

# STATE OF ALASKA

## DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

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September 22, 2006

### **Certified, Return Receipt Requested**

Chakri Inampudi, M.D.  
Medical Director  
Imaging Associates of Providence, LLC  
3427 East Tudor Road; Suite A  
Anchorage, AK 99507

Dear Dr. Inampudi,

I have determined that a Certificate of Need is required for the imaging facility operated by Imaging Associates of Providence, LLC on Abbott Road in Anchorage, Alaska for the following reasons:

- To the best of my ability to determine, the Abbott Road facility constitutes an independent diagnostic testing facility and is therefore a health care facility in accordance with AS 18.07.111(8) and the services provided at the facility constitute one or more categories of health services under AS 18.07.111(1); and
- To the best of my ability to determine, the project exceeds the CON expenditure threshold under AS 18.07.031.

### Analysis

On September 6, 2006, you submitted a response to my August 29, 2006 request for information regarding the nature of your Abbott Road imaging facility. Your response was included in correspondence to my office related primarily to your Mat-Su Valley imaging center. My request for information was prompted by the August 25, 2006 request submitted by Mr. Edward Lamb, Chief Executive Officer, Alaska Regional Hospital, for a determination of whether or not the Abbott Road facility requires a certificate of need.

I find your September 26, 2006 letter to be non-responsive to my August 29, 2006 request insofar as none of the specific information requested has been provided. Rather, in your September 6, 2006 correspondence you have simply stated that

*“This letter also responds to your correspondence of August 29, 2006, regarding IAP’s Abbott Road office, as the pertinent facts concerning that office are the same as those concerning the office in the Matanuska-Susitna Valley.”*

Based on a telephonic conversation you had with my staff, I understand no further response to my request for information will be forthcoming. Nevertheless, in accordance with 7 AAC 07.031(e) I am obligated to make a determination as to the requirement for a certificate of need within 20 days of receiving your response to my request for information.

I have interpreted your limited response to indicate that it is your position that notwithstanding any other attributes, the Abbott Road facility is not subject to certificate of need program requirements because it constitutes the offices of physicians in a group practice and is therefore exempt from certificate of need requirements in accordance with AS 18.07.111(8)(B).

I further interpret your statement to imply that you do not believe your Abbott Road facility is “substantially similar” to the facility operated by Alaska Open Imaging Centers in Fairbanks, Alaska and therefore the recent findings of the Superior Court relative to the Fairbanks imaging facility are not applicable.

My full analysis and response to these two issues is contained in my September 12, 2006 letter to you in respect to your Mat-Su Imaging facility (attached). However I would like to briefly restate my conclusions contained in that letter with respect to the Abbott Road imaging facility:

1. To the best of my ability to determine, I believe the Abbott Road imaging facility operated by Imaging Associates of Providence, LLC, is substantially similar to the imaging facility operated by Alaska Open Imaging Center in Fairbanks and therefore Judge Steinkruger’s findings are applicable; and
2. While it is true that physicians’ offices are exempt from certificate of need requirements under AS 18.07.011(8)(B), the underlying certificate of need statute and the department’s regulations recognize that an independent diagnostic treatment facility may be co-located with other entities—including physicians’ offices—and remain subject to certificate of need requirements.

If you disagree with this decision, you may request reconsideration of the determination. A request for reconsideration must be postmarked no later than October 23, 2006 and must be made in accordance with 7 AAC 07.033

Sincerely,

A handwritten signature in blue ink, appearing to read "Karleen Jackson", with a long horizontal flourish extending to the right.

Karleen Jackson, Ph.D.  
Commissioner

Enclosure

cc: Mr. Edward Lamb  
Alaska Regional Hospital

Mr. Al Parrish, CEO  
Providence Health System of Alaska

Ms. Stacie Kraly, AAG  
Department of Law

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