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**HUMAN RIGHTS AUTHORITY – PEORIA REGION**  
**REPORT OF FINDINGS**

**Case #20-090-9008**  
**Peoria County Jail**

**INTRODUCTION**

The Human Rights Authority (HRA) opened an investigation after receiving complaints of possible rights violations at the Peoria County Jail. The complaints alleged the following:

- 1- Inadequate treatment of a detainee with a mental health diagnosis, medication not being administered in a timely matter or as prescribed.
- 2- Improper medical care by providing protein based shake to an individual who is lactose intolerant during a time when he was possibly on a restricted diet due to a medical need.

If found substantiated, the allegations would violate the Unified Code of Corrections and the Illinois Administrative Code, Title 20 for jail regulations. Peoria County Jail detains approximately 359 inmates on an average day. The jail also holds federal inmates until their transfer to a federal prison occurs. The jail employs 1 Superintendent, 50 correctional officers, 10 court security personnel, 10 jail technicians, 3 Sergeants, 6 Deputies, and 1 Assistant Correctional Supervisor. The jail contracts with a company named WellPath for their medical and behavioral health services. WellPath provides 5 full time employees to the jail: LPN, RN, Dentist, Physician, medical director and a Nurse Administrator.

**COMPLAINT STATEMENT**

The allegations state a detainee at Peoria County jail did not receive medication needed to manage his mental health symptoms and was provided a protein based shake even though he is diagnosed as lactose intolerant and requires an alternative diet. The detainee was allegedly physically attacked while in jail and his jaw was broken and required surgery. He was housed in the medical segregation unit due to the injury and was reportedly "not being fed" for two months. As per the complaint, the detainee was only allowed to drink

protein shakes, broth, and tea for every meal, and he is lactose intolerant, so the protein shakes were causing him a lot of discomfort. During this time his jaw was wired shut and he allegedly was unable to take his medications for schizophrenia/bipolar disorder. When the jail was notified that he needed medication due to his diagnosis, the jail staff were reportedly difficult about cooperation. The jail has started and stopped his meds since booking/admission as per the complaint. The detainee allegedly also continued to sit in segregation because he refused to return to the general pod due to fear that he would again be attacked.

## **FINDINGS**

### **Staff Interviews (6.24.20 and 7.16.20)**

The site visit was held via a videoconferencing platform due to Covid19 restrictions throughout the State of Illinois. Several staff from the jail administration and medical department attended this meeting. The HRA had a signed consent to release information from a detainee who had been held at the Peoria County Jail.

The booking/admission process begins when an arrested person arrives at the jail. The detainee is searched and booked into the jail. After the detainee is booked, they are examined by medical if there was an issue documented at their booking. A nurse could assess a detainee before they are booked into the jail. The Medical Director visits the jail in person on a weekly basis. The Medical Director is the one who orders the medical care for the individual. For example, if a detainee requires a lower bunk, has a feeding tube, or requires other immediate medical care the Medical Director would order. The detainee would be housed on the medical unit. This part of the jail has 6 beds to care for detainees requiring medical care. Mental health treatment is based on the need.

A nurse would complete a History and Physical on all new detainees. A detainee can make a sick call 7 days a week. The jail also has a mental health professional on shift 7 days a week to support a detainee's mental health needs. If a jail is aware of a detainee requiring mental health care, then an evaluation would be conducted. Based on the recommendation from the assessment, staff would determine if the detainee needs to be housed on the medical side or somewhere else within the facility.

Once a detainee is booked into the jail, they have access to a kiosk where they can send a sick call request directly to medical. The jail also has a process for medications. A Security Officer would conduct a questionnaire asking if the detainee takes medications. If the detainee indicates, yes, then they would be examined by medical immediately. If it is a routine booking, then they would be examined by medical within 4 hours of incarceration. There is an 8-9 page intake process where medical and mental health information is gathered. If the inmate requires prescription medications, then they would sign a release of information to send to the provider or pharmacy to determine what medications they are currently prescribed. This also helps the jail medical staff determine if a detainee has been compliant or noncompliant with a medication. If a chronic care need is discovered, such as HIV status, then the jail would refer to the detainee to the appropriate clinic. If medications are needed immediately then there is a

process for nursing to contact the pharmacy in an emergency. If an inmate arrives with medications, the prescription would only be given after receiving an order from the Medical Director.

Nursing completes a medication pass twice a day. As soon as the ordered medications arrive from the pharmacy to the jail, they would be checked into the medication card. If a detainee requires medications to be passed three times a day, they would still get the prescribed dose. No officers are trained to pass medications, but they are on standby during the medication pass. The jail also subcontracts with a local mental health provider to provide services to the jail inmates. Officers can make mental health referrals for detainees. If a medical referral is made, medical should respond within 24 hours of receiving the referral.

The jail has different levels of supervision for detainees. An individual with severe mental health needs can be in "isolation". The mental health supervisor would advise on housing status in a situation like this. The Mental Health department can offer different levels of housing, especially a single cell option. This would be used for crisis watch. An officer would refer to mental health staff if they felt a detainee was at risk. If it is a routine mental health need, then there is a form that would be completed and put in the mental health mailbox for follow-up within 24 hours.

The detainee involved in this complaint did disclose a mental health diagnosis to the jail. He answered, yes, to having a diagnosis of schizophrenia. He was not familiar to the jail but was housed for several months awaiting trial for a federal charge. Upon his arrival to the jail he denied taking his medications while in the community and required medical supervision to detoxify from illegal substances. He was housed in a medical cell during this time. After he had detoxed, he placed a sick call requesting to have his psychotropic medications ordered. The medical staff scheduled an appointment for the detainee to meet with the psychiatrist, who comes to the jail on a weekly basis. Once the psychiatrist met with the detainee the schizophrenia diagnosis was confirmed and formally diagnosed. Psychotropic medications were ordered in the month of arrest and those were, Zyprexa and Cogentin. The detainee was scheduled for a follow-up appointment two weeks later. After the site visit was held, the HRA followed-up with the Nursing Supervisor to clarify when a detainee would provide medication consent for the medications they were prescribed. The Nursing Supervisor reported that if a detainee was already taking the medication(s) outside of jail custody, they would not have he/she sign a medication consent.

