

December 21, 2005

Ms. Karleen Jackson, Commissioner  
Department of Health and Social Services  
PO box 110601  
Juneau, AK 99811-0601

Dear Commissioner Jackson:

Please find attached our written request to appeal the CON decision for RPTC in Fairbanks. We request a hearing per regulation *7AC 07.080. Hearing and Appeal*. We have included in our packet the Department's review and our response to each finding which is the basis of our appeal.

Sincerely,

Robert P. Sheehan  
President and CEO

RPS:pas

Enclosures: Appeal 12/20/2005

cc: David Pierce  
John Regitano  
Linda Anderson

## CONCURRENT REVIEW DOCUMENT DATED 11/10/2005

### I. GENERAL REVIEW STANDARDS

An application for a certificate of need will be evaluated against the review standards applicable to all activities, the standards set out in AS 18.07.043 and 7 AAC 07:

**General Review Standard #1.** The applicant documents need for the project by the population served, or to be served, including, but not limited to, the needs of rural populations in areas having distinct or unique geographic, socioeconomic, cultural, transportation, and other barriers to care. In applying this standard, the department will also consider, when appropriate, whether the service is in an area of the state that is unserved or under-served in the type of proposed service.

Background, page 7 “...The Department did not consider residents from the Northwest Arctic or Nome as being appropriate for this project because the travel patterns would take them through Anchorage first and that would be an easier place for families to be involved in services than Fairbanks.”

The Department is apparently considering only Alaska Airlines scheduling and has completely ignored Frontier Flying Service routes and scheduling. Frontier Flying Service has daily flights to Kotzebue, Nome, and outlying communities in the Northwest Arctic, Norton Sound, and Bering Straits regions, including Nome, as shown on the following map.



Additionally, the United States Postal Service is considering changing its bypass mail system to for Nome and/or Kotzebue to a Fairbanks acceptance point, which would further increase the frequency of flights from Nome and Kotzebue to and from Fairbanks. Fairbanks remains the hub for all of commerce and business for these multiple communities. We believe that Fairbanks is the hub for RPTC services as well. Therefore, we are appealing the number of children in need of RPTC/Level 5 services on the grounds that the entire population should be included in the calculation of bed need for the Fairbanks area. We disagree with the General Review Standard #1 findings.

**General Review Standard #2. The applicant demonstrates that the project, including the applicant’s long-range development plans, augments and integrates with relevant community, regional, state, and federal health planning, and incorporates or reflects evidence-based planning and service delivery.**

We agree with the General Review Standard #2 finding.

**General Review Standard #3. The applicant demonstrates effective formal mechanisms for stakeholder participation in planning for the project and in the design and execution of service.**

We disagree with Finding #3 with the conclusion made regarding stakeholder participation. We believe we have gone above and beyond in assuring that the majority of stakeholders are involved. Testimony at the Fairbanks hearing demonstrated support for our project from a wide variety of community and stakeholder interests.

**General Review Standard #4. The applicant demonstrates that they have assessed alternative methods of providing the proposed services and demonstrates that the proposed services are the most suitable approach.**

We agree with Finding #4 that General Review Standard #4 should be waived.

**General Review Standard #5. The applicant demonstrates the impact on existing health care systems within the project’s service area that serve the target population in the service area, and health care systems that serve the target population in other regions of the state.**

We disagree with the Finding #5 and believe we have adequately described the impact on the existing system in Alaska. The project meets a vital state interest in the targeted population to “Bring the Kids Home” from facilities now outside the State of Alaska, facilities that are in part being acquired by the competing applicant. Failure to approve a CON in this review cycle materially damages the state’s “Bring the Kids Home” policy in that significant 2006 construction is likely not possible for either applicant if this appeal is denied and new applications are required.

**General Review Standard #6. The applicant demonstrates that the project’s location is accessible to patients and clients, their immediate and extended families and community members, and to ancillary services. This includes the relocation of existing services or facilities.**

We agree with Finding #6.

## **II. RESIDENTIAL PSYCHIATRIC TREATMENT CENTERS (RPTC) SPECIFIC STANDARDS**

The following standards and/or preferences apply to applications submitted by an entity seeking a certificate of need for an RPTC.

**RPTC #1. The applicant identifies the probable impact on the cost to local consumers, and the cost to Medicaid and other medical assistance programs operated by the State of Alaska.**

We agree with finding #7.

**RPTC #2. The applicant demonstrates the immediate and long-term financial feasibility of the project, based on availability of federal or other funding to construct and operate the project**

Boys and Girls Home and Family Services, Inc. is a non-profit organization and will not be in the same financial position when compared with a for-profit entity. Boys and Girls Home and Family Services commitment is to the mission of providing services for children so that they can remain within the state of Alaska. We have, however, made this project financially feasible. The confusion rests upon the request that is required through the CON and other services that will be provided that is not covered by the CON.

We appeal Finding #8 because the CON process does not allow the whole program to be evaluated. We further appeal because financial feasibility for the State of Alaska of RPTC services is substantially improved by the lower costs of our Level 4 and Level 5 facility in comparison to the other applicant's Level 5 and Level 6 facility.

**RPTC #3. An RPTC facility must be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).**

Finding #9 is met.

**RPTC #4. Projects larger than 60 beds will not be recommended for approval unless services will be provided in a campus-like, cottage setting, with smaller home-like units with 15 beds per unit or less [see 7 AAC 43.560(b)(4)(A)].**

We agree with Finding #10 but appeal on the grounds of subjective editorializing. We believe the design meets "campus-like, cottage setting, with smaller home-like units with 15-beds per unit" as well as meeting the therapy and other facility resources needed to support the program's goals and objectives.

**RPTC #5. Preference will be given to projects that include secure and nonsecure services in the facility.**

We met Finding #11.

**RPTC #6. Preference will be given to facilities operated by Native organizations that are operating under a compact with the federal government to provide health services to IHS beneficiaries under P.L. 93-638.**

We agree that we did not meet finding #12 and are not appealing.

**RPTC #7. The applicant demonstrates that the project augments the existing community system of care and facilitates transition to lower levels of care, to community-based settings, or to an adult service system at maturity, providing an effective interface with lower levels of care in the same community.**

We agree with Finding #13.