

Original

11-022

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD  
APPLICATION FOR PERMIT

RECEIVED

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

MAY 23 2011

This Section must be completed for all projects.

Facility/Project Identification

HEALTH FACILITIES &  
SERVICES REVIEW BOARD

Facility Name: <i>Fresenius Medical Care Lockport</i>			
Street Address: <i>1143-1165 E. 9<sup>th</sup> Street</i>			
City and Zip Code: <i>Lockport 60441</i>			
County: <i>Will</i>	Health Service Area: <i>9</i>	Health Planning Area:	

Applicant /Co-Applicant Identification

[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name: <i>Fresenius Medical Care Lockport, LLC d/b/a Fresenius Medical Care Lockport</i>	
Address: <i>920 Winter Street, Waltham, MA 02451</i>	
Name of Registered Agent: <i>CT Systems</i>	
Name of Chief Executive Officer: <i>Rice Powell</i>	
CEO Address: <i>920 Winter Street, Waltham, MA 02451</i>	
Telephone Number: <i>800-662-1237</i>	

Type of Ownership of Applicant/Co-Applicant

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership
<input type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental
<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship
<input type="checkbox"/> Other	

- Corporations and limited liability companies must provide an **Illinois certificate of good standing**.
- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Primary Contact

[Person to receive all correspondence or inquiries during the review period]

Name: <i>Lori Wright</i>
Title: <i>Senior CON Specialist</i>
Company Name: <i>Fresenius Medical Care</i>
Address: <i>One Westbrook Corporate Center, Tower One, Suite 1000, Westchester, IL 60154</i>
Telephone Number: <i>708-498-9121</i>
E-mail Address: <i>lori.wright@fmc-na.com</i>
Fax Number: <i>708-498-9334</i>

Additional Contact

[Person who is also authorized to discuss the application for permit]

Name: <i>Coleen Muldoon</i>
Title: <i>Regional Vice President</i>
Company Name: <i>Fresenius Medical Care</i>
Address: <i>One Westbrook Corporate Center, Tower One, Suite 1000, Westchester, IL 60154</i>
Telephone Number: <i>708-498-9118</i>
E-mail Address: <i>coleen.muldoon@fmc-na.com</i>
Fax Number: <i>708-498-9283</i>

**Post Permit Contact**

[Person to receive all correspondence subsequent to permit issuance-THIS PERSON MUST BE EMPLOYED BY THE LICENSED HEALTH CARE FACILITY AS DEFINED AT 20 ILCS 3960

Name: <i>Lori Wright</i>
Title: <i>Senior CON Specialist</i>
Company Name: <i>Fresenius Medical Care</i>
Address: <i>One Westbrook Corporate Center, Tower One, Suite 1000, Westchester, IL 60154</i>
Telephone Number: <i>708-498-9121</i>
E-mail Address: <i>lori.wright@fmc-na.com</i>
Fax Number: <i>708-498-9334</i>

**Additional Contact**

[Person who is also authorized to discuss the application for permit]

Name: <i>Clare Ranalli</i>
Title: <i>Attorney</i>
Company Name: <i>Holland &amp; Knight, LLP</i>
Address: <i>131 S. Dearborn, 30<sup>th</sup> Floor, Chicago, IL 60603</i>
Telephone Number: <i>312-578-6567</i>
E-mail Address: <i>clare.ranalli@hkllaw.com</i>
Fax Number: <i>312-578-6666</i>

**Site Ownership**

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: <i>Matt Tilton - Archer Bank</i>
Address of Site Owner: <i>4970 S Archer Ave, Chicago, IL 60632</i>
Street Address or Legal Description of Site: <i>1143-1165 E. 9<sup>th</sup> Street, Lockport, 60441</i>
Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.
APPEND DOCUMENTATION AS ATTACHMENT-2, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Operating Identity/Licensee**

[Provide this information for each applicable facility, and insert after this page.]

Exact Legal Name: <i>Fresenius Medical Care Lockport, LLC d/b/a Fresenius Medical Care Lockport</i>
Address: <i>920 Winter Street, Waltham, MA 02451</i>
<input type="checkbox"/> Non-profit Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> For-profit Corporation <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
<ul style="list-style-type: none"> <li>o Corporations and limited liability companies must provide an Illinois Certificate of Good Standing.</li> <li>o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.</li> <li>o <b>Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.</b></li> </ul>
APPEND DOCUMENTATION AS ATTACHMENT-3, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Organizational Relationships**

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person or entity who is related (as defined in Part 1130.140). If the related person or entity is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.

APPEND DOCUMENTATION AS ATTACHMENT-4, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Flood Plain Requirements NOT APPLICABLE – PROJECT IS NOT NEW CONSTRUCTION**

[Refer to application instructions.]

Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at [www.FEMA.gov](http://www.FEMA.gov) or [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org). **This map must be in a readable format.** In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 (<http://www.hfsrb.illinois.gov>).

APPEND DOCUMENTATION AS ATTACHMENT -5, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Historic Resources Preservation Act Requirements**

[Refer to application instructions.]

Provide documentation regarding compliance with the requirements of the Historic Resources Preservation Act.

APPEND DOCUMENTATION AS ATTACHMENT-6, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**DESCRIPTION OF PROJECT**

**1. Project Classification**

[Check those applicable - refer to Part 1110.40 and Part 1120.20(b)]

<p>Part 1110 Classification:</p> <p><input checked="" type="checkbox"/> Substantive</p> <p><input type="checkbox"/> Non-substantive</p>	<p>Part 1120 Applicability or Classification: [Check one only.]</p> <p><input type="checkbox"/> Part 1120 Not Applicable</p> <p><input type="checkbox"/> Category A Project</p> <p><input checked="" type="checkbox"/> Category B Project</p> <p><input type="checkbox"/> DHS or DVA Project</p>
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## 2. Narrative Description

Provide in the space below, a brief narrative description of the project. Explain **WHAT** is to be done in **State Board defined terms**, **NOT WHY** it is being done. If the project site does NOT have a street address, include a legal description of the site. Include the rationale regarding the project's classification as substantive or non-substantive.

*Fresenius Medical Care Lockport, LLC, proposes to establish a 12 station in-center hemodialysis facility at 1143-1165 E. 9<sup>th</sup> Street, Lockport, Illinois. The facility will be in leased space with the interior to be built out by the applicant.*

*On December 1, 2009, project number 09-037 – Fresenius Medical Care Lockport was permitted to establish a 12 station ESRD facility at 1050-1062 Thornton Avenue in Lockport. This permit was surrendered in conjunction with the submittal of this current CON application to re-establish the Fresenius Medical Care Lockport facility across the street at 1143-1165 E. 9<sup>th</sup> Street, Lockport.*

*Fresenius Medical Care Lockport will be in HSA 9.*

*This project is "substantive" under Planning Board rule 1110.10(b) as it entails the establishment of a health care facility that will provide in-center chronic renal dialysis services*

**Project Costs and Sources of Funds**

Complete the following table listing all costs (refer to Part 1120.110) associated with the project. When a project or any component of a project is to be accomplished by lease, donation, gift, or other means, the fair market or dollar value (refer to Part 1130.140) of the component must be included in the estimated project cost. If the project contains non-reviewable components that are not related to the provision of health care, complete the second column of the table below. Note, the use and sources of funds must equal.

Project Costs and Sources of Funds				
USE OF FUNDS		CLINICAL	NONCLINICAL	TOTAL
Preplanning Costs		N/A	N/A	N/A
Site Survey and Soil Investigation		N/A	N/A	N/A
Site Preparation		N/A	N/A	N/A
Off Site Work		N/A	N/A	N/A
New Construction Contracts		N/A	N/A	N/A
Modernization Contracts		1,044,000	N/A	1,044,000
Contingencies		104,400	N/A	104,400
Architectural/Engineering Fees		112,500	N/A	112,500
Consulting and Other Fees		N/A	N/A	N/A
Movable or Other Equipment (not in construction contracts)		296,000	N/A	296,000
Bond Issuance Expense (project related)		N/A	N/A	N/A
Net Interest Expense During Construction (project related)		N/A	N/A	N/A
Fair Market Value of Leased Space or Equipment	1,532,000 179,425	1,711,425	N/A	1,711,425
Other Costs To Be Capitalized		N/A	N/A	N/A
Acquisition of Building or Other Property (excluding land)		N/A	N/A	N/A
<b>TOTAL USES OF FUNDS</b>		3,268,325	N/A	3,268,325
SOURCE OF FUNDS		CLINICAL	NONCLINICAL	CLINICAL
Cash and Securities		1,556,900	N/A	1,556,900
Pledges		N/A	N/A	N/A
Gifts and Bequests		N/A	N/A	N/A
Bond Issues (project related)		N/A	N/A	N/A
Mortgages		N/A	N/A	N/A
Leases (fair market value)		1,711,425	N/A	1,711,425
Governmental Appropriations		N/A	N/A	N/A
Grants		N/A	N/A	N/A
Other Funds and Sources		N/A	N/A	N/A
<b>TOTAL SOURCES OF FUNDS</b>		3,268,325	N/A	3,268,325
<b>NOTE: ITEMIZATION OF EACH LINE ITEM MUST BE PROVIDED AT ATTACHMENT-7, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b>				

**Related Project Costs**

Provide the following information, as applicable, with respect to any land related to the project that will be or has been acquired during the last two calendar years:

Land acquisition is related to project	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Purchase Price: \$	_____	
Fair Market Value: \$	_____	

The project involves the establishment of a new facility or a new category of service  
 Yes     No

If yes, provide the dollar amount of all **non-capitalized** operating start-up costs (including operating deficits) through the first full fiscal year when the project achieves or exceeds the target utilization specified in Part 1100.

Estimated start-up costs and operating deficit cost is \$ 57,416.

**Project Status and Completion Schedules**

Indicate the stage of the project's architectural drawings:

None or not applicable                       Preliminary

Schematics     Final Working

Anticipated project completion date (refer to Part 1130.140): 08/01/2013

Indicate the following with respect to project expenditures or to obligation (refer to Part 1130.140):

Purchase orders, leases or contracts pertaining to the project have been executed.

Project obligation is contingent upon permit issuance. Provide a copy of the contingent "certification of obligation" document, highlighting any language related to CON Contingencies

Project obligation will occur after permit issuance.

**APPEND DOCUMENTATION AS ATTACHMENT-8, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**State Agency Submittals**

Are the following submittals up to date as applicable:

Cancer Registry

APORS

All formal document requests such as IDPH Questionnaires and Annual Bed Reports been submitted

All reports regarding outstanding permits

**Failure to be up to date with these requirements will result in the application for permit being deemed incomplete.**

**Cost Space Requirements**

Provide in the following format, the department/area **DGSF** or the building/area **BGSF** and cost. The type of gross square footage either **DGSF** or **BGSF** must be identified. The sum of the department costs **MUST** equal the total estimated project costs. Indicate if any space is being reallocated for a different purpose. Include outside wall measurements plus the department's or area's portion of the surrounding circulation space. **Explain the use of any vacated space.**

Dept. / Area	Cost	Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
		Existing	Proposed	New Const.	Modernized	As Is	Vacated Space
<b>REVIEWABLE</b>							
ESRD							
Medical Surgical							
Intensive Care							
Diagnostic Radiology							
MRI							
Total Clinical							
<b>NON REVIEWABLE</b>							
Administrative							
Parking							
Gift Shop							
Total Non-clinical							
<b>TOTAL</b>							

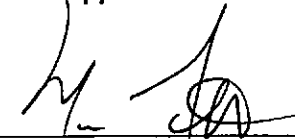
APPEND DOCUMENTATION AS ATTACHMENT-9, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**CERTIFICATION**

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- o in the case of a corporation, any two of its officers or members of its Board of Directors;
- o in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- o in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- o in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- o in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of Fresenius Medical Care Lockport, LLC. \* in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

  
SIGNATURE

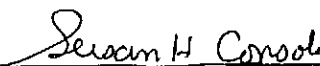
Mark Fawcett  
PRINTED NAME  
Vice President & Treasurer  
PRINTED TITLE

  
SIGNATURE

Marc Heber  
PRINTED NAME  
Asst Treasurer  
PRINTED TITLE

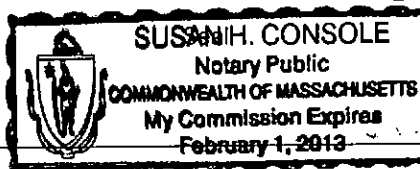
Notarization:  
Subscribed and sworn to before me  
this 21 day of April 2011

Notarization:  
Subscribed and sworn to before me  
this 21 day of April 2011

  
Signature of Notary

Signature of Notary

Seal



\*Insert EXACT legal name of the applicant

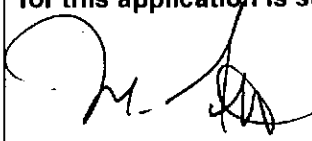


**CERTIFICATION**

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- o in the case of a corporation, any two of its officers or members of its Board of Directors;
- o in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- o in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- o in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- o in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of Fresenius Medical Care Holdings, Inc. \* in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.



SIGNATURE

Mark Fawcett  
Vice President & Asst. Treasurer

PRINTED NAME

PRINTED TITLE



SIGNATURE

Marc Lieberman  
Asst Treasurer

PRINTED NAME

PRINTED TITLE

Notarization:  
Subscribed and sworn to before me  
this 21 day of April 2011

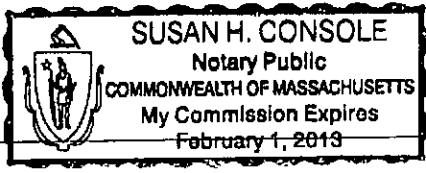
Notarization:  
Subscribed and sworn to before me  
this 21 day of April 2011

Signature of Notary

Signature of Notary

Seal

Seal



\*Insert EXACT legal name of the applicant

### SECTION III – BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES - INFORMATION REQUIREMENTS

This Section is applicable to all projects except those that are solely for discontinuation with no project costs.

#### Criterion 1110.230 – Background, Purpose of the Project, and Alternatives

READ THE REVIEW CRITERION and provide the following required information:

##### BACKGROUND OF APPLICANT

1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable.
2. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.
3. Authorization permitting HFSRB and DPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of DPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. **Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.**
4. If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed, to update and/or clarify data.

**APPEND DOCUMENTATION AS ATTACHMENT-11, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-4) MUST BE IDENTIFIED IN ATTACHMENT 11.**

##### PURPOSE OF PROJECT

1. Document that the project will provide health services that improve the health care or well-being of the market area population to be served.
2. Define the planning area or market area, or other, per the applicant's definition.
3. Identify the existing problems or issues that need to be addressed, as applicable and appropriate for the project. [See 1110.230(b) for examples of documentation.]
4. Cite the sources of the information provided as documentation.
5. Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.
6. Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.

For projects involving modernization, describe the conditions being upgraded if any. For facility projects, include statements of age and condition and regulatory citations if any. For equipment being replaced, include repair and maintenance records.

**NOTE: Information regarding the "Purpose of the Project" will be included in the State Agency Report.**

**APPEND DOCUMENTATION AS ATTACHMENT-12, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-6) MUST BE IDENTIFIED IN ATTACHMENT 12.**

**ALTERNATIVES**

- 1) Identify **ALL** of the alternatives to the proposed project:

Alternative options **must** include:

- A) Proposing a project of greater or lesser scope and cost;
  - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;
  - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and
  - D) Provide the reasons why the chosen alternative was selected.
- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of total costs, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation. **FOR EVERY ALTERNATIVE IDENTIFIED THE TOTAL PROJECT COST AND THE REASONS WHY THE ALTERNATIVE WAS REJECTED MUST BE PROVIDED.**
  - 3) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

**APPEND DOCUMENTATION AS ATTACHMENT-13, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**SECTION IV - PROJECT SCOPE, UTILIZATION, AND UNFINISHED/SHELL SPACE**

**Criterion 1110.234 - Project Scope, Utilization, and Unfinished/Shell Space**

READ THE REVIEW CRITERION and provide the following information:

**SIZE OF PROJECT:**

1. Document that the amount of physical space proposed for the proposed project is necessary and not excessive. **This must be a narrative.**
2. If the gross square footage exceeds the BGSF/DGSF standards in Appendix B, justify the discrepancy by documenting one of the following:
  - a. Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
  - b. The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;
  - c. The project involves the conversion of existing space that results in excess square footage.

Provide a narrative for any discrepancies from the State Standard. A table must be provided in the following format with Attachment 14.

SIZE OF PROJECT				
DEPARTMENT/SERVICE	PROPOSED BGSF/DGSF	STATE STANDARD	DIFFERENCE	MET STANDARD?

APPEND DOCUMENTATION AS ATTACHMENT-14, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**PROJECT SERVICES UTILIZATION:**

This criterion is applicable only to projects or portions of projects that involve services, functions or equipment for which HFSRB has established utilization standards or occupancy targets in 77 Ill. Adm. Code 1100.

Document that in the second year of operation, the annual utilization of the service or equipment shall meet or exceed the utilization standards specified in 1110. Appendix B. A narrative of the rationale that supports the projections must be provided.

A table must be provided in the following format with Attachment 15.

UTILIZATION					
	DEPT./ SERVICE	HISTORICAL UTILIZATION (PATIENT DAYS) (TREATMENTS) ETC.	PROJECTED UTILIZATION	STATE STANDARD	MET STANDARD?
YEAR 1					
YEAR 2					

APPEND DOCUMENTATION AS ATTACHMENT-15, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**UNFINISHED OR SHELL SPACE: NOT APPLICABLE – THERE IS NO UNFINISHED SHELLSPACE**

Provide the following information:

1. Total gross square footage of the proposed shell space;
2. The anticipated use of the shell space, specifying the proposed GSF to be allocated to each department, area or function;
3. Evidence that the shell space is being constructed due to
  - a. Requirements of governmental or certification agencies; or
  - b. Experienced increases in the historical occupancy or utilization of those areas proposed to occupy the shell space.
4. Provide:
  - a. Historical utilization for the area for the latest five-year period for which data are available; and
  - b. Based upon the average annual percentage increase for that period, projections of future utilization of the area through the anticipated date when the shell space will be placed into operation.

APPEND DOCUMENTATION AS ATTACHMENT-16, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**ASSURANCES: NOT APPLICABLE – THERE IS NO UNFINISHED SHELL SPACE**

Submit the following:

1. Verification that the applicant will submit to HFSRB a CON application to develop and utilize the shell space, regardless of the capital thresholds in effect at the time or the categories of service involved.
2. The estimated date by which the subsequent CON application (to develop and utilize the subject shell space) will be submitted; and
3. The anticipated date when the shell space will be completed and placed into operation.

APPEND DOCUMENTATION AS ATTACHMENT-17, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**G. Criterion 1110.1430 - In-Center Hemodialysis**

1. Applicants proposing to establish, expand and/or modernize In-Center Hemodialysis must submit the following information:
2. Indicate station capacity changes by Service: Indicate # of stations changed by action(s):

Category of Service	# Existing Stations	# Proposed Stations
<input checked="" type="checkbox"/> In-Center Hemodialysis	0	12

3. READ the applicable review criteria outlined below and submit the required documentation for the criteria:

APPLICABLE REVIEW CRITERIA	Establish	Expand	Modernize
1110.1430(b)(1) - Planning Area Need - 77 Ill. Adm. Code 1100 (formula calculation)	X		
1110.1430(b)(2) - Planning Area Need - Service to Planning Area Residents	X	X	
1110.1430(b)(3) - Planning Area Need - Service Demand - Establishment of Category of Service	X		
1110.1430(b)(4) - Planning Area Need - Service Demand - Expansion of Existing Category of Service		X	
1110.1430(b)(5) - Planning Area Need - Service Accessibility	X		
1110.1430(c)(1) - Unnecessary Duplication of Services	X		
1110.1430(c)(2) - Maldistribution	X		
1110.1430(c)(3) - Impact of Project on Other Area Providers	X		
1110.1430(d)(1) - Deteriorated Facilities			X
1110.1430(d)(2) - Documentation			X
1110.1430(d)(3) - Documentation Related to Cited Problems			X
1110.1430(e) - Staffing Availability	X	X	
1110.1430(f) - Support Services	X	X	X
1110.1430(g) - Minimum Number of Stations	X		
1110.1430(h) - Continuity of Care	X		
1110.1430(j) - Assurances	X	X	X

**APPEND DOCUMENTATION AS ATTACHMENT-26, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

4. Projects for relocation of a facility from one location in a planning area to another in the same planning area must address the requirements listed in subsection (a)(1) for the "Establishment of Services or Facilities", as well as the requirements in Section 1110.130 - "Discontinuation" and subsection 1110.1430(i) - "Relocation of Facilities".

The following Sections **DO NOT** need to be addressed by the applicants or co-applicants responsible for funding or guaranteeing the funding of the project if the applicant has a bond rating of A- or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application):

- Section 1120.120 Availability of Funds – Review Criteria
- Section 1120.130 Financial Viability – Review Criteria
- Section 1120.140 Economic Feasibility – Review Criteria, subsection (a)

**VIII. - 1120.120 - Availability of Funds**

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable: Indicate the dollar amount to be provided from the following sources:

<u>1,556,900</u>	<p>a) Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to:</p> <ol style="list-style-type: none"> <li>1) the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and</li> <li>2) interest to be earned on depreciation account funds or to be earned on any asset from the date of applicant's submission through project completion;</li> </ol>
<u>N/A</u>	<p>b) Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience.</p>
<u>N/A</u>	<p>c) Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;</p>
<u>1,711,425</u>	<p>d) Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including:</p> <ol style="list-style-type: none"> <li>1) For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the issue, including any discounting anticipated;</li> <li>2) For revenue bonds, proof of the feasibility of securing the specified amount and interest rate;</li> <li>3) For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.;</li> <li>4) For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital improvements to the property and provision of capital equipment;</li> <li>5) For any option to lease, a copy of the option, including all terms and conditions.</li> </ol>
<u>N/A</u>	<p>e) Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;</p>
<u>N/A</u>	<p>f) Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;</p>
<u>N/A</u>	<p>g) All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.</p>
<u>3,268,325</u>	<b>TOTAL FUNDS AVAILABLE</b>

**APPEND DOCUMENTATION AS ATTACHMENT-39, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM**

**IX. 1120.130 - Financial Viability**

All the applicants and co-applicants shall be identified, specifying their roles in the project funding or guaranteeing the funding (sole responsibility or shared) and percentage of participation in that funding.

