

Karleen Jackson
Commissioner
Department of Health & Social Services
P.O. Box 110601
Juneau, Alaska 99811-0601

October 10, 2006

Dear Commissioner Jackson:

This letter is in response to your September 12, 2006 correspondence, regarding the Imaging Associates of Providence (IAP) physician group practice in Wasilla, Alaska. I am writing to respectfully request a hearing in accordance with 7 AAC 07.080 to appeal your decision of September 12, 2006.

I would also like to take this opportunity to respond to your letter of September 22, 2006, regarding the Imaging Associates of Providence physician group practice on Abbott Road in Anchorage, Alaska, and request your reconsideration.

First, I regret that you found my letter of September 6, 2006, to be an inadequate response to your concerns. Please allow me to clarify the point I was trying to make which is that both the Abbott Road and Mat-Su IAP physician offices are identical in structure and are owned and operated by a single entity. The facts that pertain to one are equally applicable to the other. At each of the facilities, radiologist physicians practice our profession using the essential equipment required to conduct our practices. At each of the two facilities, radiologists treat patients onsite, conduct tests, do interpretations and perform therapeutic procedures if indicated. Each of the facilities is jointly owned by radiologists and Providence Alaska Medical Center.

I am also concerned about an apparent misunderstanding concerning a telephone conversation I had with Mr. Lindstrom (indirectly referenced on page 3 of your September 22 letter). Mr. Lindstrom asked me, as I recall, whether we would be writing another letter in addition to the September 6 letter regarding the Abbott Road facility, and I informed him that we were not planning to since we have indicated that both facilities are identical. Apparently, you have understood this to be a refusal on our part to provide more information. We will be happy to provide you with any data or other information that we reasonably can that you believe to be pertinent to the issue of whether the two IAP offices constitute physician offices, pursuant to AS 18.07.111. To that end, I elaborate below on the nature of the radiologists' practice at the two

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Anchorage, AK 99507
(907) 222-0206

Mat Su Valley
2280 S. Woodworth Rd.
Palmer, AK 99646
(907) 266-1111

IAP facilities, which we believe compel the conclusion that the two facilities are physician offices and are exempt from the requirement to seek a Certificate of Need.¹

With that as background, I would like to offer the following information about our practice in hopes you will find it of value in your further reconsideration of IAP.

The development of IAP has been several years in the making. As radiologists, we have experienced an increasing need for our services. We care for patients from all over the state, particularly those in Southcentral Alaska. As you know, therapeutic procedures may not be performed in Medicare certified Independent Diagnostic Testing Facilities, but are regularly performed in hospitals and physician group practices. We are enrolled with Medicare as a physician group practice with two locations specifically to provide this setting to our patients.

In our efforts to better serve patients, we formed our private practice of radiology in March 2005. During the following months we developed our business and financial plans, identified and leased space, designed our clinic space and selected and purchased equipment for our practice. Following our many months of planning, we opened our Wasilla practice June 5, and our Anchorage practice June 12, 2006.

Examples of the services we offer are very high quality MRI, CT, radiography ("x ray"), ultrasound, mammography and bone densitometry. Using these images, we provide our diagnostic interpretation; make our professional recommendations for further imaging and/or image-guided diagnostic or therapeutic interventions.

Image-guided diagnostic procedures include, for example, ultrasound-guided breast or thyroid biopsies. Image-guided therapeutic procedures we perform include thoracentesis and paracentesis and venous ablations.

I trust these examples help clarify our practice of radiology at Imaging Associates of Providence. Again, I want to emphasize that we wish to be as responsive as possible to DHSS's legitimate concerns about the nature of our practice.


While we want to do everything reasonably possible to be responsive to your legitimate request for additional information, and try to resolve this dispute as expeditiously as possible, I must tell you that we have a fundamentally different understanding of the facts and law pertinent to this matter. We have asked our attorney to analyze the pertinent issues, and he has informed us that he believes DHSS's position is without merit on multiple, independently sufficient grounds. We believe that your understanding of Superior Court Judge Steinkruger's order in the Fairbanks case of *Banner v. AOIC* is mistaken, and that your apparent belief that it somehow controls (or even guides) the determination of whether IAP is a physician office is wrong both as a matter of fact and law.


¹ Please understand that we readily concede that the two facilities-both collectively and individually-well exceed the 1.1 million dollar CON threshold. The only issue relevant to the current discussion is whether the two IAP facilities are exempt from the CON requirement on the basis that they are physician offices.

We believe that your assertion that a radiologist practice can be both a physician office and an independent diagnostic testing facility is without merit (a proposition which was, incidentally, rejected by Judge Steinkruger in the Fairbanks case). We believe that your conclusion that IAP is similar to AOIC (as it existed in 2004, at the time of HB 511) is not only unsupported, but is inconsistent with the uncontradicted facts we have presented to you in both this and the September 6 letter. We further believe that DHSS's understanding of the interplay between "independent diagnostic testing facility" and a physician office is wholly inconsistent with legislative intent. We also believe such discrimination against radiologists would be unconstitutional. Additionally, we believe that DHSS's past action authorizing IAP to proceed on the basis that it is exempt from CON process prohibits DHSS from subsequently revoking that action.

In conclusion, I want to emphasize two points. First, we will do everything we can to work with you to resolve this matter amicably and expeditiously. I regret any misimpression that IAP is less than committed to providing DHSS with whatever pertinent information it can. Second, we respectfully suggest that DHSS's position with respect to both the pertinent facts and relevant law is fundamentally in error on multiple grounds, and should be reexamined by the department.

Sincerely,


Chakri Inampudi, M.D.
Medical Director
Imaging Associates of Providence

 10/10/06