

Choices Mental Health Counseling, PLLC

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*Licensed by the State of New York and Certified by the National Board for Certified Counselors
Certified Clinical Mental Health Counselor, Credentialed Alcohol and Substance Abuse Counselor
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August 16, 2017

Ms. Junn Pato-Ryan
Drug Court Coordinator
Sullivan County Drug Court
LH Cooke Sullivan County Courthouse
414 Broadway
Monticello, NY 12701

Re: Toxicology protocol

Dear Ms. Pato-Ryan:

This is in response to emails received today, sent within minutes of each other, from yourself and Ms. Gina Cicchetti of the County's behavioral health clinic, asking for a description of this office's urine drug screening policy and procedures.

Since late 2010, Choices Mental Health Counseling PLLC has maintained contracts with toxicology laboratories licensed pursuant to Section 575 of the Public Health Law to analyze to report on toxicology samples for alcohol and drug screening test, as required in the OASAS Standards for Clinical Services Provided to Individuals Arrested for an Impaired Driving Offenses (legal basis for such is established in accordance with Section 1198-a of the New York State Vehicle and Traffic Law [VTL] and in conjunction with Section 19.07[g] of the New York State Mental Hygiene Law, as added by Chapter 732 of the Laws of 2006 and amended by Chapter 669 of the Laws of 2007).

Laboratories with which we have (or do) maintain(ed) contracts are Burlington Laboratory (now defunct) and Ameritox Laboratory. Since May 2011, Ameritox has been our primary lab partner of choice. Specimens are shipped by overnight express, with results available several days later. Usually, we ship specimens on Fridays. As a back-up, we also have a current contract with Millennium Health for comparable toxicology services as Ameritox but prefer to use one lab.

For reasons of cost reimbursement (i.e. insurance limitations), we have never conducted point-of-service testing at this office. If test kits were provided, or if reimbursement for costs were available, we could do so.

For the first few years of practice, this office's practice was that urine specimen collections were generally not visually observed unless specific cause for concern seemed to warrant it (e.g. history of suspicious results or behavior by the patient). This decision was based on advice received from Leon Nielson of the OASAS Impaired Driver Services unit in Albany, who consulted with Rob Kent, Esq., General Counsel for OASAS, before informing us that New York offers no rules or guidance either mandating or structuring visual observation of urine collection in outpatient settings. It was noted that practices in the field include medical doctors (including addiction medicine or pain management) who rarely observe urine collection, private practices of various mental health disciplines, and OASAS licensed facilities. Present advice from OASAS in the context of impaired driver assessments was that it is up to each practitioner or practice to use professional judgment to create procedures that make the most sense for their particular setting and purpose. Some providers of impaired driver assessments reportedly do not collect specimens at all, but send patients to urine collection sites elsewhere. Rules on this issue differ at other levels of care or in settings governed by different OASAS regulations.

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Carmen Rue, our Office Manager, is qualified to assist in Spanish and English.

From August 2010 until October 2013, our office practice was part-time. Under that circumstance, it was decided that consistency was a priority. If we generally did not have same-gender staff present to monitor women, the best and most reasonable practice was to rely on industry-standard specimen validity testing rather than watching people urinate. At Ameritox, these tests (with reference ranges established by the U.S. Department of Health and Human Services) universally consist of: Specific Gravity (1.003 to 1.040), pH (4.5 to 8.9), Creatinine (5.0 to 400.0 mg/dL), and General Oxidant (< 200 mcg/mL). Millennium Health also adds pregnancy testing for this purpose.

Subsequently, on January 14, 2014, in a meeting was held by this writer, our office manager Carmen Rue, with the full complement of the Sullivan County Probation Department (Director, Supervisors, and all officers present). At the meeting, it was asked that any clients supervised by Sullivan County probation (including people sentenced to probation and supervised by ATI) for whom urine drug screens is part of mandated evaluation or treatment be visually observed. This office practice opened full-time in October 2013, with a female office manager now present most of the time every day. Since that meeting at probation, the consistent practice of this office has been to visually observe urine collection with patients who are supervised by the Sullivan County Probation Department when toxicology is clinically indicated. The director acknowledged that there are no protocols or regulations requiring visual observation of urine in clinical settings like ours. He publicly shared personal family experiences as the understandable reason behind his directive.

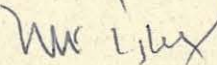
Without question, and pleased to cooperate with concerns and to accommodate requirements that are in the best interest of shared clients. In the absence of State guidelines mandating observation, we have willingly followed this procedure since that time with respect to probationers. No other legal authorities, including either Parole or Drug Court, have asked for visual observation protocol. If such were desired, we would amend our practice to do so because it is in the best interest of our patients. The restroom in the office has a curved mirror above the toilet to allow observation of standing urinators from both sides simultaneously.

On unusual occasions when female staff is not present and a women patient requires testing, a mouth swab to collect a saliva specimen may be used. These are also processed at Ameritox using immunoassay and gas mass spectrometry methods, or (if there are clinical reasons why urine testing might be preferable to saliva which it is felt justify an unobserved specimen) we may accept a rare unsupervised specimen and write "No female staff" on the lab requisition.

Should the Court or members of the Drug Court Team have further questions or concerns, please contact me by any convenient means. If you have suggestions on a funding method to allow point-of-service testing (as suggested in one of the two inquiries received today by e-mail), your advice would be most welcome.

Thank you.

Respectfully,



Thomas S. Rue, M.A., LMHC, CASAC, NCC, CCMHC

cc: Gina Cicchetti, BA, CASAC-T, Asst. Social Worker
Sullivan County Drug Court Liaison
Community Services Behavioral Health Clinic