

Sec. 18.07.091. Injunctive relief; penalties; right of action.

(a) Injunctive relief against violations of this chapter or regulations adopted under this chapter may be obtained from a court of competent jurisdiction at the instance of the commissioner, a holder of a certificate of need who is adversely affected in the exercise of the activities conducted in violation of the certificate, or any member of the public substantially and adversely affected by the violation. Upon written request by the commissioner, the attorney general shall furnish legal services and pursue the action for injunctive relief to an appropriate conclusion.

(b) A person who files an accusation seeking suspension or revocation of a certificate of need, knowing that the charges are untrue or that the charges do not constitute grounds for revocation or suspension under this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000. The sponsor or holder of a certificate of need injured by the violation of AS 18.07.081(e) may recover damages for loss incurred by reason of delay caused by a suspension.

History -

(Sec. 2 ch 275 SLA 1976)

Decisions -

Legislative intent. - Administrative remedies provided by AS 18.07.081 and paragraph (a) of this section demonstrate legislature's concern for adherence to proper procedures in certification of health facilities and were not intended to be exclusive remedies. *Sisters of Providence in Wash., Inc. v. Department of Health & Social Servs.*, 648 P.2d 970 (Alaska 1982).

Standing. - Opponent to issuance of certificate of need for building of new MRI facility did not have standing to request a hearing from the Department of Health and Social Services because opponent failed to show that opponent was substantially affected by issuance of certificate. *Fuhs v. Gilbertson*, 186 P.3d 551 (Alaska 2008).

Applied in *South Cent. Health Planning & Dev., Inc. v. Commissioner of Dep't of Admin.*, 628 P.2d 551 (Alaska 1981).