This detainee was involved in a physical altercation with other detainees during his time being housed at the jail. The detainee was sent to a local Emergency Department for evaluation. When he returned to the jail his medical diagnosis was a fractured jaw. The detainee was scheduled for surgery to repair the fracture. The detainee refused the scheduled procedure. He then requested the procedure about 24 hours later. The medical staff contacted the physician on-call due to the significance of the detainee's injury. The surgery took place and the detainee returned to the Peoria County Jail where he was placed on a liquid diet and required his medications to be crushed. The detainee began to

refuse his psychotropic medications after his jaw was broken. His pain medications were ordered as a liquid. After the site visit was held the HRA followed-up with the Nursing Supervisor who indicated this detainee was on a liquid diet for the short term after his injury and the Medical Director did not order weight checks.

The detainee did not have any protein based shakes ordered by the physician for him during his time at the jail. All orders for a diet change would be given to the kitchen and noted in the detainee medical chart. At some point after the jaw injury, security called about the detainee being on a regular diet. Once he returned from the oral surgeon the liquid diet was ordered for two weeks while he healed. The detainee was given a Carnation drink with protein. The detainee then advanced back to a regular diet after that. At the booking process the detainee did not report any food allergies.

The detainee was noncompliant with his medications off/on during his time at the jail. His family, with the support of mental health staff, were able to encourage him to restart his medications.

A follow-up phone call with the Jail Nurse Supervisor provided further details and clarification to the HRA on the process of ordering medications and how this information is charted. The medical record system is primarily on the computer and there are no formal handwritten charts. If a physician orders medication, it is entered through the computer system and the jail staff follow-up. When the Electronic Medical Administration Record (EMAR) has the comment "out of unit" this means that the detainee was not in custody of the jail at the time of prescribed medication dosage. If a detainee has missed a medication pass three days in a row, then an automatic referral is made to Behavioral Health. The medications are stopped until there has been a consult by the mental health professional, if the detainee's behaviors are not identified as critical. If the Behavioral Health Psychiatrist or Nurse Practitioner (NP) has no available appointments the week of the referral due to scheduling, and the patient/detainee's behaviors are not critical. then an appointment would be made the following week.

### **FINDINGS (Including record review, mandates, and conclusion)**

#### **Complaint #1 – Inadequate treatment of a detainee with a mental health diagnosis, medication not be given in a timely matter or as prescribed.**

In 2019 a detainee was booked into the Peoria County Jail on a drug charge and was also being held for another agency. The month of the arrest a Correct Care Solutions/Wellpath (CCS) Medication Verification/Medical Release Form notes the last time the detainee was taking prescribed medications per jail records was while he was incarcerated in a prison. His weight is documented as 150 lbs.

The HRA reviewed a document titled "Receiving Screening" completed by Wellpath staff, which documents the patient reporting a diagnosis of Chronic Schizophrenia, unspecified in 2019. There are two mental health diagnoses from a previous date, in the record, that document the diagnosis of Bipolar Disorder,

Unspecified and Unspecified Episodic Mood Disorder. The screener asked the question “Are you currently taking any medication prescribed to you by a physician?” The answer was yes. The patient was then unable to provide the name and dose stating “forgot names” and when asked the last date the prescription was filled he answered, “can’t remember”. He identified a pharmacy. When asked when medications were last taken, the corresponding answer was “yesterday”. Another question asked on the Receiving Screening is “Have you been hospitalized by a physician or psychiatrist?” The answer was “yes” and “mental health” is written as a description. It is also documented on the Receiving Screening that the patient was under the influence of alcohol or drugs. On the same document, the section titled Suicide Potential Screening was completed with four yes answers identified out of the eighteen questions. The screening indicated that he had a history of psychotropic medication and treatment, that he could not focus and is hearing or seeing things not there, was under the influence of alcohol and was incoherent or showing signs of withdrawal or mental illness. Because of the responses, the screening indicates that there should be “... notification of Shift Commander and immediate referral to MH evaluation. If after hours, initiate suicide watch IMMEDIATELY until MH (mental health) can evaluate.” The section of this form titled “Psychiatric Screening” indicates that the patient reported a history of current psychotropic medications but could not remember the names of the medication. The detainee reported a history of psychiatric hospitalization but could not remember when they happened. The detainee answered, no, to participating in any outpatient mental health treatment. The inmate/patient’s signature is noted on the form electronically at 12:57am. Under the section of this document titled “Referrals- Check appropriate box” (This does not automatically create a referral.). The choices for a referral are medical provider, mental health, infection control nurse and dental. None of these are checked. Under the section titled Placement/Housing for Special Needs he was needing “Medical Observational Housing”.

During the first month of the 2019 arrest the detainee has a medication order for: Zyprexa 20mg at hs (at bedtime) and Benztropine (Cogentin) 1mg tablet given by mouth at hs for 90 days. The Medication Administration record indicates these two medications were ordered by the assigned Nurse Practitioner and given on days 13-16 and 17-30 of the first month of his detainment. During this month of arrest, the detainee was involved in a physical altercation that resulted in a broken jaw. At this ED for his jaw, he was given morphine and tramadol before returning to the jail the first day of the second month of arrest.

There was a Behavioral Health Initial Evaluation completed by a Mental Health Professional (MHP) completed which notes the chronic diagnosis of Schizophrenia, unspecified and also reiterates no known allergies. He reported that he had an appointment with a community mental health provider but missed the scheduled appointment due to being in jail. The Comments section of this form completed by the MHP states, “Coherent and cooperative. Denies any concerns ... Educated about the kiosk and how to use if mental health needs arise.” The Plan was “Treatment not indicated at this time, educated on how to further access services. Behavioral Health to

follow up PRN. Refer to: 'medical'." The EMAR indicates the administration of prescribed psychotropic medications from 1-10, 13-15 and 17-22.

