

**DaVita Announces Settlement in Works:** DaVita HealthCare Partners has reportedly announced to its shareholders that it has agreed to a framework for settling federal investigations into its arrangements with referring physicians. DaVita states it will pay \$389 million to settle criminal and civil anti-kickback charges and will unwind eleven joint ventures with nephrologists involving 28 dialysis clinics. The settlement also will include the appointment of an independent compliance monitor as well as restrictions on future joint ventures with physicians.

**OIG Releases Work Plan for 2014:** The U.S. Department of Health & Human Services Office of Inspector General (OIG) has issued its Fiscal Year 2014 Work Plan. The Work Plan provides a map of the areas of continuing or new scrutiny by the OIG. Among the areas being scrutinized, OIG will review the extent to which physicians and suppliers participated in Medicare and accepted claim assignment during 2012 and assess the effects of their participation and claim assignments on the Medicare program (such as noncompliance with assignment rules) and on beneficiaries (such as excessive billing of beneficiaries' share of charges). Another continuing area of focus is physician place-of-service coding errors. The OIG will review physicians' coding on Medicare Part B claims for services performed in ambulatory surgical centers and hospital outpatient departments to determine whether they properly coded the places of service. Other areas under review are sleep testing, high cost diagnostic radiology testing, and electrodiagnostic testing. A new area of focus is CMS payment for compounded drugs. The Work Plan can be accessed at: <http://ow.ly/tL1Lx>. Physicians should study the Work Plan to better focus their own compliance efforts.

**CMS Clarifies "Two Midnight" Rule:** The Centers for Medicare & Medicaid Services (CMS) issued its so-called "two midnight" rule last fall as part of the 2014 Inpatient Prospective Payment System Final Rule. The rule sets forth the requirements for physician documentation regarding the expectation of a patient's length of hospital stay. A patient must stay in a hospital for two consecutive midnights before CMS will reimburse the hospital at inpatient rates. Implementation of the rule has now been delayed until October 2014. CMS has issued further clarification of the two midnight rule. Among other things, CMS has clarified that, although other practitioners can enter admission orders into the record, an admitting physician must countersign the order before the patient is discharged. For more details, see: <http://ow.ly/tL1Qy>.

**Chiropractic Board Proposes Amendments to Testing Rules:** The New Jersey Board of Chiropractic Examiners has proposed readoption of its practice rules, including a proposal to amend the definition of "special examination" to confirm the Board's approval of vestibulo-ocular nystagmus testing as a special examination that chiropractors may perform. The Board also proposes an amendment to require that licensees who seek to perform electrodiagnostic tests or specific special examinations complete a course, preapproved by the Board, that consists of course work and practical, hands-on instruction and an examination that demonstrates that the licensee is capable of recognizing scientifically supportable and practical indications for the test; has knowledge in the proper administration of the test; possesses skill at proper interpretation of the test; and has obtained training in how to integrate the test results into management of the patient's condition and further would require that a licensee apply to the Board for certification to perform electrodiagnostic tests or special examinations within 60 days after successful completion of an approved course. See the proposal at: <http://ow.ly/tL1Va>.

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at [info@DrLaw.com](mailto:info@DrLaw.com).



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