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HEALTH FACILITIES &
SERVICES REVIEW BOARD

September 10, 2010

Via Electronic Mail and Facsimile
Mike.Constantino@illinois.gov
217/785-4111Mr. Dale Galassie
Acting Chair
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761**Re: Project No. 10-039 – Fresenius Medical Care Waukegan Harbor**

Dear Mr. Galassie:

I am writing on behalf of DSI Renal, Inc. ("DSI") to submit written comments to the State Agency Report ("SAR") for Project No. 10-039 – Fresenius Medical Care Waukegan Harbor. DSI disagrees with the Illinois Health Facilities and Services Review Board's ("State Board") positive findings on planning area need, service to planning area residents, and service demand criteria in the SAR. As discussed in more detail below, there is currently excess hemodialysis services capacity in the HSA VIII planning area. Accordingly, the establishment of a 21-station ESRD (end stage renal dialysis) facility will result in an unnecessary duplication of services and will further lower utilization of other ESRD facilities in the planning area.

Criterion 1110.1430(b)(1) – Planning Area Need

Section 1110.1430(b)(1) of the State Board's rules provides that the number of ESRD stations proposed shall not exceed the projected deficit. The applicants propose to establish a 21-station ESRD (end stage renal dialysis) facility to be located at 110 North West Street, Waukegan, Illinois in HSA VIII (the "Project"). According to the latest inventory data, there is currently a need for three ESRD stations in HSA VIII.¹ The number of stations proposed for the Project significantly exceeds the projected deficit. Accordingly, the applicants have failed to meet this criterion.

¹ ILL. DEP'T OF PUB. HEALTH, HEALTH FACILITIES AND SVCS. REVIEW BD., ADDENDUM TO INVENTORY OF HEALTH CARE FACILITIES, OCTOBER 1, 2008 – AUGUST 18, 2010 5 (Aug. 18, 2010) available at <http://www.hfsrb.illinois.gov/pdf/Other%20Services%20Update%208-18-2010.pdf> (last visited Sep. 8, 2010).

Criterion 1110.1430(b)(2) – Service to Planning Area Residents

This criterion requires an applicant to document that the primary purpose of the project is to provide necessary health care services to residents of its geographic service area. The applicants state the primary purpose of the Project is to keep dialysis services accessible to the growing ESRD population in Lake County and to alleviate high utilization within 30 minutes travel time of Waukegan. (SAR p. 12). As shown on Table Two of the SAR, **only one facility of the four facilities within 30 minutes normal travel time of the proposed ESRD facility is operating above the State Standard of 80%**. (SAR p. 13). DSI Waukegan Renal Center, which is located only three minutes from the proposed ESRD facility, is currently operating at 72.73% and can easily accommodate up to 36 ESRD patients without impacting its current ESRD patient population. In fact, the facility's utilization has decreased over the past twenty months from 78.85% in 2009 to 73.67% for the first eight months of 2010. Therefore, DSI Waukegan is willing and able to accept Dr. Ghantous' current and future ESRD patients.

In addition to DSI Waukegan, there three facilities within 30 minutes travel time of Dr. Ghantous' projected ESRD patients: Fresenius Lake Bluff, Davita Lake County, and Lake Villa Dialysis that have sufficient capacity to accommodate Dr. Ghantous' projected referrals. In fact, these facilities would be more convenient to many of the projected patients than the proposed ESRD facility. Fresenius Lake Bluff, which within 30 minutes normal travel time of Gurnee (zip code 60031), Mundelein (zip code 60060), North Chicago (zip code 60064), Waukegan (zip codes 60085 and 60087) Great Lakes (zip code 60088) and Zion (zip code 60099), is closer to residents in North Chicago and Great Lakes than the proposed ESRD facility. The Lake Bluff facility is currently operating at 78.13% capacity, and could accommodate approximately 20 referrals, assuming no patient attrition. (SAR p. 3) Likewise, DaVita Lake County, which is within 30 minutes normal travel time of Gurnee, Mundelein, North Chicago, Waukegan and Great Lakes, is currently operating at 76.04% capacity and could accommodate up to 23 referrals, assuming no patient attrition. (SAR p. 3). Finally, Lake Villa Dialysis, which is located within 30 minutes normal travel time of Gurnee, Mundelein, and Zion, is currently operating at 44.44% capacity and could easily accommodate up to 40 referrals, assuming no patient attrition. In conjunction with DSI Waukegan, these facilities could easily accommodate the projected ESRD referrals from Dr. Ghantous.

Although not in the proposed ESRD facility's geographic service area, DSI Arlington Heights Renal Center and DSI Buffalo Grove Renal Center are easily accessible to residents of Lake County. Each facility is currently operating at 58.3% capacity. Together, these facilities have sufficient capacity to accommodate up to 85 ESRD patients and are ready and willing to accept referrals of Dr. Ghantous' ESRD patients.

As shown above, there is sufficient capacity among the existing facilities to accommodate the growing ESRD population in Lake County. As a result, there is no need for a 21-station ESRD facility in HSA VIII.

Criterion 1110.1430(b)(4) – Service Demand

This criterion requires an applicant to document that the number of ESRD stations are necessary to meet the projected demand for service. According to the SAR, the applicants identified 122 pre-ESRD patients that are likely to utilize the proposed ESRD facility. (SAR p. 12). This number is misleading as it does not take pre-ESRD (or CKD) patient attrition into account, e.g., patient relocation, transplant, or death. Assuming an attrition rate of 35%, approximately 79 of the indentified pre-ESRD patients will require dialysis within the next two years. Further, the Fresenius calculations do not take into account hemodialysis patient attrition in the existing facilities. As a result, there is no need for a 21-station ESRD facility as the existing facilities in the area can easily accommodate these patients.

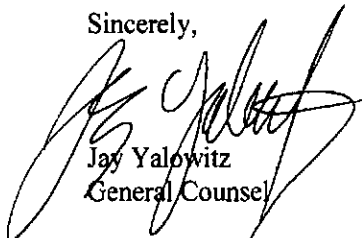
Criterion 1110.1430(b)(5) – Service Accessibility – Service Restrictions

This criterion requires an applicant proposing to establish an ESRD facility to document that at least one of the following factors is present in the planning area: (1) absence of the proposed service in the planning area, (2) access limitations due to payor status of the patient, (3) restrictive admissions policies, (4) medical care problems exhibited in the area population or existing care system, or (5) all services within a 30-minute normal travel time meet or exceed the State Standard of 80%. As shown in Table One, there are currently 20 ESRD facilities in HSA VIII and Table Two shows three out of four ESRD facilities within 30 minutes normal travel time are operating below the 80% utilization standard. (SAR pp. 3, 13) Additionally, the applicants did not identify access limitations due to patients' payor status, restrictive admissions policies at existing ESRD facilities, or indicators of medical care problems in the area population or existing care system. (SAR p. 12). The applicants failed to show any service restrictions are present in HSA VIII. Accordingly, the applicants have not met this criterion.

As discussed above, the applicants failed to meet any of the planning area need criteria of Section 1110.1430(b). Accordingly, the Project is not in conformance with this criterion. The State Agency Report improperly calculated an aggregate utilization figure for the four facilities within 30 minutes and this error resulted in an incorrect conclusion regarding need for the Project.

Thank you for your time and consideration of our comments to the State Agency Report.

Sincerely,



Jay Yalowitz
General Counsel

cc: Michael Constantino, HFSRB

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