A WellPath Behavioral Health Structured Progress Note, electronically signed by an RN and Mental Health Professional, documents a Nursing/Medical appointment for the detainee needing "psych meds". This document details his substance abuse history and that he asked to speak to a psychiatrist for medication to treat his schizophrenia. What appears to be the response from Wellpath staff were "he was educated and instructed on how to use the kiosk. He verbalized understanding." This form also indicates that the detainee/patient needed a referral to psychiatry.

A Behavioral Health Psychiatric Provider Initial Evaluation with a WellPath NP documents the following statement about the presenting issue for the patient/detainee: "I haven't been on my medication since I got out of DOC in February. I was on medication for paranoia/schizophrenia. I got out and went back to getting high instead I went to 1 outpatient appointment, and no further follow up. The medicines helped me sleep and some with the paranoia." The word "none" is listed under the section of the form titled Current Psychotropic Medications. The Plan to treat was "start Zyprexa 5mg qhs x 3 days, then increase to 10mg qhs or at bed or mood/psychotic symptoms start Cogentin 1mg qhs to prevent eps. ... Follow-up Date: 2 weeks." During this same visit the NP indicates via documentation that the detainee/patient reported a positive response to Zyprexa and needed Cogentin for eps (extrapyramidal symptoms). The plan to start medications and risks, benefits and side effects were indicated to have been reviewed with the NP and detainee.

The Refusal of Treatment forms provided by WellPath specific to this detainee documents refusal of his prescribed dosage of some medication, but this form does not consistently document what medications were refused 8 times during the second month and 3 times during third month of his arrest. Based on the EMAR for the second month of arrest, the HRA concludes that the detainee refused a prescription laxative that was ordered to be given in the morning, not his Cogentin or Zyprexa which were evening medications. The only documentation provided that indicates he was refusing his psychotropic medications was from the NP visit which conflicts with the details of the Refusal of Treatment forms. The conflict is a NP note which documented the following "... psychiatric medications were discontinued by another provider. ..." There is one Refusal of Treatment form reviewed by the HRA that is dated for the 10<sup>th</sup> day of the second month of arrest at 8pm that has the box marked for "refused medications" but the comment says, "refused Senna".

During the third month of arrest the detainee refused the morning dose of his Cogentin on the 7th, 9th and 11th. There were three Refusal of Treatment forms that correlate with the date of these missed medications although they did not specifically state what medications were refused.

One day after the detainee refused the medically recommended jaw surgery, during the second month of arrest, a Wellpath Acute Care Visit note documented the

inmate meeting with the NP and an RN at 11:15am. It is noted that the “Inmate refused jaw surgery, as he was afraid that he would miss his visit today. He also discussed that he has not been eating or drinking secondary to jaw pain”. Under the section titled “Physical Exam Abnormalities” it is documented “Bilateral jaw edema and pain s/p altercation. Very limited ROM [range of motion] - unable to open his mouth completely. At length discussion regarding need to have surgery, to drink fluids and to eat. Instructed inmate to notify Medical staff if he changes his mind regarding having surgery. Inmate is already on Augmentin; explained that controlled substances are not usually ordered in this environment. Hydrocodone as ordered per UP MMCI ED will not be approved. See orders. Records’ release signed on this day to get ED records.” This same Acute Care Visit note documented an order for Ibuprofen 600mg BID x 14 days as an alternative to the hydrocodone. He was encouraged to have the surgery to repair his broken jaw and ice to be applied at least twice a day. The psychotropic medication the patient was documented to have ordered was Cogentin 1mg and Zyprexa 10mg both to be taken at HS with an end date 90 days out. This record also indicated a yes answer to the question, “Adherent to meds?” Another question “Adherent to diet?” had a no response with the reason being “not presently related to jaw pain”.

On the 11<sup>th</sup> day of the second month of detainment, after his jaw injury, the Peoria County Jail/Wellpath EMAR documented the following medication orders: the Medical Director ordered Cogentin 1mg and Zyprexa 10mg. The detainee did not take these medications for days 5-13. This was verified when the detainee met with his Behavioral Health NP and informed her that he was not taking his medications. The subjective section of this Behavioral Health Psychiatric Provider Follow-up Note documented the following “I’m not taking that shit no more- since last visit it is noted that his **psychiatric medications were discontinued by another provider** [emphasis added]. Pt. [patient] currently being treated for mandible fx (fracture), has jaw wired shut, states he and others were jumped by several other inmates and his injuries were a broken jaw. Patient feels the fact that he was taking medication that reduced his paranoia made him vulnerable to attack and that he is no longer willing to take psychiatric meds...”. In the plan for treatment for Medication section of the document, it reads “patient refuses medications at this time”. A follow-up appointment was scheduled for approximately two weeks later. Additional information from the NP stated “Discussed risk of not treating illness. Patient does agree to meet again in 2 weeks for recheck. At this time no acute safety risk identified. Will follow.” A new order was entered and the detainee was documented on the EMAR to take his medications for the majority of days from that point forward. He did refuse evening medications on one day based on the EMAR although there is not a corresponding Refusal of Treatment form to indicate this.