<p><b><u>Financial Viability Waiver</u></b></p> <p>The applicant is not required to submit financial viability ratios if:</p> <ol style="list-style-type: none"> <li>1. All of the projects capital expenditures are completely funded through internal sources</li> <li>2. The applicant's current debt financing or projected debt financing is insured or anticipated to be insured by MBIA (Municipal Bond Insurance Association Inc.) or equivalent</li> <li>3. The applicant provides a third party surety bond or performance bond letter of credit from an A rated guarantor.</li> </ol> <p>See Section 1120.130 Financial Waiver for information to be provided</p> <p><b>APPEND DOCUMENTATION AS ATTACHMENT-40, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b></p>
--

The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

Provide Data for Projects Classified as:	Category A or Category B (last three years)			Category B (Projected)
Enter Historical and/or Projected Years:				
Current Ratio	<b>APPLICANT MEETS THE FINANCIAL VIABILITY WAIVER CRITERIA IN THAT ALL OF THE PROJECTS CAPITAL EXPENDITURES ARE COMPLETELY FUNDED THROUGH INTERNAL SOURCES, THEREFORE NO RATIOS ARE PROVIDED.</b>			
Net Margin Percentage				
Percent Debt to Total Capitalization				
Projected Debt Service Coverage				
Days Cash on Hand				
Cushion Ratio				

Provide the methodology and worksheets utilized in determining the ratios detailing the calculation and applicable line item amounts from the financial statements. Complete a separate table for each co-applicant and provide worksheets for each.

**2. Variance NOT APPLICABLE**

Applicants not in compliance with any of the viability ratios shall document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

<p><b>APPEND DOCUMENTATION AS ATTACHMENT 41, IN NUMERICAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b></p>
--



**X. 1120.140 - Economic Feasibility**

This section is applicable to all projects subject to Part 1120.

**A. Reasonableness of Financing Arrangements**

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or
- 2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:
  - A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or
  - B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

**B. Conditions of Debt Financing**

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.

**C. Reasonableness of Project and Related Costs**

Read the criterion and provide the following:

1. Identify each department or area impacted by the proposed project and provide a cost and square footage allocation for new construction and/or modernization using the following format (insert after this page).

COST AND GROSS SQUARE FEET BY DEPARTMENT OR SERVICE									
Department (list below)	A	B	C	D	E	F	G	H	Total Cost (G + H)
	Cost/Square Foot New	Mod.	Gross Sq. Ft. New	Circ.*	Gross Sq. Ft. Mod.	Circ.*	Const. \$ (A x C)	Mod. \$ (B x E)	
ESRD		\$130.50			8,000			\$1,044,000	\$1,044,000
Contingency		13.05			8,000			104,400	104,400
<b>TOTALS</b>		143.55			8,000			1,148,400	1,148,400

\* Include the percentage (%) of space for circulation

**D. Projected Operating Costs**

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

**E. Total Effect of the Project on Capital Costs**

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

**APPEND DOCUMENTATION AS ATTACHMENT -42, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**XI. Safety Net Impact Statement**

**SAFETY NET IMPACT STATEMENT that describes all of the following must be submitted for ALL SUBSTANTIVE AND DISCONTINUATION PROJECTS:**

1. The project's material impact, if any, on essential safety net services in the community, to the extent that it is feasible for an applicant to have such knowledge.
2. The project's impact on the ability of another provider or health care system to cross-subsidize safety net services, if reasonably known to the applicant.
3. How the discontinuation of a facility or service might impact the remaining safety net providers in a given community, if reasonably known by the applicant.

**Safety Net Impact Statements shall also include all of the following:**

1. For the 3 fiscal years prior to the application, a certification describing the amount of charity care provided by the applicant. The amount calculated by hospital applicants shall be in accordance with the reporting requirements for charity care reporting in the Illinois Community Benefits Act. Non-hospital applicants shall report charity care, at cost, in accordance with an appropriate methodology specified by the Board.
2. For the 3 fiscal years prior to the application, a certification of the amount of care provided to Medicaid patients. Hospital and non-hospital applicants shall provide Medicaid information in a manner consistent with the information reported each year to the Illinois Department of Public Health regarding "Inpatients and Outpatients Served by Payor Source" and "Inpatient and Outpatient Net Revenue by Payor Source" as required by the Board under Section 13 of this Act and published in the Annual Hospital Profile.
3. Any information the applicant believes is directly relevant to safety net services, including information regarding teaching, research, and any other service.

**A table in the following format must be provided as part of Attachment 43.**

Safety Net Information per PA 96-0031			
CHARITY CARE			
Charity (# of patients)	Year	Year	Year
Inpatient			
Outpatient			
<b>Total</b>			
Charity (cost in dollars)	Year	Year	Year
Inpatient			
Outpatient			
<b>Total</b>			
MEDICAID			
Medicaid (# of patients)	Year	Year	Year
Inpatient			
Outpatient			
<b>Total</b>			

Medicaid (revenue)			
Inpatient			
Outpatient			
Total			

APPEND DOCUMENTATION AS ATTACHMENT-43, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**XII. Charity Care Information**

Charity Care information MUST be furnished for ALL projects.

1. All applicants and co-applicants shall indicate the amount of charity care for the latest three audited fiscal years, the cost of charity care and the ratio of that charity care cost to net patient revenue.
2. If the applicant owns or operates one or more facilities, the reporting shall be for each individual facility located in Illinois. If charity care costs are reported on a consolidated basis, the applicant shall provide documentation as to the cost of charity care; the ratio of that charity care to the net patient revenue for the consolidated financial statement; the allocation of charity care costs; and the ratio of charity care cost to net patient revenue for the facility under review.
3. If the applicant is not an existing facility, it shall submit the facility's projected patient mix by payer source, anticipated charity care expense and projected ratio of charity care to net patient revenue by the end of its second year of operation.

Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. (20 ILCS 3960/3) Charity Care must be provided at cost.

A table in the following format must be provided for all facilities as part of Attachment 44.

CHARITY CARE			
	Year	Year	Year
Net Patient Revenue			
Amount of Charity Care (charges)			
Cost of Charity Care			

APPEND DOCUMENTATION AS ATTACHMENT-44, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

After paginating the entire, completed application, indicate in the chart below, the page numbers for the attachments included as part of the project's application for permit:

<b>INDEX OF ATTACHMENTS</b>		
<b>ATTACHMENT NO.</b>		<b>PAGES</b>
1	Applicant/Co-applicant Identification including Certificate of Good Standing	21-22
2	Site Ownership	23-27
3	Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.	28
4	Organizational Relationships (Organizational Chart) Certificate of Good Standing Etc.	29
5	Flood Plain Requirements	
6	Historic Preservation Act Requirements	30
7	Project and Sources of Funds Itemization	31-32
8	Obligation Document if required	33
9	Cost Space Requirements	34
10	Discontinuation	
11	Background of the Applicant	35-38
12	Purpose of the Project	39
13	Alternatives to the Project	40-43
14	Size of the Project	44
15	Project Service Utilization	45
16	Unfinished or Shell Space	
17	Assurances for Unfinished/Shell Space	
18	Master Design Project	
19	Mergers, Consolidations and Acquisitions	
	<b>Service Specific:</b>	
20	Medical Surgical Pediatrics, Obstetrics, ICU	
21	Comprehensive Physical Rehabilitation	
22	Acute Mental Illness	
23	Neonatal Intensive Care	
24	Open Heart Surgery	
25	Cardiac Catheterization	
26	In-Center Hemodialysis	46-83
27	Non-Hospital Based Ambulatory Surgery	
28	General Long Term Care	
29	Specialized Long Term Care	
30	Selected Organ Transplantation	
31	Kidney Transplantation	
32	Subacute Care Hospital Model	
33	Post Surgical Recovery Care Center	
34	Children's Community-Based Health Care Center	
35	Community-Based Residential Rehabilitation Center	
36	Long Term Acute Care Hospital	
37	Clinical Service Areas Other than Categories of Service	
38	Freestanding Emergency Center Medical Services	
	<b>Financial and Economic Feasibility:</b>	
39	Availability of Funds	84-94
40	Financial Waiver	95-156
41	Financial Viability	
42	Economic Feasibility	157-160
43	Safety Net Impact Statement	161-165
44	Charity Care Information	166
Appendix 1	MapQuest Travel Times	167-176
Appendix 2	Referral Letters	177-192
Appendix 3	Letters/transcripts Public Hearing #09-037, Fresenius Lockport	193-205



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

FRESENIUS MEDICAL CARE LOCKPORT, LLC, A DELAWARE LIMITED LIABILITY COMPANY HAVING OBTAINED ADMISSION TO TRANACT BUSINESS IN ILLINOIS ON FEBRUARY 13, 2009, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A FOREIGN LIMITED LIABILITY COMPANY ADMITTED TO TRANACT BUSINESS IN THE STATE OF ILLINOIS.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 14TH day of APRIL A.D. 2011 .



Authentication #: 1110401698

Authenticate at: <http://www.cyberdriveillinois.com>

Jesse White

SECRETARY OF STATE

**Co-Applicant Identification**

[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name: <i>Fresenius Medical Care Holdings, Inc.</i>
Address: <i>920 Winter Street, Waltham, MA 02451</i>
Name of Registered Agent: <i>CT Systems</i>
Name of Chief Executive Officer: <i>Rice Powell</i>
CEO Address: <i>920 Winter Street, Waltham, MA 02451</i>
Telephone Number: <i>800-662-1237</i>

**Type of Ownership of Applicant/Co-Applicant**

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership	
<input checked="" type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental	
<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other

- o Corporations and limited liability companies must provide an **Illinois certificate of good standing**.
- o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

**APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

## Site Ownership

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: *Matt Tilton - Archer Bank*

Address of Site Owner: *4970 S Archer Ave, Chicago, IL 60632*

Street Address or Legal Description of Site: *1143-1165 E. 9<sup>th</sup> Street, Lockport, 60441*

Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.

APPEND DOCUMENTATION AS ATTACHMENT-2, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.



Cushman & Wakefield of  
Illinois, Inc.  
455 N. Cityfront Plaza Drive  
Suite 2800  
Chicago, IL 60611-5555  
(312) 470-1800 Tel  
(312) 470-3800 Fax  
[www.cushwake.com](http://www.cushwake.com)

April 7, 2011

Mr. Nathan Glaisner  
Vice President  
Troy Commercial LTD

RE: **Fresenius Medical Care Dialysis Center**  
**The Crossroads of Lockport Proposal**

Dear Nate,

Cushman & Wakefield has been exclusively authorized by Fresenius Medical Care (FMC) to secure proposals and assist them in negotiations regarding the acquisition of leased space in the Lockport area. Of the properties we will analyze, your site has been identified as one that potentially meets the necessary requirements. At this time, we are requesting that you provide us with a written proposal to lease space in the subject property.

Fresenius Medical Care is the world's leading provider of dialysis products and services. It manages in excess of over 2,500 kidney dialysis clinics and 50 billing centers and regional offices throughout North America. You can visit their website for financial information and highlights at [www.fmcna.com](http://www.fmcna.com).

Please prepare the proposal to correspond to the following terms and conditions:

**OWNERSHIP:**

ARCHER BANK  
4970 S Archer Ave, Chicago, IL 60632

**LOCATION:**

1143-1165 E. 9<sup>th</sup> Street  
Lockport, IL 60441

**SPACE**  
**REQUIREMENTS:**

8,000 SF of contiguous rentable square space. Tenant shall have beneficial occupancy, at no cost throughout the initial term and any option periods of an adjacent 400 sq.ft. of space.

**HOURS OF OPERATION:**

Please be advised that FMC may have employees and / or patients on site 24 hours per day 6 days per week. FMC is not open on Sundays.

**PRIMARY TERM:**

Ten (10) years.

**POSSESSION &**

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.



**COMMENCEMENT DATE:**

Possession and Lease Commencement shall be on the date FMC is awarded the CON.

**OPTION TO RENEW:**

FMC desires three (3) five (5) year options to renew the lease. Options based upon pre-established rates.

**BASE RATE:**

\$16.00 Net.

**ESCALATION:**

Rent shall escalate \$.70 per year beginning in the second lease year.

**CONCESSIONS:**

FMC shall receive 12 months of Base Net Rent abatement beginning on the commencement date.

**COMMON AREA EXPENSES AND REAL ESTATE TAXES:**

Taxes and Common Area Expenses are approximately \$5.00 per square foot per year.

**TENANT IMPROVEMENTS:**

As stated in the Concessions section, in lieu of Tenant Improvements, Landlord shall provide Tenant with 12 months of Base Net Rent abatement.

FMC shall not be required to remove their tenant improvements at the end of the term.

**DEMISED PREMISES SHELL:**

Landlord shall deliver the building in "as-is" condition.

**FIRE SUPPRESSION:**

Landlord shall furnish a sprinkler system prior to delivery of premises to tenant.

**SPACE PLANNING/ ARCHITECTURAL AND MECHANICAL DRAWINGS:**

FMC will provide all space planning and architectural and mechanical drawings required to build out the tenant improvements, including construction drawings stamped by a licensed architect and submitted for approvals and permits. All building permits shall be the Tenant's responsibility.

**PRELIMINARY IMPROVEMENT PLAN:**

At this time, please provide one-eighth inch architectural drawings of the proposed demised premises and detailed building specifications. Please email AutoCads to [loren.guzik@cushwake.com](mailto:loren.guzik@cushwake.com)

**PARKING:**

FMC's standard parking ratio is 1 parking stall / 250 sq.ft.

**CORPORATE**

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

**IDENTIFICATION:**

Please indicate all signage available to FMC, on the building and at the entrance to its space.

**ASSIGNMENT/  
SUBLETTING:**

FMC requires the right to assign or sublet all or a portion of the demised premises to any subsidiary or affiliate without landlord's consent. Any other assignment or subletting will be subject to landlord's prior consent, which shall not be unreasonably withheld or delayed.

**ZONING AND  
RESTRICTIVE COVENANTS:**

Please indicate if the current property zoning is acceptable for use as a Dialysis Clinic and if there are any restrictive covenants imposed by the development, owner, and/or municipality.

**FINANCING:**

FMC will require a non-disturbance agreement.

**ENVIRONMENTAL:**

Please confirm that there is no asbestos present in the building and that there are no contaminants or environmental hazards in or on the property. Also include a brief narrative of any tenants and their activities as they relate to the generation of hazardous materials.

**CON CONTINGENCY:**

Landlord and FMC understand and agree that the establishment of any chronic outpatient dialysis facility in the State of Illinois is subject to the requirements of the Illinois Health Facilities Planning Act, 20 ILCS 3960/1 et seq. and, thus, FMC cannot establish a dialysis facility on the Premises or execute a binding real estate lease in connection therewith unless FMC obtains a Certificate of Need (CON) permit from the Illinois Health Facilities Planning Board (the "Planning Board"). FMC agrees to proceed using its commercially reasonable best efforts to submit an application for a CON permit and to prosecute said application to obtain the CON permit from the Planning Board. Based on the length of the Planning Board review process, FMC does not expect to receive a CON permit prior to August 16, 2011. In light of the foregoing facts, the parties agree that they shall promptly proceed with due diligence to negotiate the terms of a definitive lease agreement and execute such agreement prior to approval of the CON permit provided, however, the lease shall not be binding on either party prior to the approval of the CON permit and the lease agreement shall contain a contingency clause indicating that the lease agreement is not effective pending CON approval. Assuming CON permit approval is granted, the effective date of the lease agreement shall be the first day of the calendar month following CON permit approval. In the event that the Planning Board does not award FMC a CON permit to establish a dialysis center on the Premises by August 16, 2011, neither party shall have any further obligation to the

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

other party with regard to the negotiations, lease or Premises contemplated by this Letter of Intent.

**SECURITY:**

Fresenius Medical Care Holding will fully guarantee the lease.

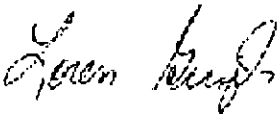
**BROKERAGE FEE:**

Per separate agreement.

This offer is not intended to be contractual in nature and only an executed lease delivered to both parties can bind the parties to this transaction. It is expressly understood, agreed, and hereby acknowledged, that only upon the proper execution of a fully completed, formal lease contract, with all the lease terms and conditions clearly defined and included therein, will there then be any obligation, of any kind or nature, incurred or created between the herein parties in connection with the referenced property.

You may email the proposal to [loren.guzik@cushwake.com](mailto:loren.guzik@cushwake.com). Thank you for your time and cooperation in this matter, should you have any questions please call me at 312.470.1897.

Sincerely,



Loren Guzik  
Senior Director  
Office Group  
Phone: 312-470-1897  
Fax: 312-470-3800  
e-mail: [loren.guzik@cushwake.com](mailto:loren.guzik@cushwake.com)

CC: Mr. Bill Popken

**AGREED AND ACCEPTED** this \_\_\_\_ day of \_\_\_\_\_, 2011

By: \_\_\_\_\_

Title: \_\_\_\_\_

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

## Operating Identity/Licensee

[Provide this information for each applicable facility, and insert after this page.]

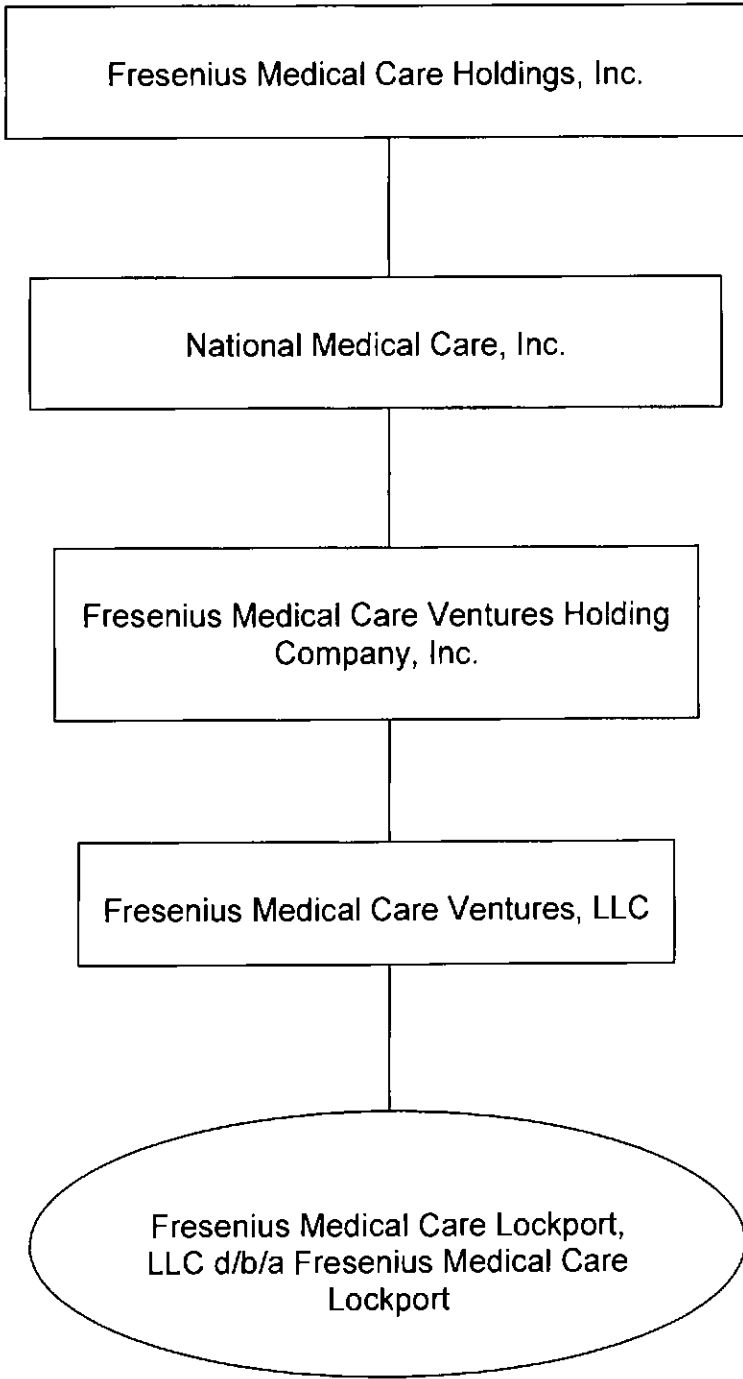
Exact Legal Name: *Fresenius Medical Care Lockport, LLC d/b/a Fresenius Medical Care Lockport*

Address: *920 Winter Street, Waltham, MA 02451*

- |                                     |                           |                          |                     |                                |
|-------------------------------------|---------------------------|--------------------------|---------------------|--------------------------------|
| <input type="checkbox"/>            | Non-profit Corporation    | <input type="checkbox"/> | Partnership         |                                |
| <input type="checkbox"/>            | For-profit Corporation    | <input type="checkbox"/> | Governmental        |                                |
| <input checked="" type="checkbox"/> | Limited Liability Company | <input type="checkbox"/> | Sole Proprietorship | <input type="checkbox"/> Other |

- Corporations and limited liability companies must provide an Illinois Certificate of Good Standing.
- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.
- **Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.**

**Certificate of Good Standing at Attachment – 1.**





**Illinois Historic  
Preservation Agency**

FAX (217) 782-8161

1 Old State Capitol Plaza • Springfield, Illinois 62701-1512 • [www.illinois-history.gov](http://www.illinois-history.gov)

Will County  
Lockport

CON - Establish a Dialysis Clinic  
1143-1165 E. 9th St.  
IHPA Log #009040611

April 21, 2011

Lori Wright  
Fresenius Medical Care  
One Westbrook Corporate Center, Suite 1000  
Westchester, IL 60154

Dear Ms. Wright:

This letter is to inform you that we have reviewed the information provided concerning the referenced project.

Our review of the records indicates that no historic, architectural or archaeological sites exist within the project area.

Please retain this letter in your files as evidence of compliance with Section 4 of the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/1 et. seq.). This clearance remains in effect for two years from date of issuance. It does not pertain to any discovery during construction, nor is it a clearance for purposes of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440).

If you have any further questions, please contact me at 217/785-5027.

Sincerely,

Anne E. Haaker  
Deputy State Historic  
Preservation Officer

## SUMMARY OF PROJECT COSTS

### Modernization

General Conditions	52,000
Temp Facilities, Controls, Cleaning, Waste Management	2,500
Concrete	13,000
Masonry	15,500
Metal Fabrications	8,000
Carpentry	91,000
Thermal, Moisture & Fire Protection	18,000
Doors, Frames, Hardware, Glass & Glazing	75,000
Walls, Ceilings, Floors, Painting	168,000
Specialities	13,000
Casework, FI Mats & Window Treatments	6,000
Piping, Sanitary Waste, HVAC, Ductwork, Roof Penetrations	334,000
Wiring, Fire Alarm System, Lighting	201,000
Miscellaneous Construction Costs	47,000
<b>Total</b>	<b>1,044,000</b>

### Contingencies

Contingencies **\$104,400**

### Architectural/Engineering

Architecture/Engineering Fees **\$112,500**

**Movable or Other Equipment**

Dialysis Chairs	\$17,000
Misc. Clinical Equipment	18,000
Clinical Furniture & Equipment	27,000
Office Equipment & Other Furniture	35,000
Water Treatment	100,000
TVs & Accessories	50,000
Telephones	13,000
Generator	35,000
Facility Automation	20,000
Other miscellaneous	5,000
<b>Total</b>	<b>\$296,000</b>

**Fair Market Value Leased Space & Equipment**

FMV Leased Space (8,000 GSF)	\$1,532,000
FMV Leased Dialysis Machines	174,525
FMV Leased Computers	4,900
<b>Total</b>	<b>\$1,711,425</b>



Project obligation will occur after permit issuance.

