



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

Department of  
Health and Social Services

CERTIFICATE OF NEED PROGRAM

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Anchorage, Alaska 99503  
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September 29, 2014

Mr. Peter A. Scully  
Atkinson, Conway & Gagnon, Inc.  
420 L Street  
Suite 500  
Anchorage, AK 99501

Dear Mr. Scully,

This letter is in response to your request for determination dated 9/18/2014, on behalf of your client Alaska CyberKnife Center LLC.

The request for determination involves proposed installation and operation of a stereotactic radiosurgery center to provide stereotactic external beam radiation treatment of cancers and noncancerous tumors. You propose this service to be located in medical office space leased at the Providence Health Park in Anchorage, Alaska.

Your estimated start state for leasehold improvements and installation of the equipment is November 1, 2014; with treatment of patients to initiate on or about 2/01/2015.

Your estimated project costs are expected to total \$9.5 million dollars. These costs include the CyberKnife, associated software and information technology, fixed equipment and other equipment as well as the service contract.

Based on a review of your stated intent, including review of other request for determination analyses that the department has conducted, I have determined that a Certificate of Need is not required for the following reasons:

1. 7 AAC 07.001 outlines what health care facilities are to be considered under the State's certificate of need program. It states that the department will only consider an application for certificate of need from a health care facility if the health care facility meets each of the following standards:

- 1) the facility is a health care facility defined in AS 18.07.111
- 2) the facility
  - (A) would be required to obtain a license after completion of the construction or to operate the facility under AS 47.32; or

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- (B) is an independent diagnostic testing facility or a kidney treatment center, including a freestanding hemodialysis unit;
- (C) the facility is located or providing services in the state.

While you will be operating in the state of Alaska, your facility is not required to be licensed under AS 47.32, and it does not meet the definition of an independent diagnostic testing facility, or a kidney dialysis center as outlined in 7 AAC 07.900.

2. AS 18.07.031 states a person may not make an expenditure of over \$1.5M (the current threshold as of July 1, 2014 per AS 18.07.031(d)) for construction of a health care facility. Health care facilities are defined in AS 18.07.111. While your costs associated with the facility are over the threshold, a facility that would house a stereotactic radiosurgery center is not considered a health care facility under AS 18.07.111

Should plans for the intended use of the facility change prior to completion of construction and if the operation of the facility would require licensure under AS 47.32, or change in the definition for the facility would be included in AS 18.07.111 or 7 AAC 07.900, please notify the department as Certificate of need application and review could be necessary.

If you are dissatisfied with this decision, you may request reconsideration under 7 AAC 07.033 within 30 days after the date of the published notice of the determination by the department.

Please do not hesitate to contact if you have any questions regarding this matter. You may reach me at 907-754-3428 or [Alexandria.hicks@alaska.gov](mailto:Alexandria.hicks@alaska.gov).

Sincerely,

Alexandria Hicks, CON Coordinator

Cc: Alaska CyberKnife Center, LLC  
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Rancho Santa Fe, CA 92067-4947  
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