The 14<sup>th</sup> day of the second month of detainment, a Behavioral Health Structured Progress Note completed by a WellPath Mental Health Professional documented: “Inmate explained the situation that occurred yesterday with the officer, resulting him being placed on suicide watch (sw). He denies any suicidal thoughts or plans and asked to resume his psych meds. His psych meds were stopped by the medical dr. and medical is unsure of why they were stopped. Inmate reports doing well. No current MH concerns besides restarting his psych meds. Inmate reports doing well. No current MH concerns

besides restarting his psych meds. Inmate appears clear, coherent, cooperative, alert, friendly, denied any SI/HI, AVH. No signs of any distress at this time. Denied any MH concerns at this time. Educated and encouraged inmate to use the kiosk to reach out to mental health staff if needed in the future. Inmate verbalized understanding of this.” The response or “Plan” to this meeting was the following **“Consulted with: [Medical Staff] about the stopping of meds by medical dr. Asked nurse to restart psych meds this date.”** [emphasis added] The following boxes were also checked as the plan of care “Behavioral Health to follow up PRN or through sick call” and “Refer to: Psychiatry”

The EMAR for the second month of detainment, that was provided by Wellpath was incredibly difficult to read due to the print quality of the record and required follow-up conversation with the WellPath Nurse Supervisor. The nurse clarified that the documentation read that this patient has “no known allergies” listed in the Allergy section of the EMAR. The EMAR reviewed by the HRA indicates the detainee returned to the jail on [return to jail date] after his jaw surgery the Behavioral Health NP that he routinely met with was not available, so the Medical Director discontinued his Zyprexa at night. The Cogentin and Zyprexa was ordered as “hold one med pass”. On the next day, the Cogentin 1mg tablet was ordered to begin and should be given at 1900 hours. It appeared based on the EMAR that the detainee did not take these psychotropic medications until 9 days later after he met with his Behavioral Health NP, who entered the same medication order of 10mg Zyprexa and Cogentin 1mg tablet to be given at HS which is 1900 (7:00pm) hours based on this month’s EMAR. WellPath provided 8 Refusal of Treatment forms for the second month of detainment only 1 of these forms was for evening medications on the 10th day of the second month of detainment, which could document when he was to take his Zyprexa and Cogentin. The remaining 8 appear to be him refusing morning medications, primarily a laxative that he had been ordered to take after the surgery he had to repair his jaw fracture. The Notes section of this EMAR also provides no evidence that the detainee had refused his psychotropic medications on or around the 5<sup>th</sup> day of the second month of detainment. Although this corresponding month’s EMAR indicated he was not receiving his evening medications as there are no nurse initials observed in the corresponding medication boxes to indicate the med had been passed.

The second month of detainment, a Behavioral Health Safety Plan/Crisis Response Plan documented a Wellpath Mental Health Professional (MHP) meeting with the detainee due to making a comment of feeling depressed to one of the Correctional Officers who asked if he was having “thoughts of self- harm.” The detainee responded to the CO saying, “Oh yeah that is exactly it.” Reports to the MHP stated that he was “being sarcastic and regretted his statements”.

On the 29<sup>th</sup> day of the second month of detainment, a Behavioral Health Psychiatric Provider Follow Up Note written by a Nurse Practitioner documented a conversation with the inmate regarding his psychiatric medications “I’m doing okay today. Is still healing from jaw fx, has couple more weeks of jaw wiring... decided to start taking meds again...”

During the third month of detainment, The Behavioral Health Psychiatric Provider Follow Up Note documented the detainee meeting with a mental health professional two weeks later and stated “ ‘I haven’t been taking am Cogentin’, jaw unwired, feels good back to soft diet. Mood has been good denies any significant depression symptoms, no suicidal ideation/homicidal ideation (si/hi), been talking to GF (girlfriend) is helpful no significant anxiety, no panic. ‘I get mad but I haven’t acted out’ states ‘can’t sleep at night, tends to keep thinking about things/some worry about a whole bunch of stuff.’ Goes to sleep after breakfast, couple hours, little tired, appetite good, concentration better. I still sometimes forget my grandma passed, sometimes I see her or talk to her. It feels real. I try to tell myself it’s not I feel like the police want to get me in trouble. I don’t talk to the ones I think might be against me I think the FBI are coming for me soon.’” Hallucinations and paranoia are noted as part of the Mental Status Exam. The plan of care after this meeting was to “Decrease Cogentin to 1mg qhs increase Zyprexa to 20mg qhs.” This same record also documented the NP assessing improvement in the patient with the Zyprexa increase, “Patient agrees to increased dose Zyprexa and will reduce Cogentin to evening only, since he is only taking at night anyway and seems to control the extrapyramidal side effects (eps).” The date for a follow-up appointment was approximately two weeks later. During the fifth month of detainment, detainee was started on “Remeron 15mg tablet 1 tablet by mouth Q HS for 90 days” as a new med per the EMAR record. No medication consent was noted in the record. He refused Cogentin three times during the third month of detainment.

This detainee was housed in the medical pod for the majority of his five and half months of custody at the Peoria County Jail; he refused to move housing in the fourth month of detainment and received a disciplinary ticket for this. He was placed on suicide watch by Correctional Officer staff during the second month of detainment. The detainee did not file any inmate grievances or medical grievances during his detainment at the Peoria county jail.

The Inmate Rules, Regulation and Information Handbook informs the detainee of the following “**CLASSIFICATION** The Peoria County Jail will use a classification system providing for the separation of inmates as required by State Standards. This system will provide for the security of the Jail, the safety and welfare of the inmates, and the protection of staff and the community. Security Classifications may be Maximum, Medium, or Minimum. Classification Personnel will assign this status. After being initially classified, the status can become more restrictive, but no less. The level of your classification determines where you will be housed and what level of privileges you will enjoy. A review of a person's security and assignment classification shall be conducted periodically.”

The Inmate Reception Policy guides the practice of the jail staff as defined in 502.3.2 “**MEDICAL SCREENING BY RECEIVING**” The receiving correctional officer shall observe the arrestee for any obvious injuries or illnesses requiring immediate emergency medical care. If discovered, the correctional officer shall immediately notify the facility medical staff. The correctional officer shall use a medical screening check list and question the arrestee to determine whether the arrestee: Has any medical condition that requires medical attention, such as dependence on drugs or alcohol, diabetes,

epilepsy, allergies, asthma, heart condition, etc. Has any indications of developmental disabilities, acute mental or emotional disturbance, or any combination of a drug or alcohol problem with a mental illness (dual diagnosis) Has any suicidal tendencies, is at imminent risk of self-harm, has indications of mental illness or has a history of medical illness. Is presently using medication. Is pregnant. If the receiving correctional officer determines the arrestee has, or may have, any of the above conditions the correctional officer will immediately refer the arrestee to a qualified health care professional for further medical screening (20 Ill. Adm. Code 701.40(i); 20 Ill. Adm. Code 701.90(c)).”

