

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF HEALTH CARE SERVICES
Certificate on Need Program

SEAN PARNELL, GOVERNOR

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February 9, 2012

RBS Evolution
115 Main Street
Pleasant View, TN 37146

Dear Mr. Moore:

This letter is in response to your request for determination dated 1/6/2012 from Patrick Gilmore of the Law Offices of Atkinson, Conway, and Gagnon in Anchorage, Alaska.

The request for determination involves the construction of a facility in Soldotna Alaska for operation of a linear accelerator to be used for patient treatment by a radiation physicist, a radiation therapist, and a radiation oncologist.

Based on review of your stated intent I have determined that a Certificate of Need is not required for the following reasons:

1. AS 18.07.031 states a person may not make an expenditure of over \$1.35M (the current monetary threshold as of July 1, 2011 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 this facility are over the current monetary threshold, a facility that would house a linear accelerator for patient treatment is not considered a health care facility under AS 18.07.111
2. 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
 - (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 your facility will be operating in the state, it is not required to be licensed under AS 47.32 and it does not meet the definition of an independent diagnostic

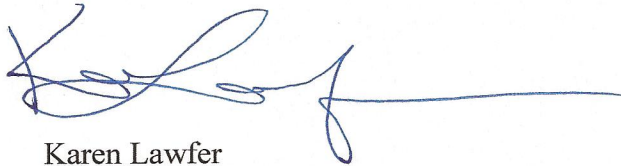
testing facility or a kidney dialysis center as outlined in 7 AAC 07.900.

As previously stated a Certificate of Need will not be required for construction of your facility.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Karen Lawfer', with a long horizontal flourish extending to the right.

Karen Lawfer
Certificate of Need Coordinator

cc: Patrick Gilmore at Atkinson, Conway, and Gagnon