing substantial).

## **Findings**

Despite the Quality Improvement Coordinator having started about a month ago, she has generated at least eight areas where she performed studies, all of which have been referred to in this report. She looked at:

1. Timeliness of urgent mental health referrals
2. Timeliness of routine mental health referrals
3. TB planting and reading based on a 13-day stay or more
4. Timeliness of acuity level evaluations, including the physical examination
5. Chronic care timeliness
6. Review of offsite appointments and documentation of offsite services availability
7. Timeliness of review of receipt of offsite service documents

There was also some nursing QI performed by the nurse practitioners.

## **Recommendations:**

1. Review the areas that were previously in substantial compliance, including pharmacy for quality control errors, women's health, infirmary, dental in terms of access and the other areas that we have already discussed, including chronic care, nurse sick call and unscheduled and scheduled offsite services.
2. With regard to chronic care, review the timing of the initial chronic care visit from intake and the relationship of degree of control to the timing of the follow up visit.
3. With regard to outliers, please study them in order to discern patterns that may be subject to improvement strategies.

## **Conclusion**

I continue to be impressed by the change in administration at the Jail and the professionalism of the approach by the Superintendent of the House of Corrections. I was particularly impressed with the rapid change in the environment between custody and the detainees at the Jail.

The key problem is attacking the extreme RN shortages as well as the vacancy of the Chief Psychiatrist. The counselor positions, I am told, are being addressed. I am very encouraged by the sense that there is a multidisciplinary team working together. I encouraged the Medical Director to send me death summaries from the four deaths in 2016 and three deaths in 2017. I expect problems to be found and solutions advocated, and the implementation of the improvement strategies should be monitored by the QI committee. I would be willing to accept verbally the elements of the improvement strategy, but it needs to be multidisciplinary, including custody, medical, and where indicated, mental health.

Respectfully submitted,

R. Shansky, MD

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ATTACHMENT B

Summary of Medical Unit Budget with Authorized Positions  
and Required Totals by Position

<b>Positions</b>	<b>Authorized</b>	<b>Required/Contract</b>	<b>Change</b>	<b>Actual</b>
Administrative Asst.	2.0	2.0		2.0
Unit Clerk	5.0	5.0		5.0
Medical Asst.	6.0	6.0		2.0
LPN	21.5	26.0	+4.5	20.1
RN1	40.0	31.0	-9.0	10.6
RNMH	2.0	2.0		1.0
RN Staff Development	2.0	2.0		2.0
Shift Sup.	6.5	8	+1.5	8.0
ADON	1.0	0.0	-1.0	0.0
ARNP	9.5	10.0	+0.5	10.0
House Physician	1.5	1.5		1.0
Staff Psychiatrist	1.5	0.2	-1.3	0.0
Chief Psychiatrist	1.0	1.0		0.0
Medical Director	1.0	1.0		1.0
Case Management	2.0	3.0	+1.0	3.0
Psychiatric Social Worker	12.0	10.0	-2.0	7.0
DON	1.0	2.0	+1.0	2.0
Med. Prog. Admin.	1.0	2.0	+1.0	2.0
<b>Currently Contracted</b>				
Dentist	1.0	1.0		1.0
Dental Asst.	1.0	1.0		1.0
Med. Rec. Sup.	1.0	1.0		1.0
Director of MH Serv.	0.0	1.0	+1.0	1.0
Staff Psychologist	1.0	1.0		1.0
QA/IC RN (Combined)	0.0	1.0	+1.0	1.0
Quality Assurance RN	0.0	0.0		0.0
Infection Control RN	0.0	0.0		0.0
Psychiatric Social Worker Supervisor	0.0	2.0	+2.0	2.0
ARNP- Psych	0.0	3.0	+3.0	2.5
Med. Rec. Clerk	9.0	5.6	-3.4	4.6
	129.5	129.3	6.6	91.8

29% vacancy rate

Last Revised 5/4/18