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Ethics Survey: Drug testing remains a clinical tug of war

By Julie Miller, Editor in Chief

In recent weeks, the American Society of Addiction Medicine (ASAM) prepared comprehensive guidelines on drug testing within the continuum of care. The goal is to present evidence-based recommendations for the frequency and application of testing, which payers and providers can adopt as best practices.

It's significant because up until now, there was no true consensus. And there's also no denying that some treatment operators have aimed to maximize their profit streams through the overuse of testing and subsequent billing of insurance companies. Drug testing is a clinical issue as much as it is an ethical issue.

Earlier this year, *Behavioral Healthcare Executive* surveyed its audience to get a clearer picture of treatment centers' opinions and experiences around drug testing. More than 600 respondents participated in the Ethics Survey, with 429 indicating that they currently use drug testing as a clinical tool in treatment. What's not surprising is that among those using testing, the majority (61.3%) say they have developed their own guidelines to determine testing frequency.

How often?

According to ASAM, the evidence suggests urine drug screening for patients treated for addiction disorders initially should be "at least weekly," but when a patient is stable, it should be "at least monthly." And guidelines note providers should always consider the cost to patients and insurers when utilizing drug testing.

"We know testing every day is too much," says Ken Freedman, MD, chief medical officer of Lemuel Shattuck Hospital, who helped to develop the ASAM guidelines. "Because of the cost considerations, among other reasons, it also depends on whether the test performed is an inexpensive point-of-care test versus a send-to-a-lab confirmation test with liquid or gas chromatography."

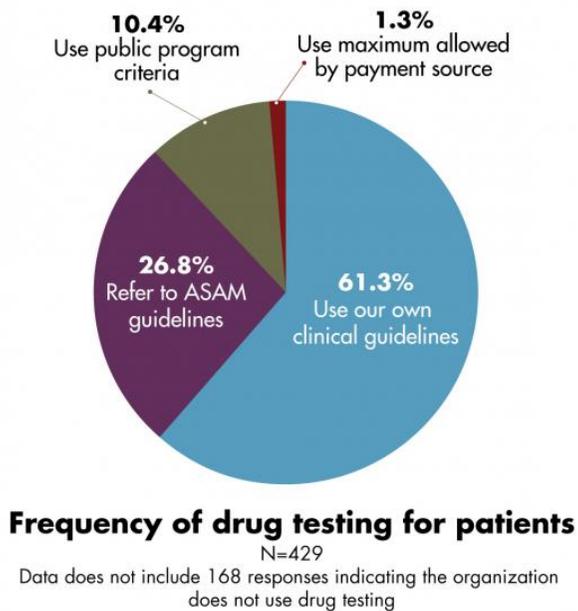
The challenge for providers is to strike the right balance.

"Ultimately, as outlined in the qualifying statement, we strive to identify and define clinical decision making that meets the needs of most patients in most circumstances," says Freedman. "There will be exceptions in certain settings."

The guidelines were approved by the ASAM board of directors on April 5 after an open comment period.

Creating a balance

For organization leaders, there are a number of solutions for adopting internal policies on drug testing, including consulting with other treatment centers, says Melissa Larkin-Skinner, chief executive officer of Centerstone's Florida operations. Collective clinical experience and ASAM recommendations are also considered.



“We do have some contractual agreements,” Larkin-Skinner says. “For instance, if we have a certain level of care for a substance use disorder that is paid for by the state, sometimes the state has specific guidelines, such as weekly or monthly testing or more often. It usually decreases the longer someone is in treatment.”

More than 10% of Ethics Survey respondents who use testing note they refer to public program criteria as the threshold for testing frequency, and 1.3% say they use the maximum allowed by payment sources.

Larkin-Skinner says Centerstone would rarely bill separately for drug testing because its payer partners only allow one code type per day, so the testing services are rolled into a care bundle. The initial point-of-care test typically costs \$6, she says, and a confirmation test might be sent to a lab if a patient is adamant that the first screening test is incorrect.

“We don’t make money off drug testing,” she says.



ASAM’s Freedman agrees that the rationale for escalating to an outside confirmation test must be clear, and ultimately, the confirmation test should help inform the care plan for the patient moving forward. He says the ASAM board and its quality council involved in developing the guidelines discussed when clinicians might have reasonable cause to need a confirmation test, such as when a patient earnestly disagrees with a positive result of a screening.

Ethical issues

In the Ethics Survey, an even 7% of total respondents say they have been approached by a testing lab that hinted at or explicitly offered the organization financial incentives or kickbacks in exchange for urine drug testing business.

“Years ago, we got calls from different labs across the country, and all of them wanted to engage in a partnership where they supply test kits for us and they would do all the billing for whatever payer clients had,” Larkin-Skinner says. “But we never entered into one of those arrangements.”