### Cost Space Requirements

Provide in the following format, the department/area GSF and cost. The sum of the department costs **MUST** equal the total estimated project costs. Indicate if any space is being reallocated for a different purpose. Include outside wall measurements plus the department's or area's portion of the surrounding circulation space. **Explain the use of any vacated space.**

Dept. / Area	Cost	Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
		Existing	Proposed	New Const.	Modernized	As Is	Vacated Space
<b>REVIEWABLE</b>							
In-Center Hemodialysis	3,268,325		8,000				
Total Clinical	3,268,325		8,000				
<b>NON REVIEWABLE</b>							
Administrative							
Parking							
Gift Shop							
Total Non-clinical							
<b>TOTAL</b>	<b>3,268,325</b>		<b>8,000</b>				
APPEND DOCUMENTATION AS <u>ATTACHMENT-9</u> , IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.							

Fresenius Medical Care Holdings, Inc. In-center Clinics in Illinois

Clinic	Provider #	Address	City	Zip
Alsip	14-2630	12250 S. Cicero Ave Ste. #105	Alsip	60803
Antioch	14-2673	311 Depot St., Ste. H	Antioch	60002
Aurora	14-2515	455 Mercy Lane	Aurora	60506
Austin Community	14-2653	4800 W. Chicago Ave., 2nd Fl.	Chicago	60651
Berwyn	14-2533	2601 S. Harlem Avenue, 1st Fl.	Berwyn	60402
Blue Island	14-2539	12200 S. Western Avenue	Blue Island	60406
Bolingbrook	14-2605	538 E. Boughton Road	Boilingbrook	60440
Bridgeport	14-2524	825 W. 35th Street	Chicago	60609
Burbank	14-2641	4811 W. 77th Street	Burbank	60459
Carbondale	14-2514	725 South Lewis Lane	Carbondale	62901
Champaign (managed)	14-2588	1405 W. Park Street	Champaign	61801
Chatham		333 W. 87th Street	Chicago	60620
Chicago Dialysis	14-2506	820 West Jackson Blvd.	Chicago	60607
Chicago Westside	14-2681	1340 S. Damen	Chicago	60608
Congress Parkway	14-2631	3410 W. Van Buren Street	Chicago	60624
Crestwood	14-2538	4861-73 W. Cal Sag Road	Crestwood	60445
Decatur East	14-2503	1830 S. 44th St.	Decatur	62521
Deerfield	14-2710	405 Lake Cook Road	Deerfield	60015
Des Plaines		1625 Oakton Place	Des Plaines	60018
Downers Grove	14-2503	3825 Highland Ave., Ste. 102	Downers Grove	60515
DuPage West	14-2509	450 E. Roosevelt Rd., Ste. 101	West Chicago	60185
DuQuoin	14-2595	#4 West Main Street	DuQuoin	62832
East Belmont	14-2531	1331 W. Belmont	Chicago	60613
East Peoria	14-2562	3300 North Main Street	East Peoria	61611
Elgin		2130 Point Boulevard	Elgin	60123
Elk Grove	14-2507	901 Biesterfield Road	Elk Grove	60007
Evanston	14-2621	2953 Central Street	Evanston	60201
Evergreen Park	14-2545	9730 S. Western Avenue	Evergreen Park	60805
Garfield	14-2555	5401 S. Wentworth Ave.	Chicago	60609
Glendale Heights	14-2617	520 E. North Avenue	Glendale Heights	60139
Glenview	14-2551	4248 Commercial Way	Glenview	60025
Greenwood	14-2601	1111 East 87th St., Ste. 700	Chicago	60619
Gurnee	14-2549	101 Greenleaf	Gurnee	60031
Hazel Crest	14-2607	17524 E. Carriageway Dr.	Hazel Crest	60429
Hoffman Estates	14-2547	3150 W. Higgins, Ste. 190	Hoffman Estates	60195
Jackson Park	14-2516	7531 South Stony Island Ave.	Chicago	60649
Joliet		721 E. Jackson Street	Joliet	60432
Kewanee	14-2578	230 W. South Street	Kewanee	61443
Lake Bluff	14-2669	101 Waukegan Rd., Ste. 700	Lake Bluff	60044
Lakeview	14-2679	4008 N. Broadway, St. 1200	Chicago	60613
Lockport		Thornton Avenue	Lockport	60441
Lombard		1940 Springer Drive	Lombard	60148
Lutheran General	14-2559	8565 West Dempster	Niles	60714
Macomb	14-2591	523 E. Grant Street	Macomb	61455
Marquette Park	14-2566	6515 S. Western	Chicago	60636
McLean Co	14-2563	1505 Eastland Medical Plaza	Bloomington	61704
McHenry	14-2672	4312 W. Elm St.	McHenry	60050
Melrose Park	14-2554	1111 Superior St., Ste. 204	Melrose Park	60160
Merrionette Park	14-2667	11630 S. Kedzie Ave.	Merrionette Park	60803
Metropolis	14-2705	20 Hospital Drive	Metropolis	62960
Midway	14-2713	6201 W. 63rd Street	Chicago	60638
Mokena	14-2689	8910 W. 192nd Street	Mokena	60448
Morris	14-2596	1401 Lakewood Dr., Ste. B	Morris	60450
Mundelein		1400 Townline Road	Mundelein	60060
Naperville	14-2543	100 Spalding Drive Ste. 108	Naperville	60566
Naperville North	14-2678	516 W. 5th Ave.	Naperville	60563
Niles	14-2500	7332 N. Milwaukee Ave	Niles	60714
Norridge	14-2521	4701 N. Cumberland	Norridge	60656
North Avenue	14-2602	805 W. North Avenue	Melrose Park	60160
North Kilpatrick	14-2501	4800 N. Kilpatrick	Chicago	60630
Northwestern University	14-2597	710 N. Fairbanks Court	Chicago	60611
Oak Park	14-2504	773 W. Madison Street	Oak Park	60302
Orland Park	14-2550	9160 W. 159th St.	Orland Park	60462

Facility List

ATTACHMENT - 11

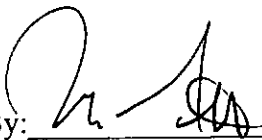
Oswego	14-2677	1051 Station Drive	Oswego	60543
Ottawa	14-2576	1601 Mercury Court	Ottawa	61350
Palatine		Dundee Road	Palatine	60074
Pekin	14-2571	600 S. 13th Street	Pekin	61554
Peoria Downtown	14-2574	410 R.B. Garrett Ave.	Peoria	61605
Peoria North	14-2613	10405 N. Juliet Court	Peoria	61615
Plainfield	14-2707	2300 Michas Drive	Plainfield	60544
Polk	14-2502	557 W. Polk St.	Chicago	60607
Pontiac	14-2611	804 W. Madison St.	Pontiac	61764
Prairie	14-2569	1717 S. Wabash	Chicago	60616
Randolph County	14-2589	102 Memorial Drive	Chester	62233
River Forest		103 Forest Avenue	River Forest	60305
Rockford	14-2615	1302 E. State Street	Rockford	61104
Rogers Park	14-2522	2277 W. Howard St.	Chicago	60645
Rolling Meadows	14-2525	4180 Winnetka Avenue	Rolling Meadows	60008
Roseland	14-2690	135 W. 111th Street	Chicago	60628
Ross-Englewood	14-2670	6333 S. Green Street	Chicago	60621
Round Lake	14-2616	401 Nippersink	Round Lake	60073
Sandwich	14-2700	1310 Main Street	Sandwich	60548
Saline County	14-2573	275 Small Street, Ste. 200	Harrisburg	62946
Skokie	14-2618	9801 Wood Dr.	Skokie	60077
South Chicago	14-2519	9200 S. Chicago Ave.	Chicago	60617
South Holland	14-2542	17225 S. Paxton	South Holland	60473
South Shore	14-2572	2420 E. 79th Street	Chicago	60649
South Side	14-2508	3134 W. 76th St.	Chicago	60652
South Suburban	14-2517	2609 W. Lincoln Highway	Olympia Fields	60461
Southwestern Illinois	14-2535	Illinois Rts 3&143, #7 Eastgate Plz.	East Alton	62024
Spoon River	14-2565	210 W. Walnut Street	Canton	61520
Spring Valley	14-2564	12 Wolfer Industrial Drive	Spring Valley	61362
Steger		219 34th Street	Steger	60475
Streator	14-2695	2356 N. Bloomington Street	Streator	61364
Uptown	14-2692	4720 N. Marine Dr.	Chicago	60640
Villa Park	14-2612	200 E. North Ave.	Villa Park	60181
Waukegan Harbor		101 North West Street	Waukegan	60085
West Batavia		Branson Drive	Batavia	60510
West Belmont	14-2523	4848 W. Belmont	Chicago	60641
West Chicago	14-2702	1855-1863 N. Neltnor	West Chicago	60185
West Metro	14-2536	1044 North Mozart Street	Chicago	60622
West Suburban	14-2530	518 N. Austin Blvd., Ste. 5000	Oak Park	60302
West Willow		14404 W. Willow	Chicago	60620
Westchester	14-2520	2400 Wolf Road, STE 101A	Westchester	60154
Williamson County	14-2627	900 Skyline Drive, Ste. 200	Marion	62959
Willowbrook	14-2632	6300 S. Kingery Hwy, STE 408	Willowbrook	60527

Certification & Authorization

Fresenius Medical Care Lockport, LLC

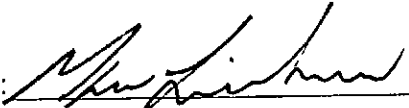
In accordance with Section III, A (2) of the Illinois Health Facilities Planning Board Application for Certificate of Need; I do hereby certify that no adverse actions have been taken against Fresenius Medical Care Lockport, LLC by either Medicare or Medicaid, or any State or Federal regulatory authority during the 3 years prior to the filing of the Application with the Illinois Health Facilities Planning Board; and

In regards to section III, A (3) of the Illinois Health Facilities Planning Board Application for Certificate of Need; I do hereby authorize the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of this subsection or to obtain any documentation or information that the State Board or Agency finds pertinent to this subsection.

By: 

Mark Fawcett

ITS: ~~Vice President & Treasurer~~

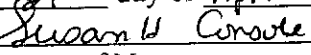
By: 

Marc Lieberman

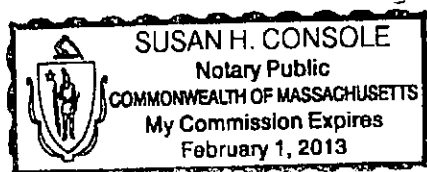
ITS: ~~Asst Treasurer~~

Notarization:

Subscribed and sworn to before me  
this 21 day of April, 2011

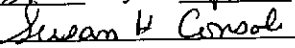
  
Signature of Notary

Seal

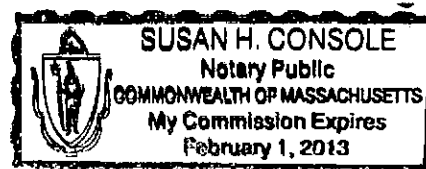


Notarization:

Subscribed and sworn to before me  
this 21 day of April, 2011

  
Signature of Notary

Seal

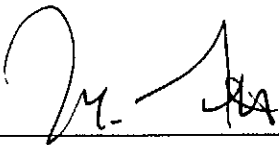


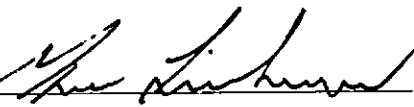
Certification & Authorization

Fresenius Medical Care Holdings, Inc.

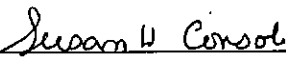
In accordance with Section III, A (2) of the Illinois Health Facilities & Services Review Board Application for Certificate of Need; I do hereby certify that no adverse actions have been taken against Fresenius Medical Care Holdings, Inc. by either Medicare or Medicaid, or any State or Federal regulatory authority during the 3 years prior to the filing of the Application with the Illinois Health Facilities & Services Review Board; and

In regards to section III, A (3) of the Illinois Health Facilities & Services Review Board Application for Certificate of Need; I do hereby authorize the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of this subsection or to obtain any documentation or information that the State Board or Agency finds pertinent to this subsection.

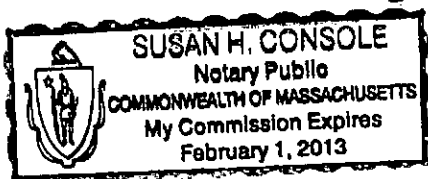
By:   
Mark Fawcett  
ITS: Vice President & Asst. Treasurer

By:   
ITS: Marc Lieberman  
Asst Treasurer

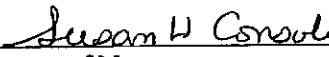
Notarization:  
Subscribed and sworn to before me  
this 21 day of April, 2011

  
Signature of Notary

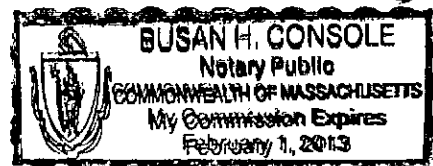
Seal



Notarization:  
Subscribed and sworn to before me  
this 21 day of April, 2011

  
Signature of Notary

Seal



## Criterion 1110.230 – Purpose of Project

1. The purpose of this project is to provide access to dialysis services that the residents of Lockport have been waiting for since the approval of #09-037, Fresenius Lockport in 2009. This permit was surrendered due to the inability of the developer to move forward with due diligence with the construction of the site. We are, in this application, applying for permit just across the street from the original site, which makes this essentially a change of address for a previously permitted project. The referral source remains the Southwest Nephrology Associates (SWNA) practice group and the applicant is still Fresenius Medical Care Lockport, LLC.

A dialysis facility in Lockport (#09-037) was highly supported by the City of Lockport (see transcripts/letters of support from public hearing held in Lockport on September 14, 2009 at Appendix – 3, pages 193-205).

2. The market area that the Fresenius Medical Care Lockport facility will serve is mostly from Will County, HSA 9. However, a small portion of Cook County, HSA 7 will also be included in this market.
3. The 30 minute area contains highly utilized, under utilized and not yet operating facilities due to continual expansions to meet demand for dialysis services. While there are two facilities not yet operating, DaVita Palos Park and Fresenius Joliet, these two facilities will serve separate market areas from Lockport and will be supported by separate physician practice groups.
4. Utilization of area facilities is obtained from the Renal Network for the 1<sup>st</sup> quarter of 2011. Pre-ESRD patient referrals for the market area were obtained from SWNA.
5. The goal of Fresenius Medical Care is to keep dialysis access available to this patient population as we continue to monitor the growth of ESRD and provide responsible healthcare planning for the area. There is no direct empirical evidence relating to this project other than that when chronic care patients have adequate access to services, it tends to reduce overall healthcare costs and results in less complications.
6. It is expected that this facility would have and maintain the same quality outcomes as the other Fresenius facilities in Illinois.
  - o 92% of patients had a URR  $\geq$  65%
  - o 95% of patients had a Kt/V  $\geq$  1.2

## Alternatives

### 1) All Alternatives

A. Proposing a project of greater or lesser scope and cost.

There was only one alternative considered that would entail a lesser scope and cost than the project proposed in this application, however it was not determined to be a feasible option. This was the alternative of doing nothing. Surrendering the permit for Fresenius Lockport, #09-037, and not reapplying for another Lockport location would leave the ESRD patients in the Lockport area without reasonable access to dialysis services that they were promised in 2009. There is no monetary cost associated with this alternative.

B. Pursuing a joint venture or similar arrangement with one or more providers of entities to meet all or a portion of the project's intended purposes' developing alternative settings to meet all or a portion of the project's intended purposes.

The typical Fresenius model of ownership is for our facilities to be wholly owned, however we do enter into joint ventures on occasion. Fresenius Medical Care always maintains control of the governance, assets and operations of a facility it enters into a joint venture agreement with. Our healthy financial position and abundant liquidity indicate that that we have the ability to support the development of additional dialysis expected financial obligations and does not require any additional funds to meet expected project costs. The cost of this alternative would be 60% of total project costs.

C. Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project

The option of sending SWNA pre-ESRD patients to underutilized facilities in the area as they require dialysis treatment is not a reasonable option for the patients who live in this market area. The majority of the area facilities are near or above 80% utilization, leaving minimal access. The only area facilities with capacity are not yet operating (Fresenius Joliet and DaVita Palos Park)

Fresenius Joliet is being supported by Dr. Alausa and Germane Nephrology. This facility was established to serve a disadvantaged population in downtown Joliet. Dr. Alausa is the Medical Director of Fresenius Plainfield, which has grown to 80% as of May 2011 after being open just over a year. It is expected that the same will occur for the Joliet facility with patients identified by Dr. Alausa who live in Joliet. Dr. Alausa also stated in his referral letter for #10-066 (Fresenius Joliet) that he had 26 patients from the Lockport area he would refer to the Lockport facility.

DaVita Palos Park is also not yet operating and is being supported by physicians from the Oak Lawn area. They have identified 57 patients to bring that facility to 80% utilization two years after beginning operations.

In the public hearing for #09-037 (the previously permitted Fresenius Lockport) testimony was given regarding the traffic congestion between Lockport and Orland Park, where DaVita Palos Park is located, and the even higher travel times in inclement weather. These factors do not make the Palos Park facility a reasonable option for the residents of Lockport.



D. As discussed further in this application, the most desirable alternative with the ESRD patients in mind, is to continue with the proposed previously permitted facility in Lockport. The cost of this project is \$3,268,325.

## 2) Comparison of Alternatives

	Total Cost	Patient Access	Quality	Financial
Maintain Status Quo	\$0	<p>Gradual loss of access as facilities fill up with identified pre-ESRD patients of SWNA and unidentified pre-ESRD of other area nephrologists.</p> <p>Patients have restrictions placed on them in regards to facility choice and to shift choice.</p>	Patient clinical quality would remain above standards in the Fresenius Medical Care facilities.	Patients could see transportation costs rise due to longer travel distances to facilities outside their healthcare market area.
Pursue Joint Venture	<p>\$1,960,995</p> <p>\$1,307,330</p>	<p>Cost to Fresenius Medical Care if this were to be a joint venture.</p> <p>Cost to Partner if this were to be a joint venture.</p>	Patient clinical quality would remain above standards	<p>No effect on patients</p> <p>Fresenius Medical Care is capable of meeting its financial obligations and does not require additional funding. If a JV were formed Fresenius Medical Care would maintain control of the facility and therefore final financial responsibility.</p>
Utilize Area Providers	\$0	<p>If patients sent out of market area for treatment it would create transportation problems as patients would not have access to shifts with available county/township transportation and would have increased travel times.</p> <p>Loss of access to treatment schedule times</p> <p>Would create ripple effect of raising utilization of area providers to or above capacity</p>	If patients sent out of market area for treatment the result would be loss of continuity of care which would lead to lower patient outcomes	<p>No financial cost to Fresenius Medical Care</p> <p>Cost of patient's transportation would increase with higher travel times.</p>
Establish Fresenius Medical Care Lockport	\$3,268,325	<p>Continued access to dialysis treatment as patient numbers continue to grow.</p> <p>Improved access to favored treatment schedule times.</p> <p>Additional transportation choices open up along with being able to dialyze on daytime shift.</p>	<p>Patient clinical quality would remain above standards</p> <p>Patient satisfaction would improve with facilities closer to patient's home resulting in decreased travel times.</p>	This is an expense to Fresenius Medical Care only who is able to support the development of additional dialysis facilities and is capable of meeting all financial obligations.

**3. Empirical evidence, including quantified outcome data that verifies improved quality of care, as available.**

There is no direct empirical evidence relating to this project other than that when chronic care patients have adequate access to services, it tends to reduce overall healthcare costs and results in less complications. It is expected that the Lockport facility would maintain the same quality outcomes as the other Fresenius facilities in Illinois as listed below:

- 92% of patients had a URR  $\geq$  65%
- 95% of patients had a Kt/V  $\geq$  1.2

**Criterion 1110.234, Size of Project**

<b>SIZE OF PROJECT</b>				
<b>DEPARTMENT/SERVICE</b>	<b>PROPOSED BGSF/DGSF</b>	<b>STATE STANDARD</b>	<b>DIFFERENCE</b>	<b>MET STANDARD?</b>
ESRD IN-CENTER HEMODIALYSIS	8,000 (12 Stations)	360-520 DGSF	1,760	No

As seen in the chart above, the State Standard for ESRD is between 360-520 DGSF per station. This project is being accomplished in leased space with the interior to be built out by the applicant therefore the standard being applied is expressed in departmental gross square feet. The proposed 8,000 DGSF amounts to 667 DGSF per station and is over the State Standard. The additional space is needed for the home training department and office space.

When searching the Lockport area for a suitable site to re-submit the application, it was decided that to expedite the project a building already constructed would be preferred to a vacant lot. A suitable site for exactly the allowable square footage was not found.

Fresenius Medical Care also prefers to have extra space available to expand its facilities when future need arises. Having the extra space to expand at the forefront is more cost effective than having to build a new facility or relocate one.

**Criterion 1110.234, Project Services Utilization**

<b>UTILIZATION</b>					
	<b>DEPT/SERVICE</b>	<b>HISTORICAL UTILIZATION</b>	<b>PROJECTED UTILIZATION</b>	<b>STATE STANDARD</b>	<b>MET STANDARD?</b>
	IN-CENTER HEMODIALYSIS	N/A New Facility		80%	Yes
<b>YEAR 1</b>	IN-CENTER HEMODIALYSIS		62%	80%	No
<b>YEAR 2</b>	IN-CENTER HEMODIALYSIS		94%	80%	Yes

SWNA has identified 97 patients who reside in the Lockport market area who they expect to refer to the Lockport facility in the first two years of operation. It is expected however that approximately 30% of these patients may not reach treatment due to death, transplant or transfer. That would result in 68 patients being referred to the facility in the first two years and a resulting 94% utilization.

**Planning Area Need – Formula Need Calculation:**

**A. Planning Area Need - Formula Need Calculation:**

The proposed Fresenius Medical Care Lockport dialysis facility is located in Lockport in Will County in HSA 9.

