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## HEALTH LAW ALERT

### SPECIAL ISSUE

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We discussed in our recent October, 2008, Health Law Alert a proposal published by CMS that would require physician entities and group practices that provide diagnostic testing services to Medicare beneficiaries to enroll as independent diagnostic testing facilities (IDTF's). After receiving an outcry of negative comments from affected groups and physicians, CMS, in its Final 2009 Medicare Physician Fee Schedule, abandoned his proposal. This is tremendous news for affected physician entities and groups because enrolling as an IDTF imposes rather rigorous compliance standards which are presently in effect for other IDTFs. Physician groups may continue to be enrolled as a "physician office" in order to avoid complying with the IDTF standards.

CMS did not completely rule out possibility of future rulemaking. According to CMS, "we are deferring the implementation of the [physician IDTF] proposals while we continue to review the public comments received on this provision and we will consider finalizing this provision in a future rulemaking effort if we deem it necessary." However, as it stands now, except for mobile entities, physician entities and group practices that provide diagnostic testing services will not be required to enroll as IDTFs. CMS did, however, finalize regulations requiring enrollment for mobile entities that provide diagnostic services.

Look out for our November, 2008, Health Law Alert, coming soon. In that issue, we will outline a number of regulations affecting physician practices contained in the 2009 Medicare Physician Fee Schedule.

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