

BEFORE THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON  
REFERRAL BY THE COMMISSIONER OF THE DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES

In the Matter of )  
Providence Health System Alaska ) OAH No. 06-0152-DHS  
\_\_\_\_\_)

NOTICE OF HEARING

During a May 3, 2006 prehearing conference and a July 26, 2006 status conference, the parties agreed to schedule a three-day hearing in this matter for the dates August 15-17, 2006, and agreed to deadlines for prehearing submittals. Accordingly:

**YOU ARE NOTIFIED THAT A HEARING WILL BE HELD BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS AT 550 WEST SEVENTH AVENUE, SUITE 1600, ANCHORAGE, ALASKA, BEGINNING ON TUESDAY, AUGUST 15, 2006, AT 9:00 A.M., ON THE MATTER OF DEPARTMENT OF HEALTH AND SOCIAL SERVICE'S DENIAL OF PROVIDENCE HEALTH SYSTEM'S APPLICATION FOR A CERTIFICATE OF NEED FOR A PROPOSED ABULATORY SURGERY CENTER. YOU MAY BE PRESENT AT THE HEARING, MAY BE BUT NEED NOT BE REPRESENTED BY COUNSEL, MAY PRESENT ANY RELEVANT EVIDENCE, AND WILL BE GIVEN FULL OPPORTUNITY TO CROSS-EXAMINE ALL WITNESSES TESTIFYING AGAINST YOU. YOU MAY HAVE SUBPOENAS ISSUED TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, DOCUMENTS OR OTHER THINGS BY SUBMITTING A COMPLETED SUBPOENA FORM TO THE OFFICE OF ADMINISTRATIVE HEARINGS AT THE ADDRESS BELOW.**

**YOUR FAILURE TO PARTICIPATE IN THE HEARING MAY LEAD TO A DECISION BEING MADE BASED ON THE RECORD, WITHOUT THE TAKING OF EVIDENCE, OR BASED ON EVIDENCE PRESENTED AT THE HEARING BY OTHER PARTIES.**

**Witnesses:** If a party will call witnesses, that party must file a witness list and serve a copy of it on the other party no later than close of business on **Thursday, August 10, 2006**. By agreement of the parties, video recordings and transcripts from three depositions may be submitted for review and consideration by the administrative law judge if they are submitted no later than close of business on **Thursday, August 10, 2006**, provided that the deponents will be made available during the hearing for supplemental examination.

**Prehearing Briefs:** If a party elects to file a prehearing brief, the party must file it and serve a copy of it on the other party no later than **Thursday, August 10, 2006**.

**Exhibits:** If a party intends to refer to documents not already submitted to the Office of Administrative Hearings, the party must either file those documents in advance of the hearing date (e.g., as exhibits to the deposition transcripts discussed above) or during the hearing. Each exhibit should be page numbered and clearly marked to identify the party offering it.

**Hearing Process:** At the hearing, Providence will be allowed to briefly state its position first and then the department will be allowed to state its position. Starting with Providence, each side will be allowed to present its case and may

- (1) use oral testimony taken under oath;
- (2) examine (question) and cross-examine witnesses;
- (3) introduce exhibits; and
- (4) make a closing argument.

The hearing will not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted. All witnesses will be required to testify under oath. The administrative law judge may ask questions of a party or witness at any time.

**Filing Instructions:** Except for any filings allowed during or immediately preceding the hearing in Anchorage, the filings in the case must be submitted to the Office of Administrative Hearings' Juneau office. If by mail to P.O. Box 110231, Juneau, Alaska 99811, and if by hand delivery to 3132 Channel Drive, Suite 141, Juneau, Alaska 99801. The party filing documents with the office must at the same time send copies to the other party and certify in its filing that copies have been served on the other party.

**Post-hearing Process:** The procedure and deadlines for any post-hearing processes will be set during or after the hearing.

DATED this 27<sup>th</sup> day of July, 2006.

By: \_\_\_\_\_

Terry L. Thurbon  
Chief Administrative Law Judge

The undersigned certifies that on July 27, 2006, this notice and order was distributed to the following: Peter Gruenstein, counsel for Providence Health System Alaska; Stacie Kraly, Assistant Attorney General. Courtesy copies were sent to Elmer Lindstrom (via email), Office of the Commissioner, Department of Health and Social Services, and Stephen Rose, Preston Gates & Ellis (via U.S. Mail).

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Kim Rechin