According to the March 2011 station inventory there is an excess of 51 stations in this HSA. However the original Lockport project #09-037 was included in this count. Therefore there is actually an excess of 39 stations.

**Planning Area Need – Service To Planning Area Residents:**

**2. Planning Area Need – Service To Planning Area Residents:**

- A. The primary purpose of this project is to provide in-center hemodialysis services to the residents of Lockport in HSA 9. 80% of the pre-ESRD patients reside in HSA 9.

<b>County</b>	<b>HSA</b>	<b># Pre-ESRD Patients Who Will Be Referred to Fresenius Medical Care Joliet</b>
Will	9	78 – 80%
Cook	7	19 – 20%

## SOUTHWEST NEPHROLOGY ASSOCIATES, S.C.

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3650 West 95th Street – Evergreen Park, Illinois 60805  
Tel (708) 422-7715 – Fax (708) 422-7816  
16605 South 107th Court – Orland Park, Illinois 60467  
Tel (708) 226-9860 – Fax (708) 226-9864  
E-Mail Address: [swnamd@aol.com](mailto:swnamd@aol.com)

Joseph H. Oyama, MD, FACP  
Kent F.W. Armbruster, MD  
Ronald K. Hamburger, MD  
Demetrios Zikos, MD, FACP  
Ejikeme O. Obasi, MD, FACP  
Kelly E. Guglielmi, MD  
Daniel P. McCormick, MD, FACP  
Abraham Thomas, MD, MPH, FACP  
Akash Ahuja, MD  
Jeanette S. McLaughlin, MD

May 16, 2011

Ms. Courtney Avery  
Administrator  
Illinois Health Facilities & Services Review Board  
525 W. Jefferson St., 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Avery,

As a nephrologist with Southwest Nephrology Associates, SC (SWNA) and as Medical Director of the Fresenius Crestwood dialysis clinic, I am writing to support the proposed 12 station Fresenius Medical Care Lockport facility, which was previously approved by this Board in December 2009. I have been practicing in the south suburbs for 31 years and have privileges at Little Company of Mary, Palos Community and Christ hospitals. I consistently refer ESRD patients to Fresenius Orland Park, Merrionette Park and Crestwood.

SWNA had 453 hemodialysis patients at the end of 2008, 450 patients at the end of 2009 and 468 patients at the end of 2010, as reported to The Renal Network. As of the most recent quarter, SWNA was treating 513 hemodialysis patients. Over the past twelve months, the 10 physicians who comprise SWNA have collectively referred 148 patients for dialysis services to Fresenius Crestwood, Mokena, Orland Park, Merrionette Park, Southside, DaVita Beverly and DSI Scottsdale. SWNA currently has 97 pre ESRD patients that will be referred to Fresenius Lockport within 24 months of the completion of the facility. This does not include those patients that present in the emergency room in renal failure who may also be referred to the Lockport facility based upon their place of residence. SWNA also has approximately 35 home dialysis patients, 10 of which were referred in the past year.

I find it unfortunate that the dialysis patients who reside in and near Lockport have had their access to treatment delayed by the inability of the developer to begin this project and urge the Board to prevent further delay by once again approving a dialysis facility for our Lockport patients. Thank you for your consideration.



I attest to the fact that to the best of my knowledge, all the information contained in this letter is true and correct and that the projected referrals in this document were not used to support any other CON application.

Sincerely,

*Ronald Hamburger*  
Ronald Hamburger, M.D.

Notarization:  
Subscribed and sworn to before me  
this 16<sup>th</sup> day of MAY, 2011

*Wendy Prendergast*  
Signature of Notary

Seal



**PRE ESRD PATIENTS SWNA EXPECTS TO REFER TO FRESENIUS  
MEDICAL CARE LOCKPORT IN THE 1<sup>ST</sup> 2 YEARS (24 MONTHS)  
AFTER PROJECT COMPLETION**

Zip Code	Akash Ahuja	Kent Ambruster	Patricia Busch	Kelly Guglielmi	Ronald Hamburger	Daniel McCormick	Jeanette McLaughlin	Ejikeme Obasi	Joseph Oyama	Chris Sutich	Abraham Thomas	Demetrios Zikos	Total
60439	1	2			5	2	2	2	1		4		19
60440		1			1		1						3
60441				4	2	2	3	1	2	2		1	17
60448					7	2	8	1			4		22
60451					3		2		1	1	1	1	9
60491		1	1	1	6	4	2	1	1	4	3	3	27
<b>Total</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>24</b>	<b>10</b>	<b>18</b>	<b>5</b>	<b>5</b>	<b>7</b>	<b>12</b>	<b>5</b>	<b>97</b>

**Summary**

Zip Code	Pre-ESRD Patients
60439	19
60440	3
60441	17
60448	22
60451	9
60491	27
<b>Total</b>	<b>97</b>

**NEW REFERRALS OF SWNA FOR THE PAST TWELVE MONTHS**  
**04/01/2010 THROUGH 03/31/2011**

Zip Code	Fresenius Medical Care					DSI Scottsdale	DaVita Beverly	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena			
46567					1			1
49026					1			1
60053								0
60406	3							3
60409				1				1
60415		2						2
60423					3			3
60428								0
60445	1	4						5
60446					1			1
60448					3			3
60451					1			1
60452		1						1
60453	2	5				7		14
60455						1		1
60458						1		1
60459		1				4		5
60462		2		7	1			10
60463		1		1				2
60464				1				1
60465								0
60466	1							1
60467				3	2			5
60469		1						1
60471		1						1
60477		1		3	3			7
60478		1						1
60482	1	4						5
60487					1			1
60491				1				1
60563						1		1
60608						1		1
60609								0
60619		1		1		1		3
60620	1	1		1		3	1	7
60621						2		2
60628	2	1				1	1	5
60629				1		6		7
60632						1		1
60634	1							1
60636	1				1	1		3
60637						1		1
60638						1		1
60643	4							4
60649						1		1
60652				2		8		10
60655	2	3			1	1		7
60803	1	1						2
60805	3	3			1	2		9
60827	1					2		3
<b>Total</b>	<b>24</b>	<b>34</b>	<b>17</b>	<b>6</b>	<b>19</b>	<b>46</b>	<b>2</b>	<b>148</b>

**PATIENTS OF SWNA AT YEAR END 2008**

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Hazel Crest	Crestwood	Orland Park	Southside	Mokena			
60406	2		8						10
60411		1	2						3
60415	1		5				1		7
60419	1	1		1					3
60422			1						1
60423				2		6			8
60425							1		1
60426		3	4						7
60428			1						1
60429	1								1
60430		1							1
60431			1						1
60433							1		1
60438			1				1		2
60441				1		1			2
60445	3		7				1		11
60448				1		6			7
60451						1			1
60452			8	1					9
60453	4		11				16	2	33
60455	1		1				4		6
60456		1					2		3
60457			1				1		2
60459							13		13
60462			2	20		1			23
60463			6	6			2		14
60464			2	1					3
60465	1		6	2			1		10
60466							1		1
60467			1	4		1			6
60471		1							1
60472			3						3
60473							1		1
60477			4	10		5			19
60478		2							2
60482			5	1					6
60487				1					1
60491				4					4
60540			1						1
60609			1				1		2
60616							1		1
60617	1		1				3		5
60619	1		1		1		8	1	12
60620	6	1	3		2		36	1	49
60621	1				3		2		6
60627			1						1
60628	10		5		1		5		21
60629	1						22	1	24
60632		1					6		7
60636	1				1		5		7
60638							7		7
60639							1		1
60640				1					1
60643	8		4				9	1	22
60649			1				1		2
60652	3		2				12		17
60653					1				1
60655	8		3						11
60803	2		4						6
60804							1		1
60805	5		2		1		3	1	12
60827	5		3						8
Total	66	12	112	56	10	21	169	7	453

**PATIENTS OF SWNA AT YEAR END 2009**

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip			
60163	1							1	
60406	2	7						9	
60409	1							1	
60411		1						1	
60415	1	4					1	6	
60416					1			1	
60419	3							3	
60422		1						1	
60423			1		7			8	
60425		1					1	2	
60426		4						4	
60428		1						1	
60429	1							1	
60431		1						1	
60438		1					1	2	
60441		1	2		1			4	
60445	1	10						11	
60446			1					1	
60447		1						1	
60448			1		6			7	
60449					1			1	
60451					1			1	
60452		8	1			1	1	11	
60453	5	8				1	13	29	
60455	1	1					4	6	
60456							3	3	
60457		1					3	4	
60459	2						9	11	
60462		2	19		1			22	
60463	2	4	4				1	11	
60464		1						1	
60465	1	7	2				1	11	
60467			5					5	
60469		1						1	
60471					1			1	
60472		3						3	
60473							1	1	
60477		3	12		7			22	
60482	1	5	1					7	
60487			1		1			2	
60491			3					3	
60609		1						1	
60616		1						1	
60617	1	1					3	5	
60619	2						7	10	
60620	10	2		1			34	49	
60621	1			2			2	6	
60627		1						1	
60628	10	4					4	18	
60629	1			3			17	22	
60632							6	6	
60636	1			3			6	11	
60638							8	8	
60639							1	1	
60643	14	3					6	24	
60647							1	1	
60649		1					1	2	
60652	2	5					15	22	
60653				1				1	
60655	9	2						12	
60803	4	5						9	
60804			1				1	2	
60805	7	1		1			3	12	
60827	2	3						5	
<b>Total</b>	<b>86</b>	<b>107</b>	<b>64</b>	<b>11</b>	<b>27</b>	<b>2</b>	<b>154</b>	<b>450</b>	

**PATIENTS OF SWNA AT YEAR END 2010**

Zip Code	Fresenius Medical Care					DSI	DaVita	Total
	Merrionette Park	Crestwood	Oriand Park	Southside	Mokena	Scottsdale	MT. Greenwood	
46375					1			1
60406	3	7						10
60409	1							1
60411		1						1
60416		6				1		7
60416					1			1
60419	3							3
60422		1						1
60423					6			6
60426						1		1
60426		3						3
60428		1						1
60429		1						1
60430		1						1
60431		1						1
60438		1				1		2
60439			1					1
60441		1	3		1			5
60446	1	13						14
60448			1		5			6
60449			1		1			2
60451					3			3
60452		6	1					7
60453	7	7				12	1	27
60456		1				8		9
60456						3		3
60457		1	1			3		5
60458						1		1
60469	2					11		13
60462		2	20		1			23
60463	1	5	3			1	2	12
60464	1	1	1					3
60466	1	6	1					8
60466	1							1
60467			6		2			8
60469		2						2
60471					1			1
60472		3						3
60477		3	7		7			17
60478		1						1
60482	1	5	1					7
60487			1		3			4
60491			1					1
60609		1						1
60617	1	1				3		5
60619	1					7		8
60620	7	2		6		33	2	50
60621	1			2	1	2		6
60627		1						1
60628	13	4				4	1	22
60629	1			3		19	1	24
60632						4		4
60636				3		7	1	11
60638						7		7
60639						1		1
60643	18	6				6	1	31
60647						1		1
60649		1						1
60662	1	4				16		21
60663		1		1				2
60665	7	2			1		1	11
60803	5	3			1		1	10
60804			1			1		2
60806	10			1		3		14
60827	4	2				1		7
<b>Total</b>	<b>91</b>	<b>108</b>	<b>50</b>	<b>16</b>	<b>35</b>	<b>167</b>	<b>11</b>	<b>468</b>

**PATIENTS OF SWNA AT END OF 1<sup>ST</sup> QUARTER 2011**

Zip Code	Fresenius Medical Care							DSI Scottsdale	DaVita		Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip	Evergreen Park		Mt. Greenwood	Beverly	
53711								1			1
60053											0
60406		5									5
60409	1			1							2
60410				1							1
60411				1							1
60415				4				1			5
60418		2					1				3
60422				1							1
60423							8				8
60425								1			1
60426				3							3
60428				1							1
60429				1							1
60431				1							1
60435											1
60438				1				1			2
60439				1							1
60441				3			1				4
60445	2	15						2			19
60446							1				1
60448				1			7				8
60449				1			1				2
60451							2				2
60452				6				1			7
60453	7	8		1				18	1		35
60455				1				4			5
60456								2			2
60457				1				3			4
60458								1			1
60459	1	1						10			12
60462				2			3				5
60463				5				1	2		8
60464				1							1
60465	1	5		1							7
60466							1				1
60467				7			3				10
60469	1	2									3
60471				1			1				2
60472				3							3
60473											0
60477				2			9				11
60482	1	8		1							10
60487				1			4				5
60491				2							2
60504											0
60513							1				1
60563								1			1
60586	1										1
60608								1			1
60609	1	1									2
60617	1	1						2			3
60619	1	1			1			8			11
60620	11	1			6			26	2		46
60621	1				2	1		2			4
60627				1							1
60628	14	4						7	1	1	27
60629	2				4			21			27
60631				1							1
60632								5			5
60634	1										1
60636	1				4			5	1		11
60637								1			1
60638								7			7
60639								1			1
60643	16	4						6			26
60647								1			1
60649				1				1			2
60652	2	4			2			2	22	1	33
60653				1							1
60655	8	3				1			2		14
60803	4	4									8
60804								1			1
60805	9	2			1	1		5			18
60827	3	1						1			5
<b>Total</b>	<b>97</b>	<b>106</b>	<b>62</b>	<b>20</b>	<b>43</b>	<b>2</b>	<b>2</b>	<b>170</b>	<b>9</b>	<b>2</b>	<b>513</b>

## SOUTHWEST NEPHROLOGY ASSOCIATES, S.C.

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3650 West 95th Street – Evergreen Park, Illinois 60805  
Tel (708) 422-7715 – Fax (708) 422-7816  
16605 South 107th Court – Orland Park, Illinois 60467  
Tel (708) 226-9860 – Fax (708) 226-9864  
E-Mail Address: [swnamd@aol.com](mailto:swnamd@aol.com)

Joseph H. Oyama, MD, FACP  
Kent F.W. Armbruster, MD  
Ronald K. Hamburger, MD  
Demetrios Zikos, MD, FACP  
Ejikeme O. Obasi, MD, FACP  
Kelly E. Guglielmi, MD  
Daniel P. McCormick, MD, FACP  
Abraham Thomas, MD, MPH, FACP  
Akash Ahuja, MD  
Jeanette S. McLaughlin, MD

May 16, 2011

Ms. Courtney Avery  
Administrator  
Illinois Health Facilities & Services Review Board  
525 W. Jefferson St., 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Avery,

As a nephrologist with Southwest Nephrology Associates, SC (SWNA) and as Medical Director of the Fresenius Crestwood dialysis clinic, I am writing to support the proposed 12 station Fresenius Medical Care Lockport facility, which was previously approved by this Board in December 2009. I have been practicing in the south suburbs for 31 years and have privileges at Little Company of Mary, Palos Community and Christ hospitals. I consistently refer ESRD patients to Fresenius Orland Park, Merrionette Park and Crestwood.

SWNA had 453 hemodialysis patients at the end of 2008, 450 patients at the end of 2009 and 468 patients at the end of 2010, as reported to The Renal Network. As of the most recent quarter, SWNA was treating 513 hemodialysis patients. Over the past twelve months, the 10 physicians who comprise SWNA have collectively referred 148 patients for dialysis services to Fresenius Crestwood, Mokena, Orland Park, Merrionette Park, Southside, DaVita Beverly and DSI Scottsdale. SWNA currently has 97 pre ESRD patients that will be referred to Fresenius Lockport within 24 months of the completion of the facility. This does not include those patients that present in the emergency room in renal failure who may also be referred to the Lockport facility based upon their place of residence. SWNA also has approximately 35 home dialysis patients, 10 of which were referred in the past year.

I find it unfortunate that the dialysis patients who reside in and near Lockport have had their access to treatment delayed by the inability of the developer to begin this project and urge the Board to prevent further delay by once again approving a dialysis facility for our Lockport patients. Thank you for your consideration.



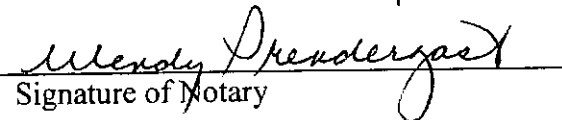
I attest to the fact that to the best of my knowledge, all the information contained in this letter is true and correct and that the projected referrals in this document were not used to support any other CON application.

Sincerely,

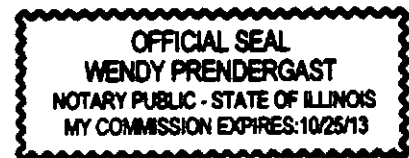
  
Daniel McCormick, M.D.

Notarization:

Subscribed and sworn to before me  
this 16<sup>th</sup> day of MAY, 2011

  
Signature of Notary

Seal



**PRE ESRD PATIENTS SWNA EXPECTS TO REFER TO FRESENIUS  
MEDICAL CARE LOCKPORT IN THE 1<sup>ST</sup> 2 YEARS (24 MONTHS)  
AFTER PROJECT COMPLETION**

Zip Code	Akash Ahuja	Kent Armbruster	Patricia Busch	Kelly Guglielmi	Ronald Hamburger	Daniel McCormick	Jeanette McLaughlin	Ejikeme Obasi	Joseph Oyama	Chris Sutich	Abraham Thomas	Demetrios Zikos	Total
60439	1	2			5	2	2	2	1		4		19
60440		1			1		1						3
60441				4	2	2	3	1	2	2		1	17
60448					7	2	8	1					22
60451					3		2		1	1	4		9
60491		1	1	1	6	4	2	1	1	4	3	1	27
<b>Total</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>24</b>	<b>10</b>	<b>18</b>	<b>5</b>	<b>5</b>	<b>7</b>	<b>12</b>	<b>5</b>	<b>97</b>

**Summary**

Zip Code	Pre-ESRD Patients
60439	19
60440	3
60441	17
60448	22
60451	9
60491	27
<b>Total</b>	<b>97</b>

**NEW REFERRALS OF SWNA FOR THE PAST TWELVE MONTHS**  
**04/01/2010 THROUGH 03/31/2011**

Zip Code	Fresenius Medical Care					DSI Scottsdale	DaVita Beverly	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena			
46567					1			1
49026					1			1
60053								0
60406	3							3
60409			1					1
60415		2						2
60423					3			3
60428								0
60445	1	4						5
60446					1			1
60448					3			3
60451					1			1
60452		1						1
60453	2	5						7
60455						7		14
60458						1		1
60459		1				1		2
60462		2	7		1	4		14
60463		1	1					2
60464			1					1
60465								0
60466	1							1
60467			3		2			5
60469		1						1
60471		1						1
60477		1	3		3			7
60478		1						1
60482	1	4						5
60487					1			1
60491			1					1
60563						1		1
60608						1		1
60609								0
60619		1		1		1		3
60620	1	1		1		3	1	7
60621						2		2
60628	2	1				1	1	5
60629				1		6		7
60632						1		1
60634	1							1
60636	1			1		1		3
60637						1		1
60638						1		1
60643	4							4
60649						1		1
60652				2		8		10
60655	2	3			1	1		7
60803	1	1						2
60805	3	3			1	2		9
60827	1					2		3
<b>Total</b>	<b>24</b>	<b>34</b>	<b>17</b>	<b>6</b>	<b>19</b>	<b>46</b>	<b>2</b>	<b>148</b>

**PATIENTS OF SWNA AT YEAR END 2008**

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Hazel Crest	Crestwood	Orland Park	Southside	Mokena			
60406	2		8						10
60411		1	2						3
60415	1		5						7
60419	1	1		1			1		3
60422			1						1
60423				2		6			8
60425							1		1
60426		3	4						7
60428			1						1
60429	1								1
60430		1							1
60431			1						1
60433							1		1
60438			1				1		2
60441				1		1			2
60445	3		7				1		11
60448				1		6			7
60451						1			1
60452			8	1					9
60453	4		11				16	2	33
60455	1		1				4		6
60456		1					2		3
60457			1				1		2
60459							13		13
60462			2	20		1			23
60463			6	6			2		14
60464			2	1					3
60465	1		6	2			1		10
60466							1		1
60467			1	4		1			6
60471		1							1
60472			3						3
60473							1		1
60477			4	10		5			19
60478		2							2
60482			5	1					6
60487				1					1
60491				4					4
60540			1						1
60609			1				1		2
60616							1		1
60617	1		1				3		5
60619	1		1		1		8	1	12
60620	6	1	3		2		36	1	49
60621	1				3		2		6
60627			1						1
60628	10		5		1		5		21
60629	1						22	1	24
60632		1					6		7
60636	1				1		5		7
60638							7		7
60639							1		1
60640				1					1
60643	8		4				9	1	22
60649			1				1		2
60652	3		2				12		17
60653					1				1
60655	8		3						11
60803	2		4						6
60804							1		1
60805	5		2		1		3	1	12
60827	5		3						8
Total	66	12	112	56	10	21	169	7	453

**PATIENTS OF SWNA AT YEAR END 2009**

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip			
60153	1								1
60406	2	7							9
60409	1								1
60411		1							1
60416	1	4					1		6
60419	3					1			3
60422		1							1
60423			1		7				8
60426		1					1		2
60426		4							4
60428		1							1
60429	1								1
60431		1							1
60438		1					1		2
60441		1	2		1				4
60445	1	10							11
60446			1						1
60447		1							1
60448			1		6				7
60449					1				1
60461					1				1
60462		8	1			1	1		11
60453	5	8				1	13	2	29
60455	1	1					4		6
60456							3		3
60457		1					3		4
60459	2						9		11
60462		2	19		1				22
60463	2	4	4				1		11
60464		1							1
60465	1	7	2				1		11
60467			5						5
60469		1							1
60471					1				1
60472		3							3
60473							1		1
60477		3	12		7				22
60482	1	5	1						7
60487			1		1				2
60491			3						3
60609		1							1
60616		1							1
60617	1	1					3		5
60619	2						7	1	10
60620	10	2		1			34	2	49
60621	1			2			2		5
60627		1							1
60628	10	4					4		18
60629	1			3			17	1	22
60632							6		6
60636	1						6	1	11
60638				3			8		8
60639							1		1
60643	14	3					6	1	24
60647							1		1
60649		1					1		2
60652	2	5					15		22
60653				1					1
60655	9	2						1	12
60803	4	5							9
60804			1				1		2
60805	7	1		1			3		12
60827	2	3							6
<b>Total</b>	<b>86</b>	<b>107</b>	<b>64</b>	<b>11</b>	<b>27</b>	<b>2</b>	<b>154</b>	<b>9</b>	<b>450</b>

