

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

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January 23, 2007

Certified, Return Receipt Requested

BethAnn Boudah Chapman, Esq.
Faulkner Banfield
One Sealaska Plaza; Suite 202
Juneau, AK 99801-1245

Dear Ms. Chapman,

In response to your request of December 14, 2006, I have determined that a Certificate of Need is not required for the imaging services under development by Juneau Bone and Joint Center, LLC in Juneau, Alaska, insofar as the imaging services will be provided in the offices of private physicians in a group practice. Under AS 18.07.111(8) (B), the offices of private physicians in a group practice are exempt from the requirements of the Certificate of Need program.

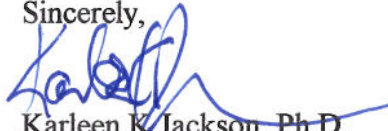
AS 18.07.111(8) (B) exempts the "offices of private physicians or dentists whether in individual or group practice" from the requirements of the Certificate of Need Program. Neither the Certificate of Need statutes or regulations, or current Alaska case law, defines a physician's office. Additionally, since neither physicians' offices nor Independent Diagnostic Testing Facilities are subject to state licensing requirements, no other generally accepted definitions of these terms exist.

I have reviewed the material you provided in your request as well as materials provided by Bartlett Regional Hospital, and have consulted with the Department of Law. I have concluded that, for the purposes of determining whether a Certificate of Need is required in accordance with 7 AAC 07.031, physicians' offices that include imaging services remain exempt from Certificate of Need requirements provided that:

- The imaging equipment is owned entirely by the physician or physicians providing professional services in the practice;
- Imaging services will be provided solely for the diagnosis and treatment of the patients of the physician or physicians who constitute the practice;
- Imaging services will not be provided to other physicians or entities; and
- The imaging equipment will be physically located in the same building as the physicians' offices and will be integral to those offices.

I will be issuing a public notice of my determination immediately. A request for reconsideration of my determination may be made by any person substantially affected by this determination. The request for reconsideration must be postmarked no later than February 22, 2007 and be fully compliant with 7 AAC 07.033 in all other respects.

Sincerely,



Karleen K. Jackson, Ph.D.
Commissioner

cc: Roger F. Holmes, Esq.
Biss and Holmes

Ms. Stacie Kraly, AAG
Department of Law

Ms. Pat Carr, Chief
DHSS Health Planning & Systems Development