The WellPath policy regarding informed consent and the right to refuse explains the policy goal is to ensure that patients have the right to make informed decisions regarding health care, including the right to refuse. Informed Consent is defined as “The agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts about the nature, consequences, and risks of the proposed treatment, examination or procedure; the alternatives to it, and the prognosis if the proposed action is not undertaken.” The procedure to implement this policy is listed under Section 6. “6.1 For procedures, medications, or any treatment where there is some risk to the patient, informed consent is documented on a written form containing the signatures of the patient and health care staff witness. 6.2. The informed consent process involves informing the patient of the benefits, risk and possible side effects associated and not associated with having the procedure, treatment, or medication. ... 6.5. Any health evaluation and treatment refusal is documented and must include the following: Description of the nature of the service being refused. Medication refusals must include the name and dosage of the medications. Evidence that the patient has been made aware of any adverse consequences to health that may occur as a result of the refusal. The signature of the patient. The signature of the health care staff witness. .... Patients shall be informed of their right to change their decision to refuse health care and to notify QHP or QMHP directly and/or by completing a request for health services. 6.7. During a face-to-face encounter, if the patient refuses to sign the refusal form, the form will be signed by two witnesses, at least 1 being qualified health care staff. ... 6.8 In the case of medication refusal, in addition to a signed refusal form, documentation on the MAR will indicate the patient refused the medication. A refusal indicates the patient was present and either verbally or by action/behavior refused the medication. 6.8 (1). SCHEDULED ROUTINE MEDICATIONS. If a patient misses (4) doses in a (7) day period, or establishes a pattern of refusal, the patient is referred to the prescribing provider. The referral is submitted after the 4<sup>th</sup> missed dose. ... 6.9 Patients currently receiving mental health treatment services and refusing scheduled treatment after three (3) documented refusals shall be referred to a QMHP. ... 6.11. As clinically indicated, it is the responsibility of the educating QHP or QMHP to notify the appropriate provider of the patient’s refusal of healthcare. 6.12. Informed Consent for Use of Psychotropic Medications 6.12.1. Wellpath provides written forms that patients may sign as evidence of their consent for prescribed psychotropic medications. 6.12.2. The patient will be informed about the purpose of prescribing the medication. 6.12.3. The patient will be informed about any alternative treatments, as well as the expected duration of treatment, and that the patient may choose to withdraw consent without impacting access to other healthcare. 6.12.4. The Psychiatric Practitioner will utilize consent forms that are medication class specific the prescribing provider shall review the content of the consent

form with the patient at the time the medication is ordered. The practitioner and patient sign the consent form, though sometimes a witness may substitute. ...”

The HRA also reviewed the National Commission on Correctional Healthcare as the WellPath policy references in the above policy. The HRA discovered the following best practice guideline for Right to Refuse Treatment indicates “We understand that patients have the right to refuse treatment (standard I-05) and we always have them sign a refusal form when they do. Are we also required to have them sign a refusal form for refusing a single dose of medication? The answer ‘No.’ A form does not need to be signed for every no-show at pill line or for every time a patient refuses a medication. However, if the patient is repeatedly refusing, the responsible health authority would do well to have a policy to address follow-up such as provider notification and patient counseling.”

The HRA also reviewed the National Commission on Correctional Healthcare as the WellPath policy references in the above policy about Informed Consent. This same NCCCH standard provides guidance to jail healthcare providers on what is considered Informed Consent. The following question “Does a general informed consent form signed by an inmate upon arrival cover us? The answer, ‘No.’ Written consents are still required for invasive procedures including surgeries, invasive diagnostic tests, dental extractions, and use of psychotropic medications. In fact, a blanket refusal for treatment would not be in compliance with the I-05 standard either.”

Peoria County Sheriff’s Office Access to Healthcare Policy “1 PURPOSE AND SCOPE The provision of adequate health services in a custody setting is a constitutional right afforded to all inmates. The purpose of this policy is to provide custody personnel and qualified health care professionals with a process to inform newly booked inmates of the procedure to access health care services and how to use the grievance system, if necessary. 701.2 POLICY It is the policy of this office that all inmates, regardless of custody status or housing location, will have access to a qualified health care professional and receive a timely professional clinical judgment and appropriate treatment. The Peoria County Sheriff’s Office facility will provide medical, dental and mental health services as necessary with the purpose of maintaining the health and well-being of inmates. 701.3 INMATE HEALTH CARE The facility shall provide a health authority (see the Health Authority Policy) to ensure that the following medical and mental health services are available and documented (20 Ill. Adm. Code 701.90(a)): Collection and diagnosis of complaints, Treatment of ailments, Prescription of medications and special diets, Arrangements for hospitalization, Liaison with community medical facilities and resources, Environmental health inspections, Supervision of special treatment programs, as for alcohol and other drug dependent detainees, Administration of medications, which includes emergency voluntary and involuntary administration of medication, including psychotropic medication, and distribution of medication when medical staff is not on site, Maintenance and confidentiality of accurate medical and mental health records, Maintenance of detailed records of medical supplies, particularly of narcotics, barbiturates, amphetamines, and other dangerous drugs 701.4 ACCESS TO CARE Inmate medical requests will be evaluated by qualified health care professionals or

health-trained custody staff. Health care services will be made available to inmates from the time of admission.”