**PATIENTS OF SWNA AT YEAR END 2010**

Zip Code	Fresenius Medical Care					DSI Scottsdale	DaVita ML Greenwood	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena			
46375								1
60406	3	7			1			10
60409	1							1
60411		1						1
60415		6				1		7
60416					1			1
60419	3							3
60422		1						1
60423					6			6
60425						1		1
60426		3						3
60428		1						1
60429		1						1
60430		1						1
60431		1						1
60438		1						1
60439						1		2
60441			1					1
60445	1	13	3		1			6
60448			1		5			6
60449			1		1			2
60451					3			3
60452		6	1					7
60453	7	7						14
60455		1				12	1	27
60456						8		9
60457		1	1			3		3
60458						3		5
60459	2					1		1
60462		2	20		1	11		13
60463	1	5	3					23
60464	1	1	1			1	2	12
60465	1	6	1					3
60466	1							8
60467			6		2			1
60469		2						8
60471					1			2
60472		3						1
60477		3	7		7			3
60478		1						17
60482	1	5	1					1
60487			1		3			7
60491			1					4
60609		1						1
60617	1	1				3		1
60619	1					7		5
60620	7	2		6		33	2	8
60621	1			2	1	2		50
60627		1						6
60628	13	4						1
60629	1			3		4	1	22
60632						19	1	24
60636						4		4
60638				3		7	1	11
60639						7		7
60643	18	6				1		1
60647						6	1	31
60649		1				1		1
60652	1	4						1
60653		1		1		16		21
60655	7	2			1		1	2
60803	5	3			1		1	11
60804			1					10
60805	10			1		1		2
60827	4	2				3		14
Total	91	108	50	16	35	157	11	468

**PATIENTS OF SWNA AT END OF 1<sup>ST</sup> QUARTER 2011**

Zip Code	Fresenius Medical Care							DSI Scottsdale	DaVita		Total						
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip	Evergreen Park		ML Greenwood	Beverly							
53711											1						
60053								1			1						
60406		5	4								0						
60409		1		1							9						
60410				1							2						
60411											1						
60415				1							1						
60419				4				1			5						
60422		2									3						
60423				1							1						
60425											8						
60426											1						
60428				3				1			1						
60429				1							3						
60431				1							1						
60435				1							1						
60438				1							1						
60439				1				1			2						
60441				3							1						
60445		2		15		1					4						
60446								2			19						
60448				1		1					1						
60449				1		7					8						
60451				1		1					2						
60452				6		1					2						
60453		7		8				1			9						
60455				1				18		1	35						
60456								4			5						
60457								2			2						
60458				1				3			4						
60459								1			1						
60462		1		1				10			12						
60463				2		25		3			30						
60464				5		3					11						
60465				1		1		1		2	11						
60466		1		5		1					7						
60467						1					1						
60469				7		3					10						
60471		1		2							3						
60472				1				1			2						
60473				3							3						
60477											0						
60477				2		9		6			17						
60482		1		8		1					10						
60487				1				4			5						
60491				2							2						
60504											0						
60513								1			1						
60563											1						
60586		1						1			1						
60608											1						
60609								1			1						
60617		1		1							2						
60619		1		1				2			4						
60620		1		1		1		8			11						
60621		11		1		6		26		2	46						
60621		1				2		1			6						
60627				1				2			1						
60628		14		4							1						
60628		14		4				7		1	27						
60629		2				4					27						
60631				1				21			27						
60632											1						
60632								5			5						
60634		1									1						
60636		1									1						
60637						4		5		1	11						
60638								1			1						
60638								7			7						
60639											1						
60643		18		4				1			1						
60647								6			26						
60647								1			1						
60649				1							1						
60652								1			2						
60653		2		4		2		2		22	33						
60653				1							1						
60655		8		3						2	14						
80803		4		4							8						
60804											1						
60805		9		2		1		1		5	18						
60827		3		1							5						
60827		3		1				1			5						
Total		97		106		62		20		43	2	170		9		2	513





## FACILITIES WITHIN 30 MINUTES TRAVEL TIME OF FRESENIUS LOCKPORT

Name	Address	City	Zip Code	MapQuest		Adjusted Time	Stations	3/31/2010 Patients	3/31/2010 Util
				Miles	Time				
New Silver Cross Hospital	1788 Silver Cross Blvd	New Lenox	60432	5.65	9	10.35	19	89	78.1%
Fresenius Joliet	721 E. Jackson Street	Joliet	60432	5.62	10	11.5	16	0	0.0%
Fresenius Orland Park	9160 W 159th St	Orland Park	60462	9.98	14	16.1	18	80	74.1%
Fresenius Bolingbrook	329 Remington Blvd	Bolingbrook	60440	12.4	18	20.7	24	114	79.2%
Sun Health	2121 W Oneida St	Joliet	60435	9.58	19	21.85	17	54	53.0%
Fresenius Mokena	8910 W 192nd St	Mokena	60448	13.8	19	21.85	12	52	72.2%
DaVita Palos Park	13155 S La Grange Rd	Orland Park	60462	12.86	19	21.85	12	0	0.0%
Silver Cross West	1051 Essington Rd	Joliet	60435	10.07	20	23	29	148	85.1%
Fresenius Plainfield	2320 Michas Drive	Plainfield	60586	12.26	21	24.15	12	57	79.2%
Fresenius Willowbrook	6300 Kingery Hwy	Willowbrook	60527	16.54	22	25.3	16	82	85.4%

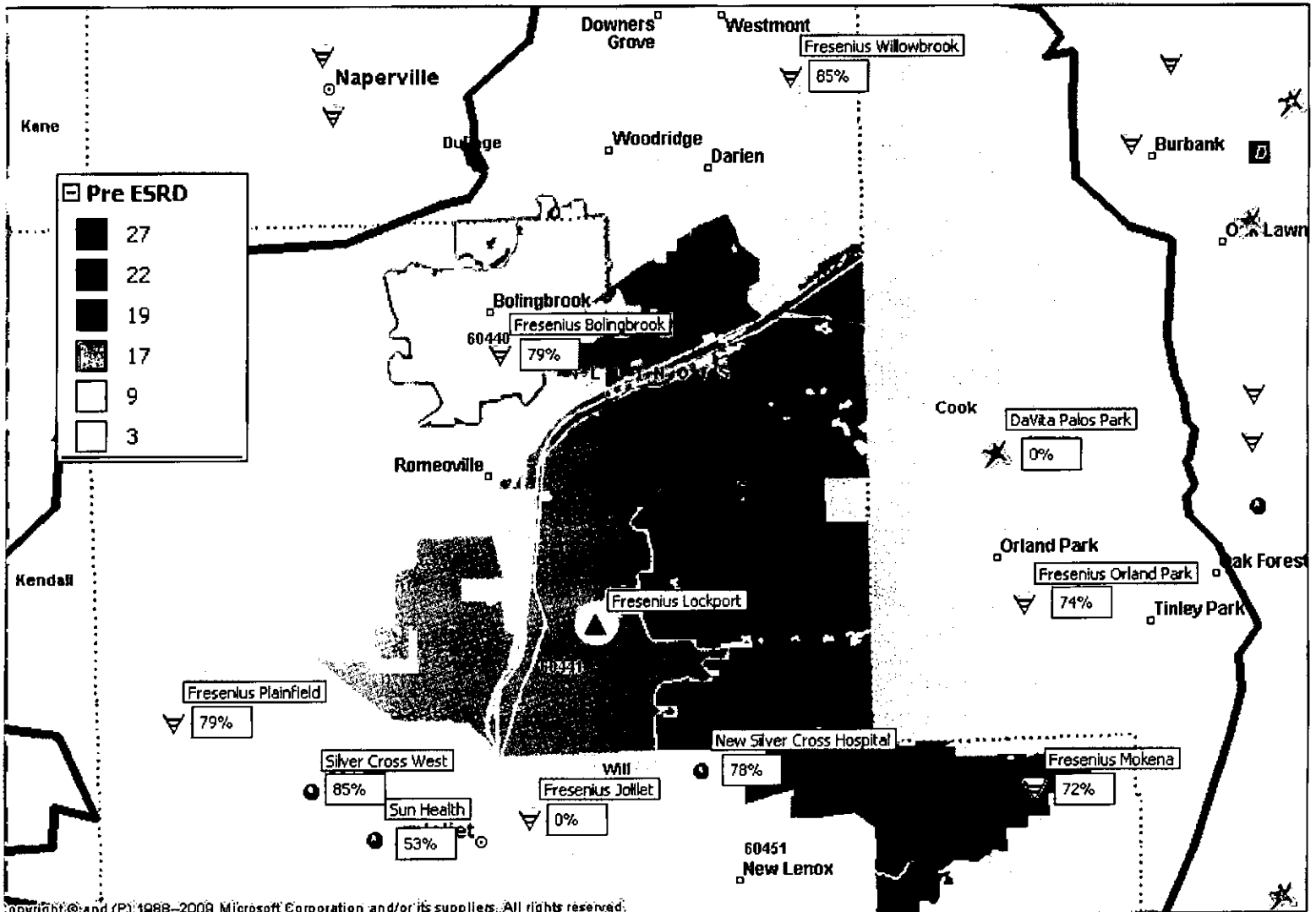
Those facilities/stations currently in operation are operating at a combined utilization rate of 77%, just under target utilization of 80%. Even when the additional 33 permitted stations (Fresenius Joliet - 16, DaVita Palos Park - 12 and 5 stations at Silver Cross Hospital Dialysis) become operational they each have identified patients who will bring those facilities/stations to 80% after two years of operation. All three facilities are supported by separate physician groups than that of the Lockport facility which is SWNA.

Besides the high utilization and high numbers of projected referrals, the above mentioned not yet operating stations were all permitted *after* the permit was granted for the original Fresenius Lockport site, #09-037, supporting the Boards confirmation of the need in the area.

When facilities operate at or around the 80% target utilization, treatment time choice for the patient can become non-existent. The preferred treatment time is the mid-day shift, after that the early morning shift. The last shift of the day, on average, begins between 3-4:30p.m. and ends between 7-8:30p.m. When a facility is operating at or near 80% and higher, the last shift of the day is often the shift left for the new patients. (Patients are then put on a waiting list to move up to a more preferred shift.) Dialyzing at this hour leaves these patients with fewer transportation choices since county/township medical car transportation services do not operate after 4p.m.

Transportation in itself is a major hurdle for the dialysis patient. These patients require treatment three times a week and if not able to drive themselves, have to rely on friends or family members for rides. If the friend or family member cannot stay and wait the 4-5 hours the patient is receiving treatment they then are required to make two round trips a day and six per week. If the facility is near 30 minutes away, this amounts to 2 hours travel time a day and 6 hours a week. This pattern continues not just occasionally like for many other health services, but for the life of the patient or until transplant. For these reasons, it is imperative for the dialysis patient to have readily available access to treatment.

# FACILITIES WITHIN 30 MINUTES AND DEMOGRAPHICS OF THE PRE-ESRD PATIENTS IDENTIFIED FOR FRESenius MEDICAL CARE LOCKPORT



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## Unnecessary Duplication/Maldistribution

1(A-B-C) The ratio of ESRD stations to population in the zip codes within a 30 minute radius of Fresenius Lockport is 1 station per 5,943 residents according to the 2000 census (based on 1,040,117 residents and 175 stations. The State ratio is 1 station per 3,596 residents (based on US Census 2010 of 12,830,632 Illinois residents and March 2011 Board stations inventory of 3,568).

Zip Code	Population	Stations	Facility
60410	7,585		
60415	14,039		
60421	3,516		
60423	22,853		
60431	23,392		
60432	21,431	35	Silver Cross Hospital Fresenius Joliet
60433	17,658		
60435	52,542	46	Sun Health Silver Cross West
60436	16,184		
60439	20,004		
60440	46,546	24	Fresenius Bolingbrook
60441	49,103		
60442	6,285		
60446	20,141		
60448	19,476	12	Fresenius Mokena
60451	27,338		
60452	27,899		
60455	16,138		
60457	14,110		
60458	14,226		
60462	38,431	30	DaVita Palos Park Fresenius Orland Park
60463	13,286		
60464	9,520		
60465	17,198		
60467	20,904		
60477	56,840		
60480	4,758		
60482	11,262		
60490	9,263		
60491	23,834		
60501	11,175		
60514	17,313		
60516	30,593		
60517	31,344		
60521	34,796		
60525	32,475		
60527	8,777	16	Fresenius Willowbrook
60544	44,284		
60559	25,954		
60561	23,570		
60564	32,206		
60565	40,640		
60586	33,714	12	Fresenius Plainfield
60515	27,514		
<b>Total</b>	<b>1,040,117</b>	<b>175</b>	<b>1/5,943</b>

According to the 2010 census, Will County was the fastest growing county in the State of Illinois increasing in population by 37%. Population by zip code for 2010 is not yet available however, this population growth undoubtedly would raise the actual current ratio far above the 2000 figures.

2. Although all facilities within thirty minutes travel time are not above the target utilization of 80%, Fresenius Medical Care Lockport will not create a maldistribution of services in regard to there being excess availability. 7 of the 10 facilities within 30 minutes are above or just below target utilization and the remaining currently operating facility, Sun Health, is at 53%. The SWNA physician's group does not refer patients to this facility because of its distance from where their patients reside.

The other two facilities within 30 minutes are not yet operating, DaVita Palos Park and Fresenius Joliet. These two facilities were permitted after the approval of the original Fresenius Lockport facility. Each of these facilities was established to provide services for a separate and distinct patient base with separate referring physicians. In each of the applications patients were identified to bring those facilities to 80% by the end of the second year of operation.

- 3A. Fresenius Medical Care Lockport will not have an adverse effect on any other area ESRD provider in that the patients identified for this facility are new pre-ESRD patients. No patients will be transferred from any other facility to the Lockport clinic. Furthermore, the SWNA physicians will still refer patients to the other ESRD facilities they currently refer to, on an ongoing basis per the patient's preference and home address. These facilities are Fresenius Orland Park, Mokena, Merrionette Park, Crestwood, Southside, Alsip, Evergreen Park & DaVita Mt. Greenwood, Beverly & DSI Scottsdale.
- B. Not applicable – applicant is not a hospital; however the utilization will not be lowered at any other ESRD facility due to the establishment of the Lockport facility.

Criterion 1110.1430 (e)(1) – Staffing

2) A. Medical Director

Dr. Hamburger is currently the Medical Director for Fresenius Medical Care Crestwood and has been in this capacity for 10 years. Attached is his curriculum vitae.

B. All Other Personnel

Upon opening the facility will hire a Clinic Manager who is a Registered Nurse (RN) from within the company and will hire one Patient Care Technician (PCT). After we have more than one patient, we will hire another RN and another PCT.

Upon opening we will also employ:

- Part-time Registered Dietitian
- Part-time Licensed Master level Social Worker
- Part-time Equipment Technician
- Part-time Secretary

These positions will go to full time as the clinic census increases. As well, the patient care staff will increase to the following:

- One Clinic Manager – Registered Nurse
- Four Registered Nurses
- Ten Patient Care Technicians

- 3) All patient care staff and licensed/registered professionals will meet the State of Illinois requirements. Any additional staff hired must also meet these requirements along with completing a 9 week orientation training program through the Fresenius Medical Care staff education department.

Annually all clinical staff must complete OSHA training, Compliance training, CPR Certification, Skills Competency, CVC Competency, Water Quality training and pass the Competency Exam.

- 4) The above staffing model is required to maintain a 4 to 1 patient-staff ratio at all times on the treatment floor. A RN will be on duty at all times when the facility is in operation.

## CURRICULUM VITAE

Name: Ronald K. Hamburger, M.D.

Home Address: 502 Burr Oak Place  
Hinsdale, Illinois 60521  
(630) 654-3533

Business Address: 3650 W. 95th Street  
Evergreen Park, Illinois 60805  
(708) 422-7715

4861 W. Cal Sag Road  
Crestwood, Illinois 60445  
(708) 385-1400

Date of Birth: October 20, 1949

Birthplace: Oklahoma City, Oklahoma

Citizenship: U.S.A.

Marital Status: Married

Social Security: 320-44-0447

Illinois License: 36-53761

Specialty Boards: American Board of Internal Medicine 1978  
Subspecialty Board (Nephrology) 1980

Academic Training: College of Wooster (with honors in Chemistry)  
Wooster, Ohio (B.A.) 1971

Medical School: University of Illinois (M.D.) 1975

Internship: University of Illinois (Internal Medicine)  
Chicago, Illinois 1975-1976

Residency: University of Illinois (Internal Medicine)  
Chicago, Illinois 1976-1978

Subspecialty Fellowship: University of Illinois (Nephrology)  
Chicago, Illinois 1978-1980

Hospital Appointments: Associate Staff  
South Suburban Hospital  
Hazel Crest, Illinois 10/04-Present  
Consulting Staff  
Holy Cross Hospital  
Chicago, Illinois 09/83-Present  
Associate Staff  
Christ Hospital and Medical Center  
Oak Lawn, Illinois 08/81-Present  
Active Staff  
Little Company of Mary Hospital  
Evergreen Park, Illinois 07/80-Present  
Associate Staff  
Palos Community Hospital  
Palos Heights, Illinois 06/80-Present

Faculty Appointments: Instructor of Medicine 1980-1996  
Rush Medical College  
Clinical Assistant Professor of Medicine 1995-Present  
University of Illinois at Chicago

Clinical Positions: Medical Director – Christ Hospital Acute Dialysis Unit  
Medical Director – Renal Care Group Dialysis, Crestwood  
President – Palos Dialysis Association

Memberships: National Kidney Foundation of Illinois  
National Kidney Foundation  
Renal Physicians Association  
American Society of Nephrology  
American College of Physicians  
Illinois State Medical Society  
Chicago Medical Society  
American Medical Association  
International Society of Nephrology  
Chicago Heart Association  
International Society for Peritoneal Dialysis

Positions Held and Committees:

- Christ Hospital:* Library Committee, 1997 – Present  
Ethics Committee, 1999 – Present
- Palos Hospital:* Nutrition Committee, April 1, 1998 – March 31, 2003  
Internal Medicine Privilege Evaluation Committee, April 1, 2003 – March 31, 2004.  
Executive Committee; Member at Large, April 1, 2002 – March 31, 2004.
- Little Company of Mary Hospital:* Medicine Committee, 1995 – Present
- National Kidney Foundation of Illinois:* Medical Advisory Board (Chairman), 1995 – 1997  
Board of Directors, 1995 – Present  
President, Board of Directors, 2000 – 2003  
Immediate Past President, Board of Directors, 2003 – Present
- Renal Care Group Mid-America:* Physician Credentialing Committee, 2000 – 2002  
Executive Medical Director Committee, 1999 – Present
- Community and Civic Activities: Medical Advisory Board, National Kidney Foundation of Illinois, 1993 – Present  
College of Wooster Fund-Raising Committee, Renovation of the Chemistry Hall, 1999 – 2001  
Chicago Alumni Leadership Committee, College of Wooster, 2002 – Present

Publications:

Nascimento L, Rademacher DR, Hamburger R, Arruda JAL, Kurtzman NA: Mechanism of Lithium Induced Renal Tubular Acidosis. J Lab Clin Med 89: 455-462, 1977. Staffing – Curriculum Vitae



RONALD K. HAMBURGER, MD

Name of FMCNA Centers (Cont'd)

FMC-South Side, 3134 W. 76<sup>th</sup> Street, Chicago, IL 60652

C. Licensure, Certification and Affiliations

<u>Hospital Privileges</u>	<u>Status</u>	<u>From/To</u>	<u>Department/ Category</u>	<u>Approved Renal Center</u>
Holy Cross Hospital 2701 W. 68 <sup>th</sup> Street Chicago, IL 60629	Consulting	09/83-Present	Medicine/ Nephrology	
South Suburban Hospital 17800 S. Kedzie Avenue Hazel Crest, IL 60429	Consulting	10/04-Present	Medicine/ Nephrology	

## CURRICULUM VITAE

Daniel P. McCormick, M.D.

### PERSONAL INFORMATION:

Home Address: 675 Fairway Lane  
Frankfort, IL 60423  
(815) 464-4486

Date of Birth: November 3, 1965

Birthplace: East Chicago, Indiana

Citizenship: U.S.A.

Marital Status: Married – Susan McCormick

Children: 3

Social Security Number: 350-66-9342

### EMPLOYMENT:

June 2001 – Present Southwest Nephrology Associates  
3650 W. 95<sup>th</sup> Street  
Evergreen Park, IL 60805  
(708) 422-7715

November 2000 – May 2001 Michigan Medical PC  
4100 Lake Drive  
Grand Rapids, MI  
(616) 974-4889

July 1999 – November 2000 Nephrology Consultants of Grand Rapids  
260 Jefferson SE, Suite 217  
Grand Rapids, MI

August 1998 – March 1999 Nephrology Associates of Northern Illinois  
2310 York St., Suite 3B  
Blue Island, IL

June 1997 – August 1998 Indiana Medical Associates  
1818 Carew Street, Suite 110  
Fort Wayne, IN 46805  
(219) 432-6174

**CERTIFICATION/LICENSURE:**

September 1994	American Board of Internal Medicine Certified Internal Medicine
November 2004	Recertified
November 1997	American Board of Internal Medicine Board Certified Nephrology
November 2004	Recertified
Licensure:	Illinois

**APPOINTMENTS:**

Clinical Assistant Professor of Medicine  
The University of Illinois at Chicago  
08/03 - Present

Clinical Assistant Professor of Medicine  
Michigan State University  
02/01 - 08/02

Ethics Committee  
St. Mary's Hospital  
Grand Rapids, MI

**EDUCATION:**

September 1987 - June 1991	Medical Doctor University of Illinois Chicago, IL
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August 1983 - June 1987	Bachelor of Science Molecular Biology University of Wisconsin Madison, WI
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**POSTGRADUATE TRAINING:**

July 1995 - June 1997	Fellowship - Nephrology Northwestern University Chicago, IL
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July 1994 - June 1995	Internal Medicine Chief Resident University of Minnesota Minneapolis Veterans Hospital Minneapolis, MN
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July 1992 - June 1994	Residency - Internal Medicine University of Minnesota Minneapolis, MN
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July 1991 - June 1992	Internship - Internal Medicine University of Minnesota Minneapolis, MN
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**PREVIOUS HOSPITAL APPOINTMENTS:**

July 1999 – June 2001	St. Mary's Hospital 200 Jefferson SE Grand Rapids, MI 49503 Active Staff
July 1999 – June 2001	Spectrum Health Hospitals 1840 Wealthy Street SE Grand Rapids, MI 49506 Active Staff
August 1998 – July 1999	St. Francis Hospital 12935 S. Gregory Street Blue Island, IL 60406 Active Provisional Staff
August 1998 – July 1999	Little Company of Mary Hospital 2800 West 95 <sup>th</sup> Street Evergreen Park, IL 60805 Active Provisional Staff
July 1997 – July 1998	Parkview Hospital 2200 Randalia Drive Fort Wayne, IN 46805 Active Provisional Staff
July 1997 – July 1998	Lutheran Hospital 7950 W. Jefferson Blvd. Fort Wayne, IN 46804 Active Provisional Staff

**REFERENCES:**

Daniel Battle, M.D.  
Nephrology Chief  
Northwestern University  
Chicago, IL  
(312) 908-8342

Richard Martin, M.D.  
Clerkship Director  
College of Human Medicine  
Grand Rapids Campus  
(616) 949-7079

**HONORS/AWARDS:**

July 1996	Research Fellowship Grant Award Recipient National Kidney Foundation Northwestern University Clinical Research
1987 – 1988	General Assembly Scholarship Award Recipient
1988 – 1989	General Assembly Scholarship Award Recipient State of Illinois General Assembly University of Illinois – College of Medicine
June 1987	Honors Graduate University of Wisconsin
June 1984	Phi Eta Sigma National Society University of Wisconsin

**PROFESSIONAL SOCIETIES:**

Fellow American College of Physicians 2004  
American Medical Association  
American Society of Nephrology

**CURRENT HOSPITAL APPOINTMENTS:**

October 2003 – Present	South Suburban Hospital 17800 South Kedzie Avenue Hazel Crest, IL 60429-0989 Consulting Staff
March 2003 – Present	Palos Community Hospital 12251 S. 80 <sup>th</sup> Avenue Palos Heights, IL 60463 Consulting Staff
October 2001 – Present	Holy Cross Hospital 2701 West 68 <sup>th</sup> Street Chicago, IL 60629 Consulting Staff
July 2001 – Present	Christ Hospital and Medical Center 4440 West 95 <sup>th</sup> Street Oak Lawn, IL 60453 Associate Staff
June 2001 - Present	Little Company of Mary Hospital 2800 West 95 <sup>th</sup> Street Evergreen Park, IL 60805 Active Staff

## BIBLIOGRAPHY

Daniel Patrick McCormick, M.D.