The majority of fraudulent profiteering seems to come from South Florida, she says, where a web of blatant criminal activity revealed that many of the bad operators were interconnected with each other. There’s no reason to mistrust Florida’s recovery community overall, she says. One notorious criminal who operated a façade of a treatment program was arrested in March, pled guilty and faces a life sentence for—among other offenses—accepting bribes from testing labs. Florida is beginning to take a hardline approach to creating and enforcing regulations to crush such illegal and exploitive maneuvers.

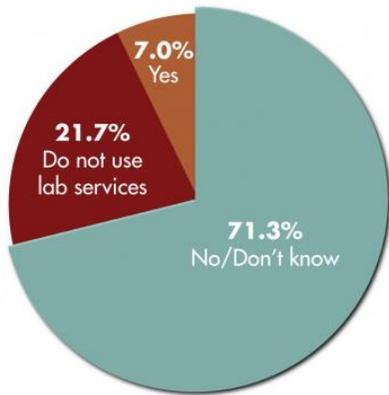
However, such legislative initiatives that aim to clamp down on fraud in the state will potentially affect the honest programs that might end up with added administrative burdens, Larkin-Skinner says.

“But in the end, it’s about protecting people from criminals who are trying to take advantage of them,” she says. “These are people who are incredibly vulnerable and really need help.”

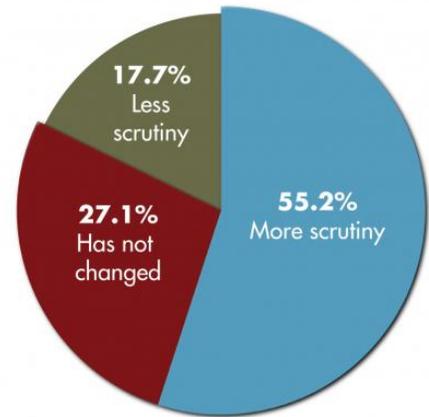
Payers take aim

Meanwhile, insurance companies are becoming more vigilant as the costly drug testing claims from out-of-network providers roll in with price tags of \$2,000 or more. It would not be unusual for an unsavory operator to test a single patient several times a week and bill each time. The landscape has increasingly led insurers to create special fraud teams of their own to investigate claims, and some have even stopped all reimbursement payments to certain providers during investigations.

And
it's a



Organization approached for kickback deal in urine drug screening/lab business



How scrutiny of the industry's business conduct has changed in the past 3 years

growing concern, as evidenced by the 55.2% of respondents to the Ethics Survey who believe the scrutiny of the industry's business conduct has increased over the past three years. Just 17.7% say there is less scrutiny, while 27.1% say it hasn't changed.

Some observers believe that the interest from private equity in the behavioral health market might be having an effect. When larger for-profit entities dominate, they reason, profits could likely become the foremost priority.

Survey respondents seem to reflect that sentiment, with 46.4% saying the recent surge in private equity investment in the market will place too much emphasis on profits, and 35% of respondents remaining neutral on the issue. Another 18.6% see private equity as a positive influence, providing needed capital for growth.



However, investors are carefully scrutinizing organizations during the due diligence phase, which includes examining the percentage of revenues coming from drug testing. Investors will be cautious about any risk related to regulatory compliance, says Dexter Braff, president of the Braff Group, a mergers and acquisitions advisory firm.

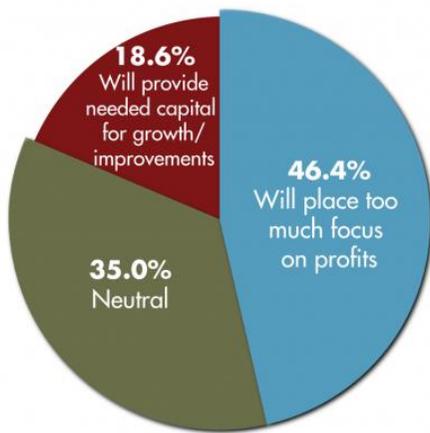
"You see, compliance failures typically do not lower the price of a deal. Rather, they stop deals dead in their tracks," Braff says. "Even if they are fully indemnified from claims regarding improper utilization or billing, few buyers are willing to take on the reputational risk associated with these misdoings."

But with greater awareness of ethical concerns and more scrutiny overall, the industry seems to be doing a better job of policing itself, which is preferred in favor of additional regulations, for example.

"Compared to just a few short years ago, the number of companies we see that derive a substantial amount of revenues—and profits—from testing, is diminishing rapidly," Braff says.

Larkin-Skinner says she too has hope for the future.

"I have seen a lot more people in our community developing an understanding and compassion for folks with addiction," she says. "In the past, I had not seen a lot of that."



Perception of private equity interest in behavioral health

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