

## **STAT LAW August 2010**

### **RECOVERY AUDIT CONTRACTOR STATISTICS**

The Centers for Medicare and Medicaid Services (CMS) issued an updated report on the Recovery Audit Contractor (RAC) program. According to the report, providers appealed RAC overpayment claims about 12% of the time and were successful in those appeals 64% of the time. These are impressive statistics for providers considering CMS did not count overpayment claims that were reversed by the contractors when the providers submitted additional documentation as successful appeals. The most active RAC contractor was HealthDataInsights (HDI) with 309,080 overpayment determinations. HDI also had the highest number of appeals with almost 73% of those appeals being decided in favor of the provider.

### **DR. DONALD BERWICK TO HEAD CMS**

President Obama appointed Dr. Donald Berwick to head the Centers for Medicare and Medicaid Services (CMS) on July 7, 2010. Dr. Berwick was the a leader of the 100,000 Lives Campaign and the 5 Million Lives Campaign. Senate Republicans were outraged at Dr. Berwick's appointment based in part on his support of Britain's National Health Service and his views on rationing healthcare. Dr. Berwick's appointment was endorsed by Mark McClelland, M.D. who was the CMS Administrator from 2004 to 2006 under President Bush. CMS has been without a permanent administrator since 2006.

### **DOCTORS STILL DON'T REPORT THEIR PEERS**

According to a study reported in the Journal of the American Medical Association, Doctors are still reluctant to report their peers who are impaired or incompetent. Doctors acknowledge their responsibility to report their peers, but many did not report their peers despite their first hand knowledge of a problem. The most common reasons provided for not reporting another doctor were the assumption that someone else was doing something about the problem, that nothing would be done about the report, fear of retaliation, and concern that the physician would be disciplined severely. Under Florida's Medical Practice Act, physicians are obligated to report other licensed physicians that they "know" are in violation of the practice act including those physicians who are impaired or incompetent.

### **MORE MEDICARE FRAUD ARRESTS**

Federal authorities arrested 94 people, including doctors and nurses, in 5 cities on charges of Medicare fraud. According to a press release by the U.S. Attorney General, the 94 suspects collectively submitted false claims to Medicare worth \$251 million.