### Publications:

Sprague, S., Lerma, E., McCormick, D., Abraham, M., Battle, D., *Suppression of Parathyroid Hormone Secretion in Hemodialysis Patients: Comparison of Paricalcitol with Calcitriol*, American Journal of Kidney Diseases, Vol. 38, No. 5, Suppl 5 (November), 2001: pp S51-S56.

Lederle, F., Cundy, C., McCormick, D. *Case Report: Spinal Epidural Hematoma Associated with Warfarin Therapy*. American Journal of Medicine Vol. 100, 237 - 238, Feb. 1996.

O'Brien, B., Hankewych, M., McCormick, D., Jacoby, R., Brasitus, T., Halline, A. *Urinary Polyamines in Human Colon Cancer*. Digestive Diseases and Sciences Vol. 40, No. 6, 1269 - 1274, June 1995.

### Presentations:

*Angina Pectoris as Presenting Manifestation of Carbon Monoxide Poisoning*. American College of Physicians. Minnesota Scientific Meeting. October 1993.

*Polycystic Kidney Disease Open Forum*. Polycystic Kidney Disease Foundation of Chicago. Christ Hospital and Medical Center. Oak Lawn, Illinois. January 1997.

**Criterion 1110.1430 (e)(5) Medical Staff**

I am the Regional Vice President of the Chicago Central Region of the North Division of Fresenius Medical Care North America. In accordance with 77 Il. Admin Code 1110.1430, and with regards to Fresenius Medical Care Lockport, I certify the following:

Fresenius Medical Care Lockport will be an "open" unit with regards to medical staff. Any Board Licensed nephrologist may apply for privileges at the Lockport facility, just as they currently are able to at all Fresenius Medical Care facilities.

Coleen Muldoon

Signature

Coleen Muldoon

Printed Name

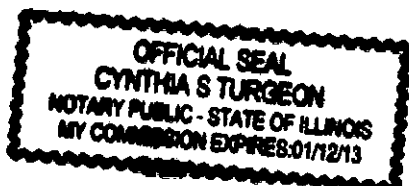
Regional Vice President

Title

Subscribed and sworn to before me  
this 14<sup>th</sup> day of APRIL, 2011

Cynthia S. Turgeon  
Signature of Notary

Seal

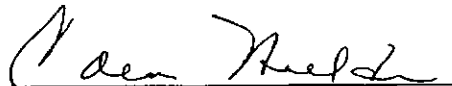


79

Criterion 1110.1430 (f) – Support Services

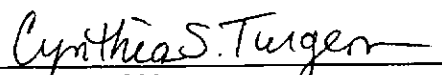
I am the Regional Vice President of the Chicago Central Region of the North Division of Fresenius Medical Care North America. In accordance with 77 II. Admin Code 1110.1430, I certify to the following:

- Fresenius Medical Care utilizes the Proton patient data tracking system in all of its new facilities.
- These support services are will be available at Fresenius Medical Care Lockport during all six shifts:
  - Nutritional Counseling
  - Psychiatric/Social Services
  - Home/self training
  - Clinical Laboratory Services – provided by Spectra Laboratories
- The following services will be provided via referral to Provena St. Joseph Medical Center, Chicago:
  - Blood Bank Services
  - Rehabilitation Services
  - Psychiatric Services

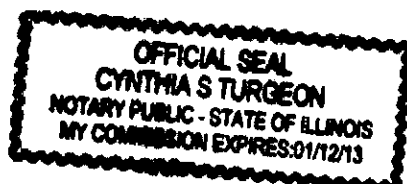
  
Signature

Coleen Muldoon/Regional Vice President  
Name/Title

Subscribed and sworn to before me  
this 14th day of APRIL, 2011

  
Signature of Notary

Seal





**Criterion 1110.1430 (g) – Minimum Number of Stations**

Fresenius Medical Care Lockport is located in the Chicago-Naperville-Joliet-Gary, IL-IN-WI Metropolitan Statistical Area (MSA). A minimum of eight dialysis stations is required to establish an in-center hemodialysis center in an MSA. Fresenius Medical Care Lockport will have twelve dialysis stations thereby meeting this requirement.



**PROVENA**

**Saint Joseph Medical Center**

**WE ARE BUILDING EXCELLENCE**

333 North Madison Street • Joliet, Illinois 60435  
(815) 725-7133 • [www.provenasaintjoe.com](http://www.provenasaintjoe.com)

November 12, 2008

Ms. Lori Wright  
Fresenius Medical Care  
One Westbrook Corporate Center  
Tower One, Suite 1000  
Westchester, IL 60154

Dear Ms. Wright:

Provena St. Joseph Medical Center, (Hospital), will serve as a back-up hospital for emergent treatment, evaluation, possible admission, and dialysis services for those patients dialyzing at Fresenius Medical Care Lockport.

Patients with end-stage renal disease from your facility who require emergency treatment or hospitalization as medically determined by the attending physician will be accepted and cared for by Provena St. Joseph Medical Center. Admission is contingent upon bed availability. The Hospital will provide the needed diagnostic or any other physician ordered hospital-based services, which would include rehabilitation, blood bank, psychiatric, and pathological laboratory services.

Provena St. Joseph Medical Center will continue as a back-up hospital for Fresenius Medical Care Lockport with this agreement, until one of the parties notifies the other in writing of a change. This notice will be made 30 days prior to termination of the agreement.

Sincerely,

Beth Hughes  
Executive Vice President/Chief Operating Officer  
Provena Saint Joseph Medical Center

**Continuity of Care**

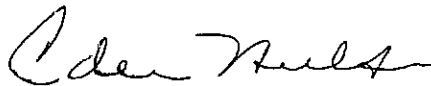
Hospital Services  
ATTACHMENT - 26h

Criterion 1110.1430 (j) – Assurances

I am the Regional Vice President of the Chicago Central Region of the North Division of Fresenius Medical Care North America. In accordance with 77 II. Admin Code 1110.1430, and with regards to Fresenius Medical Care Lockport, I certify the following:

1. As supported in this application through expected referrals to Fresenius Medical Care Lockport in the first two years of operation, the facility will achieve and maintain the utilization standard, specified in 77 III. Adm. Code 1100, of 80% and;
2. Fresenius Medical Care hemodialysis patients in Illinois have achieved adequacy outcomes of:
  - o 92% of patients had a URR  $\geq$  65%
  - o 95% of patients had a Kt/V  $\geq$  1.2

and same is expected for Fresenius Medical Care Lockport.



Signature

Coleen Muldoon/Regional Vice President  
Name/Title

Subscribed and sworn to before me  
this 14<sup>th</sup> day of APRIL, 2011

Cynthia S. Turgeon  
Signature of Notary

Seal





Cushman & Wakefield of  
 Illinois, Inc.  
 455 N. Cityfront Plaza Drive  
 Suite 2800  
 Chicago, IL 60611-5555  
 (312) 470-1800 Tel  
 (312) 470-3800 Fax  
 www.cushwake.com

April 7, 2011

Mr. Nathan Glaisner  
 Vice President  
 Troy Commercial LTD

RE: **Fresenius Medical Care Dialysis Center**  
**The Crossroads of Lockport Proposal**

Dear Nate,

Cushman & Wakefield has been exclusively authorized by Fresenius Medical Care (FMC) to secure proposals and assist them in negotiations regarding the acquisition of leased space in the Lockport area. Of the properties we will analyze, your site has been identified as one that potentially meets the necessary requirements. At this time, we are requesting that you provide us with a written proposal to lease space in the subject property.

Fresenius Medical Care is the world's leading provider of dialysis products and services. It manages in excess of over 2,500 kidney dialysis clinics and 50 billing centers and regional offices throughout North America. You can visit their website for financial information and highlights at [www.fmca.com](http://www.fmca.com).

Please prepare the proposal to correspond to the following terms and conditions:

**OWNERSHIP:**

ARCHER BANK  
 4970 S Archer Ave, Chicago, IL 60632

**LOCATION:**

1143-1165 E. 9<sup>th</sup> Street  
 Lockport, IL 60441

**SPACE REQUIREMENTS:**

8,000 SF of contiguous rentable square space. Tenant shall have beneficial occupancy, at no cost throughout the initial term and any option periods of an adjacent 400 sq.ft. of space.

**HOURS OF OPERATION:**

Please be advised that FMC may have employees and / or patients on site 24 hours per day 6 days per week. FMC is not open on Sundays.

**PRIMARY TERM:**

Ten (10) years.

**POSSESSION &**

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

**COMMENCEMENT DATE:**

Possession and Lease Commencement shall be on the date FMC is awarded the CON.

**OPTION TO RENEW:**

FMC desires three (3) five (5) year options to renew the lease. Options based upon pre-established rates.

**BASE RATE:**

\$16.00 Net.

**ESCALATION:**

Rent shall escalate \$.70 per year beginning in the second lease year.

**CONCESSIONS:**

FMC shall receive 12 months of Base Net Rent abatement beginning on the commencement date.

**COMMON AREA EXPENSES AND REAL ESTATE TAXES:**

Taxes and Common Area Expenses are approximately \$5.00 per square foot per year.

**TENANT IMPROVEMENTS:**

As stated in the Concessions section, in lieu of Tenant Improvements, Landlord shall provide Tenant with 12 months of Base Net Rent abatement.

FMC shall not be required to remove their tenant improvements at the end of the term.

**DEMISED PREMISES SHELL:**

Landlord shall deliver the building in "as-is" condition.

**FIRE SUPPRESSION:**

Landlord shall furnish a sprinkler system prior to delivery of premises to tenant.

**SPACE PLANNING/ ARCHITECTURAL AND MECHANICAL DRAWINGS:**

FMC will provide all space planning and architectural and mechanical drawings required to build out the tenant improvements, including construction drawings stamped by a licensed architect and submitted for approvals and permits. All building permits shall be the Tenant's responsibility.

**PRELIMINARY IMPROVEMENT PLAN:**

At this time, please provide one-eighth inch architectural drawings of the proposed demised premises and detailed building specifications. Please email AutoCads to [loren.guzik@cushwakc.com](mailto:loren.guzik@cushwakc.com)

**PARKING:**

FMC's standard parking ratio is 1 parking stall / 250 sq.ft.

**CORPORATE**

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

**IDENTIFICATION:**

Please indicate all signage available to FMC, on the building and at the entrance to its space.

**ASSIGNMENT/  
SUBLETTING:**

FMC requires the right to assign or sublet all or a portion of the demised premises to any subsidiary or affiliate without landlord's consent. Any other assignment or subletting will be subject to landlord's prior consent, which shall not be unreasonably withheld or delayed.

**ZONING AND  
RESTRICTIVE COVENANTS:**

Please indicate if the current property zoning is acceptable for use as a Dialysis Clinic and if there are any restrictive covenants imposed by the development, owner, and/or municipality.

**FINANCING:**

FMC will require a non-disturbance agreement.

**ENVIRONMENTAL:**

Please confirm that there is no asbestos present in the building and that there are no contaminants or environmental hazards in or on the property. Also include a brief narrative of any tenants and their activities as they relate to the generation of hazardous materials.

**CON CONTINGENCY:**

Landlord and FMC understand and agree that the establishment of any chronic outpatient dialysis facility in the State of Illinois is subject to the requirements of the Illinois Health Facilities Planning Act, 20 ILCS 3960/1 et seq. and, thus, FMC cannot establish a dialysis facility on the Premises or execute a binding real estate lease in connection therewith unless FMC obtains a Certificate of Need (CON) permit from the Illinois Health Facilities Planning Board (the "Planning Board"). FMC agrees to proceed using its commercially reasonable best efforts to submit an application for a CON permit and to prosecute said application to obtain the CON permit from the Planning Board. Based on the length of the Planning Board review process, FMC does not expect to receive a CON permit prior to August 16, 2011. In light of the foregoing facts, the parties agree that they shall promptly proceed with due diligence to negotiate the terms of a definitive lease agreement and execute such agreement prior to approval of the CON permit provided, however, the lease shall not be binding on either party prior to the approval of the CON permit and the lease agreement shall contain a contingency clause indicating that the lease agreement is not effective pending CON approval. Assuming CON permit approval is granted, the effective date of the lease agreement shall be the first day of the calendar month following CON permit approval. In the event that the Planning Board does not award FMC a CON permit to establish a dialysis center on the Premises by August 16, 2011, neither party shall have any further obligation to the

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

other party with regard to the negotiations, lease or Premises contemplated by this Letter of Intent.

**SECURITY:**

Fresenius Medical Care Holding will fully guarantee the lease.

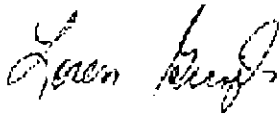
**BROKERAGE FEE:**

Per separate agreement.

This offer is not intended to be contractual in nature and only an executed lease delivered to both parties can bind the parties to this transaction. It is expressly understood, agreed, and hereby acknowledged, that only upon the proper execution of a fully completed, formal lease contract, with all the lease terms and conditions clearly defined and included therein, will there then be any obligation, of any kind or nature, incurred or created between the herein parties in connection with the referenced property.

You may email the proposal to [loren.guzik@cushwake.com](mailto:loren.guzik@cushwake.com). Thank you for your time and cooperation in this matter, should you have any questions please call me at 312.470.1897.

Sincerely,



Loren Guzik  
Senior Director  
Office Group  
Phone: 312-470-1897  
Fax: 312-470-3800  
e-mail: [loren.guzik@cushwake.com](mailto:loren.guzik@cushwake.com)

CC: Mr. Bill Popken

**AGREED AND ACCEPTED** this \_\_\_\_ day of \_\_\_\_\_, 2011

By: \_\_\_\_\_

Title: \_\_\_\_\_

No warranty or representation, express or implied, is made as to the accuracy of the information contained herein, and same is submitted subject to errors, omissions, change of price, rental or other conditions, withdrawal without notice, and to any special listing conditions, imposed by our principals.

**DELL****QUOTATION**

QUOTE #: 485293558

Customer #: 84405601

Contract #: 70137

Customer Agreement #: Dell Std Terms

Quote Date: 4/22/09

Date: 4/22/09 12:33:14 PM

Customer Name: FRESENIUS MEDICAL CARE N A

TOTAL QUOTE AMOUNT:	\$975.02		
Product Subtotal:	\$864.59		
Tax:	\$46.43		
Shipping & Handling:	\$64.00		
Shipping Method:	Ground	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 1	SYSTEM PRICE: \$584.51	GROUP TOTAL: \$584.51
Base Unit:	OptiPlex 760 Small Form Factor Base Standard PSU (224-2219)		
Processor:	OptiPlex 760, Core 2 Duo E7300/2.66GHz, 3M, 1066FSB (311-9514)		
Memory:	2GB, Non-ECC, 800MHz DDR2, 2X1GB OptiPlex (311-7374)		
Keyboard:	Dell USB Keyboard, No Hot Keys English, Black, OptiPlex (330-1987)		
Monitor:	Dell UltraSharp 1708FP BLK w/AdjStn, 17 inch, 1x08FPBLK OptiPlex, Precision and Latitude (320-7682)		
Video Card:	Integrated Video, GMA 4500, Dell OptiPlex 760 and 960 (320-7407)		
Hard Drive:	80GB SATA 3.0Gb/s and 8MB DataBurst Cache, Dell OptiPlex (341-8006)		
Floppy Disk Drive:	No Floppy Drive with Optical Filler Panel, Dell OptiPlex Small Form Factor (341-4609)		
Operating System:	Windows XP PRO SP3 with Windows Vista Business License English, Dell OptiPlex (420-9570)		
Mouse:	Dell USB 2 Button Optical Mouse with Scroll, Black OptiPlex (330-2733)		
NIC:	ASF Basic Hardware Enabled Systems Management (330-2901)		
CD-ROM or DVD-ROM Drive:	24X24 CDRW/DVD Combo, with Cyberlink Power DVD, No Media Media, Dell OptiPlex 960 Small Form Factor (313-7071)		
CD-ROM or DVD-ROM Drive:	Cyberlink Power DVD 8.1, with Media, Dell OptiPlex/Precision (420-9179)		
Sound Card:	Heat Sink, Mainstream, Dell OptiPlex Small Form Factor (311-9520)		
Speakers:	Dell AX510 black Sound Bar for UltraSharp Flat Panel Displays Dell OptiPlex/Precision/ Latitude (313-8414)		
Cable:	OptiPlex 760 Small Form Factor Standard Power Supply (330-1984)		
Documentation Diskette:	Documentation, English, Dell OptiPlex (330-1710)		
Documentation Diskette:	Power Cord, 125V, 2M, C13, Dell OptiPlex (330-1711)		
Factory Installed Software:	No Dell Energy Smart Power Management Settings, OptiPlex (467-3664)		
Feature:	Resource DVD contains Diagnostics and Drivers for Dell OptiPlex 760 Vista (330-2019)		
Service:	ProSupport for IT: Next Business Day Parts and Labor Onsite Response Initial Year (991-6370)		
Service:	ProSupport for IT: Next Business Day Parts and Labor Onsite Response 2 Year Extended (991-3642)		
Service:	Dell Hardware Limited Warranty Plus Onsite Service Initial Year (992-6507)		
Service:	Dell Hardware Limited Warranty Plus Onsite Service Extended Year(s) (992-6608)		
Service:	ProSupport for IT: 7x24 Technical Support for certified IT Staff, Initial (984-6640)		
Service:	ProSupport for IT: 7x24 Technical Support for certified IT Staff, 2 Year Extended (984-0002)		
Thank you choosing Dell ProSupport. For tech support, visit <a href="http://support.dell.com/ProSupport">http://support.dell.com/ProSupport</a>			



Service:	or call 1-866-516-31 (989-3449)
Installation:	Standard On-Site Installation Declined (900-9987)
Installation:	Standard On-Site Installation Declined (900-9987)
Misc:	Shipping Material for System Cypher Small Form Factor, Dell OptiPlex (330-2193)
	Vista Premium Downgrade Relationship Desktop (310-9161)
	CFI Routing SKU (365-0257)
	CFI, Rollup, Integration Service, Image Load (366-1416)
	CFI, Rollup, Custom Project, Fee for ESLH (366-1551)
	CFI, Rollup, Integration Services, BIOS Setting (366-1556)
	CFI, Information, Vista To WXP ONLY, Factory Install (372-6272)
	CFI, Software, Image, Quick Image, Titan, Factory Install (372-9740)
	CFI, BIOS, Across Line Of Business, Wakeup-on-lan, Enable, Factory Install (374-4558)
	CFI, Information, Optiplex 760 Only, Factory Install (374-8402)

SOFTWARE & ACCESSORIES			
Product	Quantity	Unit Price	Total
Office 2007 Sngl C 021-07777 (A0748670)	1	\$259.68	\$259.68
Windows Server CAL 2008 Sngl MVL Device CAL C R18-02830 (A1511502)	1	\$20.40	\$20.40
Number of S & A Items: 2		S&A Total Amount: \$280.08	

SALES REP:	PHIL CLINTON	PHONE:	1800-274-3355
Email Address:	Phil_Clinton@Dell.com	Phone Ext:	723-3128

For your convenience, your sales representative, quote number and customer number have been included to provide you with faster service when you are ready to place your order. Orders may be faxed to the attention of your sales representative to 1-866-230-4217. You may also place your order online at [www.dell.com/qto](http://www.dell.com/qto)

This quote is subject to the terms of the agreement signed by you and Dell, or absent such agreement, to Dell's Terms of Sale.

Prices and tax rates are valid in the U.S. only and are subject to change.

**\*\*Sales/use tax is a destination charge, i.e. based on the "ship to" address on your purchase order. Please indicate your taxability status on your PO. If exempt, please fax exemption certificate to Dell Tax Department at 888-863-8778, referencing your customer number. If you have any questions regarding tax please call 800-433-9019 or email Tax\_Department@dell.com. \*\***

All product and pricing information is based on latest information available. Subject to change without notice or obligation.

LCD panels in Dell products contain mercury, please dispose properly. Please contact Dell Financial Services' Asset Recovery Services group for EPA compliant disposal options at [US\\_Dell\\_ARS\\_Requests@dell.com](mailto:US_Dell_ARS_Requests@dell.com). Minimum quantities may apply.

