

AS 18.07.091(a)

**INTERPRETATION OF CERTIFICATE OF NEED
STATUTE CONFERS STANDING AFTER
ADMINISTRATIVE APPEAL PERIOD.**

A pain treatment center sought to convert office space into an ambulatory surgery center. A medical center alleged that the pain center knowingly misrepresented material facts in requesting and obtaining its certificate of need (CON) determination. The trial court granted summary judgment to the pain center on the basis that the medical center's complaint was filed after the deadline for an administrative appeal. On appeal, the medical center argued that it had standing under AS 18.07.091(a) to seek injunctive relief, and that it was therefore error to grant summary judgment to the pain center. The Supreme Court concluded that there were two main reasons why summary judgment should not have been entered against the medical center on the standing issue. AS 18.07.091(a) allowed substantially and adversely affected members of the public to challenge any violation of Alaska's CON statutes or associated regulations, not just violations of an existing CON. The medical center was a member of the public. The Supreme Court also agreed with the contention that the medical center would be substantially and adversely affected.

Mat-Su Valley Medical Center v. Advanced Pain Centers of Alaska, 218 P.3d 698 (Alaska 2009).

Legislative review is recommended to determine whether the court correctly interpreted the applicable statute that allowed alternative challenges to a CON.