Peoria County Sheriff's Office Custody Manual Access to Health Care dated 8/13/2020, Access to Health Care – 2 states: “... until they are released. Medications and community health resources and referrals may be provided upon request when the inmate is released. All routine requests for medical attention shall be promptly routed to a qualified health care professional. Any incident of an inmate refusing medical treatment or causing a disruption in the delivery of health care services shall be documented in an incident report. ... 711.1 PURPOSE AND SCOPE The purpose of this policy is to ensure that all inmates have access to mental health services and that inmates identified as needing these services are referred appropriately. 711.1.1 DEFINITION Definitions related to this policy include: Mental health services - A variety of psycho-social and pharmacological therapies, either individual or group, including biological, psychological and social therapies to alleviate symptoms, attain appropriate functioning and prevent relapse. 711.2 POLICY It is the policy of this office that a range of mental health services shall be available for any inmate who requires them.... 711.4 Basic Mental Health Services... Inmates determined to be in need of substance abuse treatment services should be informed of the facility programs available and shall be provided information about community substance abuse treatment resources.”

According to the Inmate Rules, Regulation and Information Handbook: “**The Peoria County Sheriff's Office**, through its Jail Division, provides for the security of our law-abiding citizens by the incarceration of those individuals who require confinement as determined by other segments of the criminal justice system. To carry out this task effectively, the Sheriff's Office and its staff will maintain an environment, which ensures a high regard for the rights and dignity of all inmates. It is hoped that through proper procedures, inmate programs, services, and Community involvement, that a constructive atmosphere will prevail at our Jail which will benefit the Community as a whole. **MEDICAL/ MENTAL HEALTH TREATMENT/ SERVICES** The Peoria County Sheriff's Office correctional facility has 24 hour per day medical and mental health services. A doctor/ nurse practitioner will be at the facility three times a week. A dentist will be available two times per month. A mental health provider is available five days a week or as needed. These services are available to you by speaking with your pod officer and submitting a kiosk medical sick call request or mental health request. Medical/Mental health care is available 24 hours a day for emergencies and is available on a regularly scheduled basis for non-emergencies. Any questions or concerns regarding your health care submit a medical request on the kiosk. No inmate will be refused medical or mental health treatment for any reason. Note: A small fee is charged for requested medical services and will be deducted from your inmate account. ...”

Jail regulations (**20 Ill. Adm. Code 701.90**) on **Medical and Mental Health Care** state “a) Medical and Mental Health Services All jails shall provide a competent medical authority to ensure that the following documented medical and mental health services are available:1) Collection and diagnosis of complaints. 2) Treatment of ailments.3) Prescription of medications and special diets. 4) Arrangements for

hospitalization.5) Liaison with community medical facilities and resources.6) Environmental health inspections. 7) Supervision of special treatment programs, such as alcohol and drug dependency. 8) Administration of medications, including emergency voluntary and involuntary administration of medication, including psychotropic medication, and distribution of medication when medical staff is not on site. 9) Maintenance and confidentiality of accurate medical and mental health records.10) Maintenance of detailed records of medical supplies, particularly of narcotics, barbiturates, amphetamines and other dangerous drugs. b) Physician, Mental Health and Dental Services1) A medical doctor shall be available to attend the medical and mental health needs of detainees. A) Arrangements shall be made for provisions of emergency dental care as determined necessary by a dentist or a physician. B) Professional mental health services may be secured through linkage agreements with local and regional providers or independent contracts. Linkage agreements and credentials of independent contractors shall be documented. 2) General medical physician services may be provided by: A) Staff physicians; B) Contractual services; or C) A nearby hospital. c) Admission Examination 1) All persons admitted to confinement shall undergo a physical assessment as prescribed in Section 701.40(i). 3) All detainees confined shall be given a medical screening by a medical doctor, a physician assistant, a nurse practitioner, a registered nurse or a licensed practical nurse within 14 days after confinement, and as required by a medical doctor thereafter. d) Sick Call 1) A schedule shall be established for daily sick call. 2) The names of those detainees reporting to sick call shall be recorded in the medical log. 3) Detainees with emergency complaints shall receive attention as quickly as possible, regardless of the sick call schedule. e) Written Record or Log A written record shall be maintained, as part of the detainee's personal file, of all treatment and medication prescribed, including the date and hour the treatment and medication is administered. A written record shall be maintained of over-the-counter medication, for example, aspirin, cough medicine, etc., issued by jail staff. A written record shall be kept of all detainees' special diets.”

Jail regulations (**20 Ill. Adm. Code 701.70) Classification and Separation** state: “a) Classification Information Each facility shall have written guidelines for the classification of detainees that specify criteria and procedures for determining and changing the status, assignment or security of a detainee. To determine each detainee's degree of security, housing, programs and assignments, the following items of information, to the extent available, shall be considered, among other matters: ... 8) Mental and emotional condition and needs. ... A) Detainees who are mentally ill, developmentally disabled, dually diagnosed or emotionally disturbed shall be housed or tiered and maintained under supervision as recommended by a mental health professional. B) Action shall be taken to transfer detainees who have been determined by mental health professionals to be severely mentally ill, developmentally disabled or emotionally disturbed to an appropriate facility. c) Classification Review of the detainee's security and assignment classification shall be conducted periodically, but at least every 60 days.”

**CONCLUSION:**

The HRA **SUBSTANTIATES** the allegation of Inadequate treatment of a detainee with a mental health diagnosis, and medication not being given in a timely matter or as prescribed. This substantiation is based on the facility policy and National Commission on Correctional Healthcare Standard on Informed Consent which state that consent is needed for psychotropic medication. The HRA saw no evidence that the Peoria County Jail/WellPath implement their own policy of signed psychotropic medication consents and were told by Nurse Supervisor that it is not a practice to have the detainees sign consent forms for psychotropic medications if they have a history of taking them. This detainee reported to the facility his last use of psychotropic medication was six months prior to his arrest/custody of the jail when he was then incarcerated and had not been taking medications while in the community. This information is also corroborated by the chart record as evidenced by the Electronic Medication Administration Record for the second month of detainment for this detainee which is where there is the most significant concern with the practice of WellPath medical staff complying with their own policy requirements during his custody. This information is also corroborated by the chart record.

