



Modernize Regulation of Medical Diagnostic Tests

Address Gap in Oversight of Laboratory Developed Tests

Recent innovations in medical diagnostic technology underscore the role of diagnostic tests as a cornerstone of our health care system. Advanced molecular diagnostics, in particular, are helping provide more targeted care and treatment and are paving the way for personalized medicine.

Diagnostics are regulated by the Food and Drug Administration (FDA) as a category of medical devices. Given today's advances in diagnostics and their role as an important tool in patient care, appropriate risk based regulation of diagnostic tests is critical.

Higher Risk Laboratory Developed Tests Should Be Regulated by FDA

Diagnostic tests are produced either by manufacturers for distribution to laboratories and other users or produced in and offered by laboratories for use in their own facilities. The latter are called "laboratory developed tests" or "LDTs".

When FDA began regulating medical devices, LDTs generally were relatively simple, low-risk tests and FDA exercised enforcement discretion by not regulating them. Now, LDTs encompass even the most advanced molecular diagnostics, such as higher risk tests that are essential for safe and effective use of cancer therapeutics or a critical determinant in the treatment of serious, life threatening diseases.

In order to assure access to safe and effective LDTs, the FDA has announced its plans to exercise its existing enforcement discretion authority over LDTs through implementation of a risk-based regulatory framework in forthcoming guidance. FDA is not alone in its concern regarding gaps in the regulation of LDTs. In a landmark report by the Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS) US System of Oversight of Genetic Testing: A Response to the Charge of the Secretary of Health and Human Services, the FDA is called upon to "address all laboratory tests, regardless of how they are produced (i.e., as a commercial test kit or laboratory-developed test)" in order to help close the gaps in oversight related to clinical validity and assure the appropriate use of laboratory tests. SACGHS cited various gaps related to oversight of lab testing that can lead to harms.

Appropriate Regulation of Diagnostics

- Focus FDA's limited resources on tests that pose the highest risk to patients—regardless of where such tests are developed.
- Expedite patient access to lower risk tests by more efficient use of pre-market review process, including exemptions for well-established tests.
- Ensure review of higher risk diagnostics for safety and effectiveness by extending FDA oversight to higher risk tests developed by laboratories.

Diagnostic tests are playing an increasingly important role in clinical decision making and disease management, particularly in the context of personalized medicine. As a result, LDTs that have not been properly validated for their intended use put patients at risk. Risks include risk of missed diagnosis, wrong diagnosis, and failure to receive appropriate treatment."

*-FDA Statement; July 19-20, 2010,
Public Meeting on Oversight of Laboratory Developed Tests*

Current Regulation of Diagnostics

The Food and Drug Administration (FDA) and the Centers for Medicare and Medicaid Services (CMS) each play a distinct role in overseeing the manufacture and laboratory use of medical diagnostic tests.

Food and Drug Administration

- The FDA regulates diagnostics to assure patient access to safe and effective tests including:
 - Device and establishment registration
 - Conformance to the Quality System regulation
 - Design controls
 - CAPA / Complaint monitoring
 - Change control
 - Process/production controls
 - Adverse event reporting (actual and potential)
 - Reports of corrections and removals when undertaken to reduce risks to health
 - IVD labeling regulations
 - Guidance documents/special controls
- Requires pre-market review
- Requires post-market surveillance reporting (i.e., CAPA/complaint monitoring)
- Encompasses quality system for design, manufacture, packaging, labeling, storage, installation, and servicing
- Has authority under the Federal Food, Drug, and Cosmetic Act to regulate all diagnostic tests, including those developed in labs (LDTs).

Centers for Medicare and Medicaid Services

- Regulates clinical laboratories that use LDTs or FDA approved/cleared tests
- Ensures that labs are following good lab practices including the employment of credentialed lab personnel and testing procedures sets out laboratory quality standards
- Does not regulate the safety and effectiveness of diagnostics tests, notably
 - No pre-market review or regulatory review process for tests
 - No requirement for demonstration of clinical validity
 - No adverse event reporting system for tests
- CLIA does not address clinical validity, in part because Congress recognized that adding such a requirement to CLIA would be duplicative of FDA regulations and oversight

	FDA Oversight	CMS Oversight
Research Phase	Yes	No
Analytical Validation	Yes	Post Hoc Sample
Clinical Validation	Yes	No
Adverse Events Reporting	Yes	No Requirement; Not Systematic
Transparent Results	Published Review Summary	No Public Information
Process of Recalls	Yes	No

