

Documentation of Positive Drug Screen for Pregnant Patients

One concern that is frequently expressed by OB practitioners in the context of urine drug testing for their patients is, “What happens if my prenatal patient tests positive for an illicit or non-prescribed controlled substance?” Specifically, the concern is how to protect the practitioner from liability in the event that the patient refuses to follow the advice/referrals of the practitioner to minimize the risk of exposure to the unborn baby from controlled substances.

There is no single answer or law that provides specific guidance. However, practitioners who document that they have taken reasonable steps to assess the scope of the issue and guide the patient to resolution of the issue are in a better position to demonstrate that they have met their duty of care. The following are elements that practitioners should consider when documenting in the patient’s medical record the efforts taken by the practitioner to address the patient’s use of illicit or non-prescribed controlled substances:

- Perform confirmation testing
- Interview the patient
- Interview the patient’s family/support system
- Counsel patient regarding impact of illegal or non-prescribed controlled substance use on the baby
- Assess likelihood of a pattern of illegal or non-prescribed controlled substance use
- Determine whether patient is high risk
- Increase the frequency of urine drug screening and confirmation testing
- Refer patient for substance abuse treatment/counseling
- Document discussion and referral in patient medical record
- Follow-up with patient regarding treatment/counseling

As stated above, documentation of the above elements are not required. As such, each practitioner must determine which, if any, of the elements should be included. However, more steps taken by the practitioner to document the efforts taken to assist the patient will provide better evidence that the practitioner meeting his/her duty of care.