During the site visit staff indicated this detainee was refusing medications, which is true to an extent, but it is clear during the two week timeframe after his jaw surgery, psychotropic medications were not ordered from day 5-14, based on the HRA's review of the EMAR. There is no clear evidence in the medical chart record, specifically a Refusal of Treatment form that is to be signed by the detainee, per jail policy, to document a medication refusal. In this case the psychotropic medications had been discontinued for unknown reasons per documentation from the Nurse Practitioner. There is a conflicting statement documented by the Behavioral Health Nurse Practitioner that indicates 7 days after surgery, upon the detainee returning to jail custody, the NP documents, "...since last visit it is noted that his psychiatric medications were discontinued by another provider. ...". The chart record indicated that the detainee was taking his prescribed medications for several days prior to his jaw injury but there were no signed medications consent forms provided to the HRA from WellPath staff to indicate informed consent.

The HRA takes issue with the idea that this inmate was provided with all of the details necessary to give Informed Consent and was intentionally refusing his psychotropic medications when the EMAR clearly indicated they were not ordered until the Behavioral Health Nurse Practitioner re-started the order for Zyprexa and Cogentin on the 14<sup>th</sup> day of the second month of detainment. From that point forward the inmate appeared to have been cooperative with his prescribed medications for most of the record. If the detainee did refuse, it was adequately documented on the EMAR and has a corresponding Refusal of Treatment. The Nursing Supervisor also reported to the HRA that the jail practice for written psychotropic medication consent from a detainee is only gotten when a brand new medication is ordered for the patient, one that they have never been prescribed. If this is the case, then when the detainee's Remeron was ordered during the fourth month of detainment, a medication consent should be available per WellPath policy. This reported practice also conflicts with WellPath policy and NCCH best practice standards for county jail healthcare.

The Nurse Supervisor said after three missed doses of medication, the order stops and a referral to the behavioral health provider or medical provider is required. WellPath policy indicates this should happen after 4 missed doses. The practice indicates that efforts by the medical staff to intervene are attempted one day earlier than policy indicates it should happen.

Lastly, the HRA was unable to locate anything within the detainee record that indicated he was forced to stay in segregation due to his fear of returning to the general pod. The detainee did receive a ticket during his fifth month of detainment indicating his refusal to leave his current cell location, but the Jail Incident Report does not indicate it was due to being fearful.

The HRA makes the following RECOMMENDATIONS:

- Update WellPath policy “Peoria County Illinois Detention Center Policies and Procedures HCD-100\_G-05—Informed Consent and Right to Refuse—Peoria, IL Effective 8/10/20” to indicate the National Commission on Correctional Healthcare standard of care, as the WellPath policy references in their policy about Informed Consent. Provide evidence to the HRA that this has been done “...6.12. *Informed Consent for Use of Psychotropic Medications* 6.12.1. *Wellpath provides written forms that patients may sign as evidence of their consent for prescribed psychotropic medications.* 6.12.2. *The patient will be informed about the purpose of prescribing the medication.* 6.12.3. *The patient will be informed about any alternative treatments, as well as the expected duration of treatment, and that the patient may choose to withdraw consent without impacting access to other healthcare.* 6.12.4. *The Psychiatric Practitioner will utilize consent forms that are medication class specific. The prescribing provider shall review the content of the consent form with the patient at the time the medication is ordered. The practitioner and patient sign the consent form, though sometimes a witness may substitute. ...*” The HRA believes that 6.12.1 needs to read as follows “Informed Consent for Use of Psychotropic Medications 6.12.1. Wellpath provides written forms that patients **SHOULD** sign as evidence of their consent for prescribed psychotropic medication and document any refusals”
- The WellPath staff should immediately follow their own policy 6.12.4. *The Psychiatric Practitioner will utilize consent forms that are medication class specific. The prescribing provider shall review the content of the consent form with the patient at the time the medication is ordered. The practitioner and patient sign the consent form, though sometimes a witness may substitute. ...*” Provide evidence to the HRA that this is being done.

- Update WellPath policy “Peoria County Illinois Detention Center Policies and Procedures HCD-100\_G-05—Informed Consent and Right to Refuse—Peoria, IL Effective 8/10/20” to indicate the following Jail regulations (**20 Ill. Adm. Code 701.90) on Medical and Mental Health Care** state “a) Medical and Mental Health Services All jails shall provide a competent medical authority to ensure that the following documented medical and mental health services are available:1) Collection and diagnosis of complaints. 2) Treatment of ailments.3) Prescription of medications and special diets.” Provide evidence to the HRA that this has been done.
- Train all necessary Correctional Officer and WellPath Contractual Staff on the expectation of written informed consent for Psychotropic Medications. Provide evidence to the HRA of the training having been completed.

#### SUGGESTIONS:

- WellPath staff need to follow their own policy and practice expectation to document missed or refused medication for either medical or mental health needs on the EMAR as well as having staff complete a Refusal of Treatment form.
- WellPath staff should provide more detail on the Refusal of Treatment form, specific to medication missed.
- WellPath staff should provide written medication consents to the patient/detainee for all psychotropic medications prescribed once they are in custody of the jail no matter if they were taking the medication prior to custody.

#### **Complaint #2- Improper medical care by providing protein based shake to an individual who is lactose intolerant during a time when he was possibly on a restricted diet due to a medical need.**

The Receiving Screening completed within 24 hours of booking into the Peoria County Jail the nurse asked the following question, “Are you allergic to any medications or do you have any other allergies?” The documented response is “no”. There is a box titled Observed and there is a date that is 4 years prior to this current arrest that indicates “no known allergies”.

The detainee was sent to two local hospital Emergency Departments during his detainment at the Peoria County Jail due to suffering a serious facial injury during a physical altercation. He initially refused the recommended surgery and returned to custody of the jail on the first day of the second month of arrest. When he discharged on this date his After Visit Summer indicated that “no changes were made to your medications.” This form also indicates allergies status as of the date of the visit as “No

Known Allergies.” The Activity Orders for his after care are “Limit jaw opening as able. Only have liquid diet through a straw. Take Augmentin for 7 days as directed. Return to ER if you start to have fevers, drainage, or other signs of infection.”

