College of American Pathologists

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Proposed Approach to Oversight of Laboratory Developed Tests

The CAP believes that the following features should be included in any oversight framework for LDTs:

- Tiered, risk-based regulation;
- Assurance of both analytic and clinical validity;
- Evaluation of risk based on the laboratory's claims. Risk defined as the potential for harm to patients of an incorrect or misinterpreted result when the test is ordered consistent with the laboratory's claims;
- CMS oversight of clinical laboratory quality under CLIA;
- Monitoring of laboratories offering low risk LDTs* by CMS-deemed accreditors to ensure laboratory maintains adequate analytical and clinical validation;
- Prior review and approval of moderate risk LDTs* by CMS-deemed accreditors to ensure that the laboratory has adequately validated the test analytically and clinically before testing is used in patient care;
- Targeted FDA review and approval of clinical claims for only high-risk LDTs,* with oversight of compliance by laboratories performing high risk LDTs by CMS and CMS-deemed accreditors;
- Coordination between FDA and CMS to avoid duplicative or unduly burdensome requirements on laboratories;
- Regulatory flexibility to encourage innovation of new diagnostic and predictive tests to promote and protect public health;
- Ability of laboratory personnel to engage in patient-specific communications with physicians regarding test selection and interpretation.

LDTs include the following features:

a. Test is developed within a CLIA-certified laboratory;
b. Test is performed by the clinical laboratory in which the test was developed; and
c. Test is neither FDA-cleared nor FDA-approved, but may incorporate FDA approved/cleared components including modified kits.

** LDTs subject to these requirements are limited to those introduced for clinical testing after April 23, 2003.*

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Classification	Determining Factors	Oversight
Low Risk: the consequence of an incorrect result or incorrect interpretation is unlikely to lead to serious morbidity/mortality.	The test result is typically used in conjunction with other clinical findings to establish or confirm diagnosis. No claim that the test result alone determines prognosis or direction of therapy.	The laboratory internally performs analytical validation and determines adequacy of clinical validation prior to offering for clinical testing. The accreditor during the normally scheduled inspections will verify that the laboratory performed appropriate validation studies.
Moderate Risk: the consequence of an incorrect result or incorrect interpretation may lead to serious morbidity/mortality AND the test methodology is well understood and independently verifiable.	The test result is often used for predicting disease progression or identifying whether a patient is eligible for a specific therapy. The laboratory may make claims about clinical accuracy.	The laboratory must submit validation studies to the CMS-deemed accreditor for review and the accreditor must make a determination that there is adequate evidence of analytical and clinical validity before the laboratory may offer the test clinically.
High Risk: the consequence of an incorrect result or incorrect interpretation could lead to serious morbidity/mortality AND the test methodology is not well understood or is not independently verifiable.	The test is used to predict risk of, progression of, or patient eligibility for a specific therapy to treat a disease associated with significant morbidity or mortality, AND; The test methodology uses proprietary algorithms or computations such that the test result cannot be tied to the methods used or inter-laboratory comparisons cannot be performed.	The laboratory must submit test to FDA for review prior to offering the test clinically. CMS and accreditor determine compliance.