health policy network

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RE: Handcuff protocol for all participants in a local jail MAT / MOUD program (Lancaster County Prison or LCP) in Pennsylvania

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MOUD = Medications for Opioid Use Disorder (methadone, buprenorphine, naltrexone)

MAT = “Medication-Assisted” Treatment or (preferred) Medications for Addiction Treatment

Did the jail confirm the handcuffing policy? Yes. Deputy Warden Joe Shiffer emailed as follows in response to my question about whether LCP’s addiction treatment program participants were being restrained with the following response:

> “As you know Buprenorphine and Methadone are controlled substances and highly sought after in a jail setting. As such, there is a very specific process followed by security and nursing staff during medication administration. Part of the process to prevent diversion involves all inmate participants in our MAT program be handcuffed behind their backs and a cape is placed over them. This process is practiced by most of the institutions in the region and is in place for safety purposes.” (Shiffer, J, email, 3/19/24)

<u>Three main points I communicated to LCP’s leadership:</u>

1. A blanket protocol to handcuff people while they receive routine daily addiction treatment medications is undignified, stigmatizing, not evidence-based, and very possibly an ADA violation.
2. They were misinformed that this is a common practice. It is not. It is so rare that it isn’t mentioned MAT/MOUD literature, correctional health guidelines, toolkits, or best practices, despite a growing body of MOUD studies in correctional settings. Experts contacted nationwide had never heard of it.
3. Since the risks outweigh the benefits, they should stop the restraint policy.

Anti-diversion efficacy? Risks and benefits of anti-diversion measures?

- We lack evidence that handcuffing patients will reduce medication diversion.
- We lack evidence connecting diversion to reductions in harm to the jail population, such as fewer overdoses, or fights.
- The existence of MOUD programs is, by itself, protective against jail overdoses, despite documented diversion known to happen in these programs, according to the research.
- Many other strategies to reduce medication diversion are available, that are recommended in guidelines and best practices.
- Deputy Shiffer stated that buprenorphine and methadone are “attractive” as contraband.
  - Multiple studies show people seek out non-prescribed OUD medications, especially buprenorphine, because of a high level of “disease burden”, i.e. untreated OUD in the jail population.
  - *Reducing the number of people with untreated OUD* has been shown to reduce the market for non-prescribed medication.

- Buprenorphine or methadone diversion (non-prescribed use) is not correlated with significant health harms in jail populations.
  - Deaths from buprenorphine overdose are rare, due to its "ceiling effect.". The most vulnerable are children and the elderly, not the prevalent population in jail.
  - RX methadone overdoses are a clinical concern, however methadone diversion from supervised opioid use disorder treatment is rare. Methadone overdoses in the community have been largely connected to pain management prescriptions.
  - No reports of overdoses or deaths connected to diversion from a jail methadone program could be identified in a scoping (but not systemic) literature review.

Stigma and the MOUD program:

- Our culture views wearing handcuffs as degrading. That's why defendants are usuallynot handcuffed in the courtroom, because of the risk of biasing the jury.
- Chief Judge Ashworth said in the Prison Board's Feb. 2024 meeting that stigma is a key deterrent to engaging more people in addiction medication treatment here in Lancaster.
- In light of Lancaster already finding stigma a barrier, adding another stigmatizing component – handcuffs - is simply counterproductive.,

Legal risks:

- People in addiction treatment are a protected class under the ADA.
- The civil rights and disability rights of people in treatment, or requiring addiction treatment, are increasingly being enforced at the state and federal level.
- The U.S. Department of Justice submitted a "statement of interest" re: a private party's lawsuit against another PA county jails, reviewing the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134 and noting that a county jail's security concerns do not remove the incarcerated person's civil rights. (IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, Strickland v. Delaware County, No. 21-cv-4141) https://www.justice.gov/opa/media/1328001/dl?inline)

  "Public entities may impose legitimate safety requirements necessary to safely operate their services, programs, or activities, but only if such requirements "are based on actual risks, ***not on mere speculation, stereotypes, or generalizations*** about individuals with disabilities." Id. § 35.130(h).

  A security threat or potential for harm may be determined, but only after conducting an ***"individualized assessment,*** based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk." Id. § 35.139(b)."