A Jail Incident Report completed by a Correctional Officer states “On the above date and approximate time, I [Officer name] was assisting in feeding medical. I placed an all liquid diet to Med Cell 6, [detainee], Inmate [detainee] said he didn’t want all liquid, that he wanted soft food, but not jello. I stated that this was what the kitchen sent. Inmate [detainee name] said he wasn’t going to eat it. I then went over to Nurse [Name]. She stated that he needed the liquid diet because of injuries he sustained in an altercation in [pod]. I went back over and informed Inmate [detainee] that the nurse said he needed the liquid diet. He stated again that he was not going to eat it and refused his tray. When retrieving trays at 1737 I was asked by Inmate [detainee] if he could have his food but didn’t want the Jello. I then brought the cart guys back to seg and brought him his food cups.”

On the 3<sup>rd</sup> day of the second month of arrest, the detainee returned to another local hospital to have the recommended surgery to treat his fractured jaw. His Discharge Instructions six days after the injury occurred that are pertinent to his diet are “... Blended drinkable diet, advance to soft foods as tolerated. ...” This patient’s jaw was wired shut to treat the jaw fracture, so he required a liquid diet until the wires were able to be cut. There is a sample menu provided as patient education and it encourages the patient to try and eat a 2000 calorie diet. An example of a mid-afternoon meal listed on this nutrition form is “8 ounces liquid supplement (Ex: Ensure).

The HRA also reviewed a document titled Instructions for Corrective Jaw Surgery & Fractured Jaw that accompanies the second set of after visit papers from the hospital and explains “Adequate nourishment is important during this period. Your diet will consist of milkshakes, soups, and juices. Many liquid food supplements are also available such as Sego, Metrical, Sutagen, Boost and others. A blender or food processor is useful to puree solid food for Intake. Five or six small feedings each day are usually easier than three larger ones. Your oral intake should be at least to 8 to 10 cups of fluid each day. A general rule is to maintain a minimum of 10% of 2,000 calories per day. It is important to keep well hydrated as well. You may experiment yourself. Liquid pureed baby food may be used. If you use blenderized food the majority of the time, two to three 8oz. servings of the supplement are still recommended daily. It is not uncommon to lose up to 10% of your original weight. If weight loss becomes greater than this, an added high protein/high calorie supplement should be added which can be purchased at any health food store.”

Information from the local hospital #2 documents the patient’s weight in the Vitals section of the admission record as “135 5’5 BMI 22.47kg/m” which indicates based on a BMI Chart that this patient was within a healthy weight range. There was an order in the record that showed the individual had an upgrade to his diet restriction the third month of detainment for a “soft no chew diet” that was ordered by the WellPath Medical Director.

The Peoria County Jail provided screenshots of their Medical and Jail Grievance system and there were no grievances showing for this detainee. This indicates that the detainee did not use the Inmate Grievance policy for his dietary need or concerns about the quality of his meals.

The Inmate Rules, Regulations, and Information Handbook documents the following information about special diets. **“MEDICAL AND RELIGIOUS DIETS** The Peoria County Jail recognizes the need to provide special diets to inmates to support medical treatments or for religious reasons. Special diets should conform as closely as possible to the regular menu, and are subject to the approval of the Deputy Correctional Superintendent.”

**According to the Unified Code of Corrections (730 ILCS 125/15) Water; food** “The Warden of the jail shall furnish each prisoner daily with as much clean water as may be necessary for drink and personal cleanliness, and serve him three times a day with wholesome food, well cooked and in sufficient quantity. The Warden of the jail in counties of the first and second class shall procure at the expense of the county, all necessary foods and provisions for the support of the prisoners confined in the jail, and shall employ suitable persons to prepare and serve the food for the prisoners, or otherwise provide suitable food service.”

**According to jail regulations (20 Ill. Adm. Code 701.110) Food Services , “a)** Meal and Food Service 1) Food must be of sufficient nutritional value and provide a minimum of 1,800 to 2,000 calories for adults and 2,500 to 3,000 calories for juveniles per day. 2) Food quantity must be sufficient to satisfy, within reason, the detainee's needs. 3) Three meals shall be provided at reasonable and proper intervals, adhering to recognized breakfast, lunch and dinner schedules, with no more than 14 hours between the evening meal and next morning breakfast. 4) A beverage other than water shall be served with each meal. 5) Of the three meals provided for each 24 hours of detention, one shall be a balanced and complete hot meal. **6) Special diets shall be adhered to when prescribed by jail medical staff. [emphasis added]”**

## **CONCLUSION:**

The HRA found the second allegation of *Improper medical care by providing protein based shake to an individual who is lactose intolerant during a time when he was possibly on a restricted diet due to a medical need unsubstantiated.* The record does not reflect the patient/detainee ever informing jail Correctional Officer staff, WellPath medical staff, mental health staff, or local hospital staff of any known allergies or diet restrictions due to being lactose intolerant. The HRA did discover in the patient's medical record that a liquid diet was never formerly ordered by the Jail Medical Director as the law mandates in **(20 Ill. Adm. Code 701.110) Food Services.** There was a discharge order from the hospital with this information during the second month of detainment but the WellPath Medical Director did not formerly order a diet change per the detainee record provided until he was moved up to a “soft, no chew diet” during the

third month of detainment. So, it is unclear to the HRA how kitchen staff at the Peoria County Jail were made aware of the diet change as those records were never provided to the HRA.

The HRA would make the following **SUGGESTIONS**:

- When a patient/detainee is in custody of the Peoria County Jail and requires an alternative diet order due to a medical need the Medical Director should make sure this order is entered in to the WellPath system every time.
- When a patient/detainee is on a diet restriction such as liquid or mechanical soft due to a medical need his weight should be taken on a regular basis and his calorie intake should be monitored by staff.
- Administration at the jail should also update their booking sheet information to include a question asking a detainee if they have any food sensitivities or dietary intolerances and then documenting this information in the medical record.

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## RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, provider responses appear verbatim in retyped format.

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