Clinical ethics of shackling people during medical care:

- Shackling of pregnant women for medical care and during birth in hospital settings is highly restricted by law in most U.S. states, including Pennsylvania.

- The shackling of incarcerated person for medical treatment within a correctional facility is is referenced in correctional health guidelines only as a limited practice in cases where patients are causing harm to themselves, or may harm others, or are maximum security inmates considered dangerous.
- In those cases, it must be under a clinician's direction.
- **No references could be identified** to shackling people during **voluntary** addiction treatment or other routine medical treatment within a jail, or in any kind of routine medical care or dispensing of medication.
- Experimental protocols tested on incarcerated people require evidence of benefits that outweigh the risks, and they require patient consent.
- Incarcerated persons are particularly vulnerable, and protected by law from medical experimentation.
- Multiple other strategies to reduce medication diversion are available, that are recommended in guidelines and best practices.

Do any other jails do this? This hasn't been determined, but no experts consulted among state officials were aware of this practice in PA or nationwide. The jail medical provider said Lancaster County jail "appears to be" the only one handcuffing MOUD patients among their 87 jail clients in 5 states (35 in PA). PrimeCare Medical's has stated that their company does not dictate "security" measures and works withing a jail administration's rules.

The PA DOC does not use this protocol in PA State Correctional Institutions (state prisons.) Philadelphia Prison system, the largest MOUD program in PA, does not use handcuffs or capes/ smocks.

MOUD program at Lancaster's jail:

- Program is "continuation" treatment only, about one-year old.
- 84 people (60 people receiving buprenorphine, 24 methadone in March)
- Jail population = almost 800. About 65% detained pre-trial.
- Inducting of new start patients on buprenorphine and methadone is supposed to start soon, so # of MOUD patients will grow.

APPENDIX:

LCP's contracted medical provider: PrimeCare Medical, Inc. relevant clinical protocols 4/2024)

G. Dosing Procedure

Procedure for administration of Buprenorphine and Methadone There will be one scheduled MAT Medication Pass per day. Time/location and number of patients to be dosed at one time will be determined by facility administration.

1. The patient will come to assigned space at a specified time period and drink a cup of water provided by the nurse and then stand in line/sit where indicated by correctional staff.

2. If dosing is not located in the medical department, a correctional officer will escort the nurse and medication cart with narcotics to the dosing location and remain with the cart until returned to the medical department.

3. Correctional staff will provide instructions to patients regarding the administration procedures of buprenorphine and methadone and shall be responsible for going over the anti-diversion plan.

4. Correctional staff will direct the patient to stand/sit approximately an arm's length away from other patients and instruct there will be no talking during dosing.

5. Correctional staff will then perform a mouth check and will also check in between the fingers of both hands, prior to administration of medication.

6. The nurse will then check the mouth and hands again; open the medication package/ or crush medication in pill cup and pour crushed medication under the tongue for buprenorphineor have them drink and swallow the medication for methadone.

7. After medication administration, patients will wait for 15 minutes without manipulating or moving their mouths or hands. The nurse will continue mouth checks every 5 minutes within that 15-minute time frame. In instances that there is still medication present after 15 minutes, patient will be allowed to stay until medication is fully dissolved.

8. Correctional staff will recheck the patient's hands and remind patient that their hands must remain at their side during the entire administration process.

9. The nurse will continue down the line of patients until administration is completed.

10. The nurse will then go back to the beginning of the line and check the mouth and hands for any possible diversion.

11. After all patients have been checked by the nurse, they will be rechecked by correctional staff and be required to drink a glass of water and/or eat a cracker prior to leaving the assigned space.

12. If any patients are found diverting medication, the anti-diversion plan will be followed.

NOTE: Patients are expected to take their full doseas prescribed and documented in the electronic health record. Patients CANNOT take a partial dose. If a patient refuses to take all of the medication, nursing must immediately notify the Clinical Counselor and medical provider.

The PrimeCare Medical COO stated re: diversion:

> " If a facility is have a diversion issue we frequently will have team meetings to discuss the process. Typically we have found there are a number of different reasons why diversions occur. They can be from other incarcerated individuals threatening harm, the patient may be selling, they patient may be self-dosing at a later time, the patient may also be doing for other reasons. In locations that we have worked with as a team we have found ways to reduce or eliminate diversions through enhanced monitoring etc."