Shipments to California: For certain products, a State Environmental Fee Of Up to \$10 per item may be applied to your invoice as early as Jan 1, 2005. Prices in your cart do not reflect this fee. More Info: or refer to URL [www.dell.com/environmentalfee](http://www.dell.com/environmentalfee)

EXHIBIT 1

LEASE SCHEDULE NO. 769-0002105-016  
(This Lease)

LESSOR: SIEMENS FINANCIAL SERVICES, INC.  
("Lessor")

Address: 170 Wood Ave South  
Iselin, NJ 08830

LESSEE: NATIONAL MEDICAL CARE, INC.  
a Delaware corporation  
("Lessee")  
Address: 820 Winter Street  
Waltham, MA 02481

1. Lessor and Lessee have entered into a Master Equipment Lease Agreement dated as of March 10, 2008 ("Master Lease"), including this Schedule (together, the "Lease"), pursuant to which Lessor and Lessee have agreed to lease the equipment described in Exhibit A hereto (the "Equipment"). Lessee and Lessor each reaffirm all of its respective representations, warranties and covenants set forth in the Master Lease, all of the terms and provisions of which are incorporated herein by reference, as of the date hereof. Lessee further certifies to Lessor that Lessee has selected the Equipment and prior to the execution of this Schedule has received and approved a purchase order, purchase agreement or supply contract under which the Equipment will be acquired for purposes of this Lease.

2. The Acquisition Cost of the Equipment is: \$ 3,679,373.64.

3. The Equipment will be located at the location specified in Exhibit A hereto, unless the Equipment is of the type normally used at more than one location (such as vehicular equipment, construction machinery or the like), in which case the Equipment will be used in the area specified on Exhibit A hereto.

4. TERM OF LEASE: The term for which the Equipment shall be leased shall be for 72 months (the "Initial Lease Term"), commencing on the Lease Term Commencement Date as set forth in the Acceptance Certificate to this Schedule, and expiring 03/30/2016, unless renewed, extended, or sooner terminated in accordance with the terms of the Lease.

5. RENT: (a) Payable in monthly installments on the 26th day of each month during the Initial Lease Term as follows:

Rental Payment Number	Number of Rental Payments	Amount of Each Rental Payment
1-72	72	\$53,854.37

Lessor will invoice Lessee for all sales, use and/or personal property taxes as and when due and payable in accordance with applicable law, unless Lessee delivers to Lessor a valid exemption certificate with respect to such taxes. Delivery of such certificate shall constitute Lessee's representation and warranty that no such tax shall become due and payable with respect to the Equipment and Lessee shall indemnify and hold harmless Lessor from and against any and all liability or damages, including late charges and interest which Lessor may incur by reason of the assessment of such tax.

6. OTHER PAYMENTS:

(a) Lessee agrees to pay Rental Payments in advance.

015 Exhibit 12.doc

7. **EARLY TERMINATION OPTION:** So long as no Event of Default under the Lease, nor any event which upon notice or lapse of time or both would constitute such an Event of Default has occurred and is continuing, Lessee shall have the option to terminate the Lease for all, but not less than all, of the Equipment on the rental payment date for the twenty-fourth (24th) monthly rental payment (the "Early Termination Date"). Lessee shall notify Lessor in writing of Lessee's intention to exercise such termination option at least ninety (90) days prior to the Early Termination Date of such Lease. Lessee shall pay to Lessor on the Early Termination Date an aggregate amount (the "Termination Amount") equal to: (i) all rental payments, late charges and other amounts due and owing under the Lease, including the rental payment due on the Early Termination Date; plus (ii) any and all taxes, assessments and other charges due in connection with the termination of the Lease; plus (iii) 64% of the original Acquisition Cost of the Equipment as set forth herein.

In addition to the payment of the Termination Amount, Lessee shall return all of the Equipment to Lessor on the Early Termination Date pursuant to and in the condition required by the terms of the Lease.

In the event Lessee shall not pay the Termination Amount on the Early Termination Date and return the Equipment to Lessor pursuant to, and in the condition required by the Lease, then the Lease Term for the Equipment shall continue in full force and effect and this Early Termination Option shall be null and void and of no further force or effect.

8. **EARLY PURCHASE OPTION:** So long as no Event of Default under the Lease, nor any event which upon notice or lapse of time or both would constitute such an Event of Default has occurred and is continuing, Lessee shall have the option to terminate the Lease and purchase all, but not less than all, of the Equipment on the rental payment date for the sixtieth (60th) monthly rental payment (the "Early Purchase Option Date"). Lessee shall notify Lessor in writing of Lessee's intention to exercise such early purchase option at least ninety (90) days prior to the Early Purchase Option Date of such Lease. Lessee shall pay to Lessor on the Early Purchase Option Date an aggregate amount (the "Purchase Price") equal to: (i) all rental payments, late charges and other amounts due and owing under the Lease, including the rental payment due on the Early Purchase Option Date; plus (ii) any and all taxes, assessments and other charges due in connection with the termination of the Lease and the purchase of the Equipment; plus (iii) 28.02% of the original Acquisition Cost of the Equipment as set forth herein.

Provided that Lessor shall have received the Purchase Price on the Early Purchase Option Date, Lessor shall convey all of its right, title and interest in and to the Equipment to Lessee on the Early Purchase Option Date, on an "AS-IS", "WHERE-IS" BASIS WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, and without recourse to Lessor; provided however, that notwithstanding anything else herein to the contrary, Lessor shall warrant that the Equipment is free and clear of all liens, charges and encumbrances created by, through or under Lessor, and that Lessor has good and lawful right, power and authority to sell said Equipment to Lessee.

In the event Lessee shall not pay the Purchase Price on the Early Purchase Option Date then the Initial Lease Term or any renewal term for the Equipment shall continue in full force and effect and this Early Purchase Option shall be null and void and of no further force or effect.

9. **PURCHASE OPTION:** So long as no Event of Default, nor any event which upon notice or lapse of time or both would constitute an Event of Default, has occurred and is continuing under the Lease, and the Lease has not been earlier terminated, and upon not less than ninety (90) days prior written notice, Lessee shall have the option, upon expiration of the Initial Lease Term, renewal term or Extended Term, to purchase all, but not less than all, of Lessor's right, title and interest in and to the Equipment at the end of the Lease Term for a Purchase Option Price (hereinafter defined), on the last day of the Lease Term, in immediately available funds.

The Purchase Option Price shall be equal to the Fair Market Value of the Equipment (hereinafter defined) plus any sales, use, property or excise taxes on or measured by such sale, any other amounts accrued and unpaid under the Lease and any other expenses of transfer including UCC termination fees.

The "Fair Market Value" of the Equipment, shall be determined on the basis of, and shall be equal in amount to the value which would be obtained in, an arm's-length transaction between an informed and willing buyer-user (other than a lessee currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. For purposes of determining Fair Market Value it will be assumed that as of the date of determination that the Equipment is in at least the condition required by the Lease. If during or after the period of thirty (30) days from Lessor's receipt of the aforesaid written notice from Lessee of Lessee's intention to exercise said purchase option, Lessor and Lessee determine that they cannot agree upon such fair market value, then such value shall be determined in accordance with the foregoing definition by a qualified independent appraiser as selected by mutual agreement between Lessor and Lessee, or failing such agreement, by a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two selected. If any party refuses or fails to appoint an appraiser or a third appraiser cannot be agreed upon by the other two appraisers, such appraiser or appraisers shall be selected in accordance with the rules for commercial arbitration of the

015 Exhibits 12.doc

American Arbitration Association. The appraisers shall be instructed to make such determination within a period of twenty (20) days following appointment, and shall promptly communicate such determination in writing to Lessor and Lessee. The determination of Fair Market Value so made by the sole appraiser or by a majority of the appraisers, if there is more than one, shall be conclusively binding upon both Lessor and Lessee. All appraisal costs, fees and expenses shall be payable by Lessee. The sale of the Equipment by Lessor to Lessee shall be on an AS-IS, WHERE-IS basis, without recourse to, or warranty by, Lessor, provided however, that notwithstanding anything else herein to the contrary, Lessor shall warrant that the Equipment is free and clear of all liens, charges and encumbrances created by, through or under Lessor, and that Lessor has good and lawful right, power and authority to sell said Equipment to Lessee.

Lessee shall be deemed to have waived this Purchase Option unless it provides Lessor written notice of its irrevocable election to exercise this option within fifteen (15) days after Lessee is advised of the Fair Market Value of the Equipment.

Lessee may elect to return all, but not less than all, of the Equipment at the end of the Initial Lease Term or any renewal term, provided that such return will only be permitted if (i) the Lessee provides the Lessor with written notice of its intention to return the Equipment not less than ninety (90) days prior to the end of the Initial Term, and (ii) the return of the Equipment is in accordance with the terms of the Lease and any Schedules, Acceptance Certificate, Riders, Exhibits and Addenda thereto.

If, for any reason whatsoever, the Lessee does not purchase the Equipment at the end of the Initial Lease Term or any renewal term in accordance with the foregoing, or exercises their option to return the Equipment as set forth above, the lease term of the Equipment shall and without further action on the part of Lessee be extended on a month-to-month basis with rentals payable monthly calculated at one hundred five percent (105%) of the highest monthly rental payable during the Initial Lease Term (the "Extended Term"). At the end of such Extended Term, the Lessee shall have the option to either: (i) return the Equipment to the Lessor in accordance with the terms of the Lease; or (ii) purchase the Equipment for its then Fair Market Value as determined in accordance with the provisions set forth above. The Extended Term shall continue until (a) Lessee provides Lessor with not less than ninety (90) days prior written notice of the anticipated date Lessee will return the Equipment and Lessee returns the Equipment in accordance with the return provisions of this Lease, or (b) Lessee provides Lessor with not less than ninety (90) days prior written notice of Lessee's exercise of its Fair Market Value purchase option with respect to the Equipment.

10. STIPULATED LOSS VALUES:

Rental Payment #	Percentage of Acquisition Cost	Rental Payment #	Percentage of Acquisition Cost
1	101.47	37	60.22
2	100.61	38	58.94
3	99.55	39	57.66
4	98.56	40	56.37
5	97.55	41	55.08
6	96.53	42	53.78
7	95.48	43	52.47
8	94.41	44	51.16
9	93.33	45	49.84
10	92.25	46	48.51
11	91.15	47	47.18
12	90.05	48	45.84
13	88.95	49	44.50
14	87.83	50	43.15
15	86.71	51	41.79
16	85.58	52	40.43
17	84.44	53	39.06
18	83.29	54	37.69
19	82.14	55	36.31

015 Exhibit 12.doc

Rental Payment #	Percentage of Acquisition Cost	Rental Payment #	Percentage of Acquisition Cost
20	80.97	56	34.92
21	79.81	57	33.53
22	78.63	58	32.13
23	77.45	59	30.72
24	76.26	60	29.31
25	75.06	61	27.89
26	73.86	62	26.47
27	72.65	63	25.04
28	71.44	64	23.61
29	70.22	65	22.17
30	68.99	66	20.72
31	67.76	67	19.27
32	66.52	68	17.82
33	65.27	69	16.35
34	64.01	70	14.88
35	62.75	71	13.40
36	61.49	72	11.92

Stipulated Loss Values are due in addition to the Rental Payment due on the same date.

IN WITNESS WHEREOF, the parties hereto certify that they have read, accepted and caused this Individual Leasing Record to be duly executed by their respective officers thereunto duly authorized.

Dated: 3/30/09

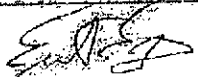
LESSOR:

Siemens Financial Services, Inc.

By: Carol Walters

Name: CAROL WALTERS

Title: VICEPRESIDENT-DOCUMENTATION



Ernest Enrigo  
As Transaction Coordinator

LESSEE:

National Medical Care, Inc.

By: Mark Pawcett

Name: MARK PAWCETT

Title: TREASURER

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**Criterion 1120.310 Financial Viability**

Financial Viability Waiver

This project is being funded entirely through cash and securities thereby meeting the criteria for the financial waiver.



**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Financial Statements

December 31, 2010 and 2009

(With Independent Auditors' Report Thereon)



**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

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KPMG LLP  
Two Financial Center  
60 South Street  
Boston, MA 02111

## Independent Auditors' Report

The Shareholders  
Fresenius Medical Care Holdings, Inc.:

We have audited the accompanying consolidated balance sheets of Fresenius Medical Care Holdings, Inc. and subsidiaries (the Company) as of December 31, 2010 and 2009 and the related consolidated statements of operations, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2010. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2010 and 2009, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2010 in conformity with U.S. generally accepted accounting principles.

**KPMG LLP**

Boston, Massachusetts  
April 28, 2011

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Balance Sheets

December 31, 2010 and 2009

(Dollars in thousands)

	<u>2010</u>	<u>2009</u>
<b>Assets</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 163,292	153,303
Trade accounts receivable, less allowances of \$209,791 in 2010 and \$203,279 in 2009	1,176,849	1,067,621
Receivables from affiliates	322,676	311,042
Inventories	335,103	352,624
Deferred income taxes	291,074	278,430
Other current assets	464,688	453,679
Total current assets	<u>2,753,682</u>	<u>2,616,699</u>
Property, plant and equipment, net of accumulated depreciation and amortization of \$1,154,863 and \$1,001,607, respectively	1,384,114	1,366,009
<b>Other assets:</b>		
Goodwill	7,162,623	6,832,695
Other intangible assets, net of accumulated amortization of \$345,593 and \$286,211, respectively	497,792	721,140
Other assets and deferred charges	219,407	303,869
Total other assets	<u>7,879,822</u>	<u>7,857,704</u>
Total assets	<u>\$ 12,017,618</u>	<u>11,840,412</u>
<b>Liabilities and Equity</b>		
<b>Current liabilities:</b>		
Short-term borrowings	\$ 546,612	230,144
Current portion of long-term debt and capital lease obligations	107,967	150,139
Current portion of mandatorily redeemable preferred securities	—	465,813
Current portion of borrowings from affiliates	231,974	12,803
Accounts payable	223,901	185,851
Accrued liabilities	774,154	757,059
Accrued special charge for legal matters	115,828	115,970
Accounts payable to affiliates	43,669	90,658
Accrued income taxes	140,456	160,989
Total current liabilities	<u>2,184,561</u>	<u>2,169,426</u>
Long-term debt	1,363,138	1,587,785
Noncurrent borrowings from affiliates	494,231	707,954
Capital lease obligations	2,001	2,265
Long-term mandatorily redeemable preferred securities	665,500	665,500
Deferred income taxes	467,135	378,962
Other liabilities	279,423	331,781
Total liabilities	<u>5,455,989</u>	<u>5,843,673</u>
Noncontrolling interests subject to put provisions	273,022	231,303
<b>Equity:</b>		
Preferred stock, \$1 par value	1,379,916	1,487,731
Common stock, \$1 par value. Authorized 300,000,000 shares; outstanding 90,000,000 shares	90,000	90,000
Additional paid-in capital	1,906,036	1,909,976
Retained earnings	2,909,317	2,304,412
Accumulated other comprehensive loss	(82,678)	(113,474)
Total Fresenius Medical Care Holdings Inc. equity	<u>6,202,591</u>	<u>5,678,645</u>
Noncontrolling interests not subject to put provisions	86,016	86,791
Total equity	<u>6,288,607</u>	<u>5,765,436</u>
Total liabilities and equity	<u>\$ 12,017,618</u>	<u>11,840,412</u>

See accompanying notes to consolidated financial statements.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Statements of Operations

Years ended December 31, 2010, 2009 and 2008

(Dollars in thousands, except share data)

	2010	2009	2008
Net revenues:			
Health care services	\$ 7,248,628	6,756,613	6,213,512
Medical supplies	774,958	759,098	697,116
	8,023,586	7,515,711	6,910,628
Expenses:			
Cost of health care services	4,568,136	4,379,157	4,045,967
Cost of medical supplies	529,610	492,573	415,752
General and administrative expenses	1,099,776	968,311	877,635
Provision for doubtful accounts	209,001	198,200	209,248
Depreciation and amortization	285,481	263,983	237,411
Research and development	30,879	26,604	22,342
Interest expense, net, and related financing costs (including \$170,956, \$177,548 and \$101,986 of interest with affiliates)	210,871	239,943	214,343
	6,933,754	6,568,771	6,022,698
Income before income taxes	1,089,832	946,940	887,930
Provision for income taxes	407,535	355,414	342,593
Net income	682,297	591,526	545,337
Less net income attributable to noncontrolling interests	76,767	68,242	35,654
Net income attributable to Fresenius Medical Care Holdings, Inc.	\$ 605,530	523,284	509,683
Basic and diluted net income per share	\$ 6.73	5.81	5.66

See accompanying notes to consolidated financial statements.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Statements of Comprehensive Income

Years ended December 31, 2010, 2009 and 2008

(Dollars in thousands)

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Net income	\$ 682,297	591,526	545,337
Other comprehensive income (loss):			
Foreign currency translation adjustments	2,492	2,958	(2,121)
Pension asset (liability) adjustments, (net of deferred tax of \$8,377, \$(1,809) and \$16,840, respectively)	(12,883)	5,977	(25,260)
Derivative instruments, (net of deferred tax of \$(26,779), \$(21,379) and \$41,598, respectively)	41,187	33,577	(65,821)
Total other comprehensive income (loss)	<u>30,796</u>	<u>42,512</u>	<u>(93,202)</u>
Total comprehensive income	713,093	634,038	452,135
Comprehensive income attributable to noncontrolling interests	<u>76,767</u>	<u>68,242</u>	<u>35,654</u>
Comprehensive income attributable to Fresenius Medical Care Holdings, Inc.	<u>\$ 636,326</u>	<u>565,796</u>	<u>416,481</u>

See accompanying notes to consolidated financial statements.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Statements of Changes in Equity  
Years ended December 31, 2010, 2009 and 2008  
(Dollars in thousands)

	Preferred stock	Common stock	Additional	Retained	Accumulated	Total	Noncontrolling	Total equity
	Shares	Shares	paid-in capital	earnings	other comprehensive income (loss)	FMCH, Inc. shareholders' equity	interests not subject to put provisions	
	Amount	Amount						
Balance, December 31, 2007	5,000,000	\$ 1,520,262	1,919,150	1,271,628	(63,024)	4,738,016	47,310	4,785,326
Net income	—	—	—	569,683	—	569,683	22,025	531,708
Other comprehensive income	—	—	—	—	(93,202)	(93,202)	—	(93,202)
Exercise of stock options and related tax effects	—	—	4,431	—	—	4,431	—	4,431
Compensation expense related to stock options	—	—	23,212	—	—	23,212	—	23,212
Series C preferred stock — marked to market	—	(83,031)	—	—	—	(83,031)	—	(83,031)
Cash contributions noncontrolling interests	—	—	—	—	—	—	—	—
Dividends paid noncontrolling interests	—	—	—	—	—	—	4,105	4,105
Purchase (sale) of noncontrolling interests	—	—	—	—	—	—	(16,370)	(16,370)
Changes in fair value of noncontrolling interests subject to put provisions	—	—	(24,258)	—	—	(24,258)	21,499	21,499
Other reclassifications	—	—	(57)	50	7	—	—	(24,258)
Balance, December 31, 2008	5,000,000	1,437,231	1,922,478	1,781,361	(156,219)	5,074,851	78,560	5,153,420
Net income	—	—	—	523,284	—	523,284	39,636	562,920
Other comprehensive income	—	—	—	—	42,512	42,512	—	42,512
Exercise of stock options and related tax effects	—	—	2,728	—	—	2,728	—	2,728
Compensation expense related to stock options	—	—	24,688	—	—	24,688	—	24,688
Series C preferred stock — marked to market	—	50,500	—	—	—	50,500	—	50,500
Cash contributions noncontrolling interests	—	—	—	—	—	—	—	—
Dividends paid noncontrolling interests	—	—	—	—	—	—	551	551
Purchase (sale) of noncontrolling interests	—	—	—	—	—	—	(38,836)	(38,836)
Changes in fair value of noncontrolling interests subject to put provisions	—	—	(39,816)	—	—	(39,816)	6,882	6,769
Other reclassifications	—	—	11	(233)	233	—	(11)	(39,816)
Balance, December 31, 2009	5,000,000	1,487,731	1,909,976	2,304,412	(113,474)	5,678,645	86,791	5,765,436
Net income	—	—	—	605,530	—	605,530	47,929	653,459
Other comprehensive income	—	—	—	—	30,796	30,796	—	30,796
Exercise of stock options and related tax effects	—	—	5,618	—	—	5,618	—	5,618
Compensation expense related to stock options	—	—	20,330	—	—	20,330	—	20,330
Series C preferred stock — marked to market	—	(107,815)	—	—	—	(107,815)	—	(107,815)
Cash contributions noncontrolling interests	—	—	—	—	—	—	—	—
Dividends paid noncontrolling interests	—	—	—	—	—	—	3,700	3,700
Purchase (sale) of noncontrolling interests	—	—	(5,669)	—	—	(5,669)	(53,721)	(53,721)
Changes in fair value of noncontrolling interests subject to put provisions	—	—	(24,223)	—	—	(24,223)	1,305	(4,364)
Other reclassifications	—	—	4	(625)	—	(621)	—	(24,223)
Balance, December 31, 2010	5,000,000	\$ 1,379,916	1,906,036	2,909,317	(82,678)	6,202,591	86,016	6,288,607

See accompanying notes to consolidated financial statements.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Statements of Cash Flows  
Years ended December 31, 2010, 2009, and 2008  
(Dollars in thousands)

	2010	2009	2008
Cash flows from operating activities:			
Net income	\$ 682,297	591,526	545,337
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	285,483	263,983	237,411
Provision for doubtful accounts	209,001	198,200	209,248
Deferred income taxes	44,481	9,863	101,121
Gain on sale of interest in investments and divestitures	(1,694)	(703)	(18,604)
Amortization of discount on Senior Note	887	888	888
Equity investment income	(6,737)	—	—
Loss on disposal of properties and equipment	3,129	6,780	2,829
Compensation expense related to stock options	20,330	24,688	23,212
Amortization of discount on investments	587	979	498
Loss (gain) on forward sale and currency exchange agreements	20,267	(19,877)	(5,503)
Changes in operating assets and liabilities, net of effects of purchase acquisitions and foreign exchange:			
Increase in trade accounts receivable	(316,706)	(131,935)	(307,156)
Decrease (increase) in inventories	17,588	(34,887)	(41,880)
Increase in other current assets	(19,037)	(95,679)	(73,168)
Decrease (increase) in other assets and deferred charges	6,993	(6,017)	(6,445)
Increase (decrease) in accounts payable	36,807	(22,214)	31,616
(Decrease) increase in accrued income taxes	(17,627)	55,415	108,133
Increase (decrease) in accrued liabilities	15,571	19,603	(41,074)
Decrease in accrued special charge for legal matters	(142)	(531)	(498)
(Decrease) increase in other long-term liabilities	(12,345)	3,852	12,573
Net changes due to/from affiliates	(81,908)	(47,295)	(9,498)
Distributions received on equity investments	6,000	—	—
Other, net	7,972	1,007	2,606
Net cash provided by operating activities	<u>901,197</u>	<u>817,646</u>	<u>771,646</u>
Cash flows from investing activities:			
Capital expenditures	(279,495)	(293,435)	(371,580)
Proceeds from sale of property, plant and equipment	1,096	2,814	6,895
Acquisitions and investments, net of cash acquired	(125,921)	(121,750)	(118,175)
Proceeds from sale of interests and divestitures	10,288	916	53,087
Equity investment (contributions)	(1,800)	—	—
Net cash used in investing activities	<u>(395,832)</u>	<u>(411,455)</u>	<u>(429,773)</u>
Cash flows from financing activities:			
Net increase (decrease) in borrowings from affiliates	5,448	(47,658)	(738,948)
Net increase (decrease) from receivable financing facility	296,000	(325,000)	454,000
Net (decrease) increase on debt and capital leases	(714,429)	46,044	(72,522)
Distributions to noncontrolling interests	(92,685)	(55,766)	(22,918)
Debt issuance costs	(21,815)	—	—
Contributions from noncontrolling interests	8,989	5,659	—
Proceeds from sale of noncontrolling interests	17,384	6,880	—
Purchases of noncontrolling interests	(10,366)	(6,483)	—
Tax benefit on stock options	13,313	7,696	7,121
Net cash used in financing activities	<u>(498,161)</u>	<u>(368,628)</u>	<u>(373,267)</u>
Effects of changes in foreign exchange rates	<u>2,785</u>	<u>6,394</u>	<u>(3,255)</u>
Change in cash and cash equivalents	9,989	43,957	(34,649)
Cash and cash equivalents at beginning of year	<u>153,303</u>	<u>109,346</u>	<u>143,995</u>
Cash and cash equivalents at end of year	<u>\$ 163,292</u>	<u>153,303</u>	<u>109,346</u>

See accompanying notes to consolidated financial statements.

**FRESENTUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Consolidated Statements of Cash Flows  
Years ended December 31, 2010, 2009, and 2008  
(Dollars in thousands)

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Supplemental disclosures of cash flow information:			
Cash paid during the period for:			
Interest	\$ 233,073	229,896	169,180
Interest on mandatorily redeemable preferred securities	50,884	36,866	64,308
Income taxes, net	389,912	283,387	123,892
Details for acquisitions:			
Assets acquired	(166,328)	(161,043)	(116,315)
Liabilities assumed	5,050	1,712	1,963
Noncontrolling Interests	17,782	29,400	(3,836)
Notes assumed in connection with acquisition	15,606	—	—
Cash paid	(127,890)	(129,931)	(118,188)
Less cash acquired	1,969	5,167	13
Net cash paid for acquisitions	\$ <u>(125,921)</u>	<u>(124,764)</u>	<u>(118,175)</u>

See accompanying notes to consolidated financial statements.



**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

December 31, 2010 and 2009

**(1) The Company**

Fresenius Medical Care Holdings, Inc., a New York corporation (the Company or FMCH) is a subsidiary of Fresenius Medical Care AG & Co. KGaA, a German partnership limited by shares (FMCAG & KGaA or the Parent Company). The Company conducts its operations through five principal subsidiaries, National Medical Care, Inc. (NMC), Fresenius USA Marketing, Inc., Fresenius USA Manufacturing, Inc. and SRC Holding Company, Inc., all Delaware corporations and Fresenius USA, Inc., a Massachusetts corporation.

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries and those financial statements where the Company controls professional corporations in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification 810, *Consolidation*. The consolidated financial statements include all companies in which the Company has legal or effective control. Noncontrolling interest represents the proportionate equity interest of owners in the Company's consolidated entities that are not wholly owned.

The Company is primarily engaged in (i) providing kidney dialysis services and clinical laboratory testing (ii) manufacturing and distributing products and equipment for kidney dialysis treatment and (iii) providing other medical ancillary services.

**(a) Basis of Presentation**

The Company has reclassified and revalued noncontrolling interests subject to put provisions in the consolidated balance sheets. As a result, at December 31, 2009, 2008, and 2007, the Company reclassified \$85,658, \$56,337, and \$32,556, respectively, from "Noncontrolling interests" and \$145,645, \$105,829, and \$81,571, respectively, from "Additional paid in capital" to "Noncontrolling interests subject to put provisions." The Company has also renamed the remaining balance of "Noncontrolling interests" as "Noncontrolling interests not subject to put provisions." The consolidated statement of changes in equity has been adjusted accordingly. There is no impact on the consolidated statements of operations.

Certain items in the prior years' consolidated financial statements may have been reclassified to conform with the current year's presentation. Net operating results have not been affected by the reclassifications.

The Company has evaluated subsequent events through April 28, 2011, which is the date these consolidated financial statements were issued. See note 2(v).

**(b) Basis of Consolidation**

The consolidated financial statements in this report at December 31, 2010 and 2009 and for each of the years in the three-year period ended December 31, 2010 have been prepared in accordance with U.S. Generally Accepted Accounting Principles (U.S. GAAP). These consolidated financial statements reflect all adjustments that, in the opinion of management, are necessary for the fair presentation of the consolidated results for all periods presented. All significant intercompany accounts and transactions have been eliminated in consolidation.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

December 31, 2010 and 2009

**(c) United States Health Care Reform**

The Patient Protection and Affordable Care Act was enacted in the United States on March 23, 2010 and subsequently amended by the Health Care and Educational Affordability Reconciliation Act (as amended, ACA). ACA will implement broad healthcare system reforms, including (i) provisions to facilitate access to affordable health insurance for all Americans, (ii) expansion of the Medicaid program, (iii) an industry fee on pharmaceutical companies starting in 2011 based on sales of brand name pharmaceuticals to government healthcare programs, (iv) a 2.3% excise tax on manufacturers' medical device sales starting in 2013, (v) increases in Medicaid prescription drug rebates effective January 1, 2010, (vi) commercial insurance market reforms that protect consumers, such as bans on lifetime and annual limits, coverage of pre-existing conditions, and limits on waiting periods, (vii) provisions encouraging integrated care, efficiency and coordination among providers and (viii) provisions for reduction of healthcare program waste and fraud. ACA's medical device excise tax, Medicaid drug rebate increases and annual pharmaceutical industry fees will adversely impact the Company's product business earnings and cash flows. The Company expects modest favorable impact from ACA's integrated care and commercial insurance consumer protection provisions.

**(2) Summary of Significant Accounting Policies**

**(a) Cash and Cash Equivalents**

Cash and cash equivalents comprise cash funds and all short-term, highly liquid investments with original maturities of up to three months.

**(b) Allowance for Doubtful Accounts**

Estimates for allowances for accounts receivable are based on an analysis of collection experience, recognizing the difference between payors and aging of accounts receivable. From time to time, accounts receivable are reviewed for changes from the historic collection experience to ensure the appropriateness of the allowances.

**(c) Inventories**

Inventories are stated at the lower of cost (determined by using the average or first-in, first-out method) or market value (see note 4).

**(d) Property, Plant and Equipment**

Property, plant, and equipment are stated at cost less accumulated depreciation (see note 10). Significant improvements are capitalized; repairs and maintenance costs that do not extend the useful lives of the assets are charged to expense as incurred. Property, plant and equipment under capital leases are stated at the present value of future minimum lease payments at the inception of the lease, less accumulated depreciation. The cost and accumulated depreciation of assets sold or otherwise disposed of are removed from the accounts, and any gain or loss is included in income when the assets are disposed.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
AND SUBSIDIARIES**

Notes to Consolidated Financial Statements

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The cost of property, plant and equipment is depreciated over estimated useful lives on a straight-line basis as follows: buildings – 20 to 40 years, equipment and furniture – 3 to 10 years, equipment under capital leases and leasehold improvements – the shorter of the lease term or useful life of the asset. For income tax purposes, depreciation is calculated using accelerated methods to the extent permitted.

The Company capitalizes interest on borrowed funds during construction periods. Interest capitalized during 2010, 2009 and 2008 was \$4,854, \$8,554 and \$7,800, respectively.

**(e) Other Intangible Assets and Goodwill**

Intangible assets such as noncompete agreements, lease agreements, tradenames, management contracts, technology, patents, distribution rights, software, acute care agreements and licenses acquired in a purchase method business combination are recognized and reported apart from goodwill.

Goodwill and identifiable intangibles with indefinite useful lives are not amortized but tested for impairment annually or when an event becomes known that could trigger an impairment. The Company identified trade names and certain qualified management contracts as intangible assets with indefinite useful lives because, based on an analysis of all of the relevant factors, there is no foreseeable limit to the period over which those assets are expected to generate net cash inflows for the Company. Intangible assets with finite useful lives are amortized over their respective useful lives to their residual values. The Company amortizes noncompete agreements over their average useful life of 8 years. Technology is amortized over its useful life of 15 years. The iron products distribution and manufacturing agreement is amortized over its ten-year contractual license period based upon the annual estimated units of sale of the licensed product. All other intangible assets are amortized over their individual estimated useful lives between 3 and 25 years. Intangible assets with finite useful lives are evaluated for impairment when events have occurred that may give rise to an impairment.

To perform the annual impairment test of goodwill, the Company identified its reporting units and determined their carrying value by assigning the assets and liabilities, including the existing goodwill and intangible assets, to those reporting units. A reporting unit is usually defined one level below the segment level based on regions or legal entities. Two reporting units were identified, Renal Therapy Group and Fresenius Medical Services.

In a first step, the Company compares the fair value of a reporting unit to its carrying amount. Fair value is determined using estimated future cash flows for the unit discounted by a weighted average cost of capital (WACC) specific to that reporting unit. Estimating the discounted future cash flows involves significant assumptions, especially regarding future reimbursement rates and sales prices, number of treatments, sales volumes and costs. In determining discounted cash flows, the Company utilizes for every reporting unit, its three-year budget, projections for years 4 to 10 and a corresponding growth rate for all remaining years. Projections for up to ten years are possible due to the stability of the Company's business which, due to the nondiscretionary nature of the healthcare services the Company provides, the need for products utilized to provide such services and the availability of government reimbursement for a substantial portion of their services, has been largely

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independent from the economic cycle. The reporting units' respective expected growth rates for the period beyond ten years are: Renal Therapy Group 1% and Fresenius Medical Services 1%. The discount factor is determined by the Company's WACC. The Company's WACC consists of a basic rate of 6.38% for 2010.

In the case that the fair value of the reporting unit is less than its book value, a second step is performed which compares the fair value of the reporting unit's goodwill to the carrying value of its goodwill. If the fair value of the goodwill is less than the book value, the difference is recorded as an impairment.

To evaluate the recoverability of intangible assets with indefinite useful lives, the Company compares the fair values of intangible assets with their carrying values. An intangible asset's fair value is determined using a discounted cash flow approach and other appropriate methods.

In connection with its annual impairment tests, the Company determined that there was no impairment of goodwill or other intangible assets. Accordingly the Company did not record any impairment charges during 2010, 2009 or 2008.

*(f) Derivative Instruments and Hedging Activities*

The Company accounts for derivatives and hedging activities by recognizing all derivative instruments as either assets or liabilities in the consolidated balance sheets at their respective fair values. For derivatives designated as hedges, changes in the fair value are either offset against the change in fair value of the assets and liabilities through earnings, or recognized in accumulated other comprehensive income until the hedged item is recognized in earnings.

For all hedging relationships the Company formally documents the hedging relationship and its risk-management objective and strategy for undertaking the hedge, the hedging instrument, the hedged item, the nature of the risk being hedged, how the hedging instrument's effectiveness in offsetting the hedged risk will be assessed prospectively and retrospectively, and a description of the method of measuring ineffectiveness. The Company also formally assesses, both at the hedge's inception and on an ongoing basis, whether the derivatives that are used in hedging transactions are highly effective in offsetting cash flows of hedged items. Changes in the fair value of a derivative that is highly effective and that is designated and qualifies as a cash-flow hedge are recorded in accumulated other comprehensive income to the extent that the derivative is effective as a hedge, until earnings are affected by the variability in cash flows of the designated hedged item. The ineffective portion of the change in fair value of a derivative instrument that qualifies as a cash-flow hedge is reported in earnings.

The Company discontinues hedge accounting prospectively when it is determined that the derivative is no longer effective in offsetting cash flows of the hedged item, the derivative expires or is sold, terminated, or exercised, the derivative is dedesignated as a hedging instrument, because it is unlikely that a forecasted transaction will occur, or management determines that designation of the derivative as a hedging instrument is no longer appropriate.

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In all situations in which hedge accounting is discontinued and the derivative is retained, the Company continues to carry the derivative at its fair value on the consolidated balance sheets and recognizes any subsequent changes in its fair value in earnings. When it is probable that a hedged forecasted transaction will not occur, the Company discontinues hedge accounting and recognizes immediately in earnings gains and losses that were accumulated in other comprehensive income.

The table below summarizes the derivative financial instruments pre-tax and after-tax effect on accumulated other comprehensive income (loss) in equity for the years ended December 31, 2010, 2009 and 2008:

	<b>Year ended December 31</b>		
	<b>2010</b>	<b>2009</b>	<b>2008</b>
	(Dollars in millions)		
Interest rate swaps:			
Pre-tax (gain) loss	\$ (57.0)	(49.9)	103.3
After-tax (gain) loss	(34.6)	(30.5)	63.2
Forecasted raw material product purchases and other obligations:			
Pre-tax (gain) loss	\$ (0.2)	(3.4)	5.7
After-tax (gain) loss	(0.1)	(2.1)	3.4
Euro denominated mandatorily redeemable preferred stock:			
Pre-tax (gain) loss	\$ (10.7)	(1.6)	(1.6)
After-tax (gain) loss	(6.5)	(1.0)	(0.8)

The interest rate swaps are designated as cash flow hedges effectively converting certain variable interest rate payments into fixed interest rate payments. After-tax gains and losses were deferred in other comprehensive income and subsequently reclassified to earnings when the hedged item also affects earnings. Interest payable and receivable under the swap terms are accrued and recorded as adjustments to interest expense at each reporting date.

The Company enters into forward rate agreements that are designated and effective as hedges of forecasted raw material purchases and other obligations. After-tax gains and losses were deferred in other comprehensive income and will be reclassified into cost of sales in the period during which the hedged transactions affect earnings. All deferred amounts will be reclassified into earnings within the next twelve months.

The Company enters into forward rate agreements that are designated and effective as hedges of changes in the fair value of the Euro-denominated mandatorily redeemable preferred stock. Changes in fair value are recorded in earnings and offset against gains and losses resulting from the underlying exposures. After-tax gains and losses were deferred in other comprehensive income.

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The Company entered into a forward sale agreement related to preference shares (Preferred Stock) of FMCH issued to Fresenius Medical Care North America Holdings Limited Partnership (DLP). This instrument is reflected in the consolidated balance sheets at fair value as part of Preferred Stock with changes in fair value recognized in earnings. Pre-tax (losses) and gains recorded in the consolidated statements of operations for the years ended December 31, 2010, 2009 and 2008 were \$107.8 million, \$(50.5) million and \$83.0 million, respectively. After-tax (losses) and gains recorded in the consolidated statements of operations for the years ended December 31, 2010, 2009 and 2008 were \$68.1 million, \$(30.9) million and \$52.3 million, respectively.

The Company also entered into a currency exchange agreement with DLP. The notional principal amounts of the currency exchange agreement is \$1,250,000 U.S. dollars and a Euro amount with equal market value applying the market foreign exchange rate at the time the exchange agreement was entered into. The currency exchange agreement requires that at each periodic settlement date, DLP is obligated to pay to FMCH, Euro interest on the Euro equivalent of \$1.25 billion. Conversely, at the periodic settlement date, FMCH is obligated to pay to DLP, the interest on \$1.25 billion in U.S. dollars.

Upon maturity (March 31, 2013) or termination of the exchange agreement, DLP is obligated to pay to FMCH, the Euro equivalent of \$1.25 billion converted at spot rate and FMCH will pay to DLP the final settlement amount of \$1.25 billion (plus any outstanding period interest payments). This instrument is reflected in the consolidated balance sheets at fair value as a derivative asset at the reporting date with changes in fair value recognized in earnings. Pre-tax gains and (losses) recorded in the consolidated statements of operations for the years ended December 31, 2010, 2009 and 2008 were \$(104.8) million, \$58.6 million and \$(61.6) million, respectively. After-tax gains and (losses) recorded in the consolidated statements of operations for the years ended December 31, 2010, 2009 and 2008 were \$(66.2) million, \$36.1 million and \$(38.8) million, respectively.

Periodically, the Company enters into derivative instruments with related parties to form a natural hedge for currency exchange rate exposures on intercompany obligations. These instruments are reflected in the consolidated balance sheets at fair value with changes in fair value recognized in earnings. Pre-tax losses (gains) recorded in the consolidated statements of operations for the years ended December 31, 2010, 2009 and 2008 were \$1.1 million, \$0.3 million and \$(0.9) million, respectively.

**(g) Foreign Currency Translation**

For purposes of these consolidated financial statements, the U.S. dollar is the reporting currency. Substantially all assets and liabilities of the Company's non-U.S. subsidiaries are translated at year-end exchange rates, while revenue and expenses are translated at exchange rates prevailing during the year. Adjustments for foreign currency translation fluctuations are excluded from net income and are reported in accumulated other comprehensive income (loss). In addition, the translation of certain intercompany borrowings denominated in foreign currencies, which are considered foreign equity investments, are reported in accumulated other comprehensive income (loss).

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Gains and losses resulting from the translation of revenues and expenses and intercompany borrowings, which are not considered equity investments, are included in the statements of operations within general and administrative expenses. Translation gains (losses) amounted to \$4,773, \$(3,927) and \$780 for the years ended December 31, 2010, 2009 and 2008, respectively.

**(h) Revenue Recognition**

Dialysis care revenues are recognized on the date services and related products are provided and are recorded at amounts estimated to be received under reimbursement arrangements with third-party payors, including Medicare and Medicaid. The Company establishes appropriate allowances based upon factors surrounding credit risks of specific third-party payors, historical trends and other information. Retroactive adjustments are accrued on an estimated basis in the period the related services are rendered and adjusted in future periods as final settlements are determined.

Dialysis product revenues are recognized when title to the product passes to the customers either at the time of shipment, upon receipt by the customer or upon terms that clearly define passage of title. As product returns are not typical, no return allowances are established. In the event a return is required, the appropriate reductions to sales, accounts receivables and cost of sales are made. Sales are stated net of discounts and rebates.

Net revenues from machines sales for 2010, 2009 and 2008 include \$80.0 million, \$80.2 million, and \$76.0 million, respectively, of net revenues for machines sold to a third-party leasing company which are utilized by the Fresenius Medical Services division to provide services to customers. The profits on these sales are deferred and amortized to earnings over the lease terms.

Any tax assessed by a governmental authority that is incurred as a result of a revenue transaction (e.g. sales tax) is excluded from revenues and reported on a net basis.

**(i) Research and Development**

Research and development costs are expensed as incurred.

**(j) Income Taxes**

The Company recognizes deferred tax assets and liabilities for future consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis as well as on consolidation procedures affecting net income and tax loss carryforwards which are more likely than not to be utilized. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. A valuation allowance is recorded to reduce the carrying amount of the deferred tax assets unless it is more likely than not that such assets will be realized (see note 9).

It is the Company's policy to recognize interest and penalties related to its tax positions as income tax expense.

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**(k) Impairment**

The Company reviews the carrying value of its long-lived assets or asset groups with definite useful lives to be held and used for impairment whenever events or changes in circumstances indicate that the carrying value of these assets may not be recoverable. Recoverability of these assets is measured by a comparison of the carrying value of an asset to the future net cash flow directly associated with the asset. If assets are considered to be impaired, the impairment recognized is the amount by which the carrying value exceeds the fair value of the asset. The Company uses a discounted cash flow approach or other methods, if appropriate, to assess fair value.

Long-lived assets to be disposed of by sale are reported at the lower of carrying value or fair value less cost to sell and depreciation is ceased. Long-lived assets to be disposed of other than by sale are considered to be held and used until disposal.

**(l) Debt Issuance Costs**

Costs related to the issuance of debt are amortized over the term of the related obligation (see note 6).

**(m) Self-Insurance Programs**

The Company is partially self-insured for professional, product and general liability, auto liability and worker's compensation claims under which the Company assumes responsibility for incurred claims up to predetermined amounts above which third-party insurance applies. Reported balances for the year include estimates of the anticipated expense for claims incurred (both reported and incurred but not reported) based on historical experience and existing claim activity. This experience includes both the rate of claims incidence (number) and claim severity (cost) and is combined with individual claim expectations to estimate the reported amounts.

**(n) Use of Estimates**

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**(o) Concentration of Credit Risk**

The Company is engaged in providing kidney dialysis services, clinical laboratory testing, and other medical ancillary services, and in the manufacture and sale of products for all forms of kidney dialysis, principally to healthcare providers. The Company performs ongoing evaluations of its customers' financial condition and, generally, requires no collateral.

Approximately 48% in 2010 and 2009 and 53% in 2008 of the Company's revenues were earned and subject to regulations under governmental healthcare programs, Medicare and Medicaid, administered by various states and the United States government.



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See note 19 for concentration of supplier risks.

**(p) Comprehensive Income**

Comprehensive income consists of net income, foreign currency translation adjustments, pension liability adjustments and changes in derivative instruments and is presented in the consolidated statements of comprehensive income.

**(q) Net Income per Share**

Basic net income per share is computed by dividing net income available to common shareholders by the weighted average number of common shares outstanding during the year. Diluted net income per share includes the effect of all dilutive potential common shares that were outstanding during the year. The number of shares used to compute basic and diluted net income per share was 90,000,000 in all periods as there were no potential common shares and no adjustments to income available to common shareholders to be considered for purposes of the diluted net income per share calculation.

	Year ended December 31		
	2010	2009	2008
The weighted average number of shares of common stock were as follows	90,000,000	90,000,000	90,000,000

Net income available for common shareholders used in the computation of basic and fully dilutive net income per share is as follows:

	Year ended December 31		
	2010	2009	2008
Net income attributable to FMCH	\$ 605,530	523,284	509,683
Income available to common shareholders	\$ 605,530	523,284	509,683
Basic and diluted net income per share	\$ 6.73	5.81	5.66

**(r) Employee Benefit Plans**

The Company recognizes the underfunded status of its defined benefit plans, measured as the difference between plan assets at fair value and the benefit obligation, as a liability. Changes in the funded status of a plan, net of tax, resulting from actuarial gains or losses and prior service costs or credits that are not recognized as components of the net periodic benefit cost will be recognized through accumulated other comprehensive income in the year in which they occur. Actuarial gains or losses and prior service costs are subsequently recognized as components of net periodic benefit cost

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pursuant to the recognition and amortization provisions of those standards. The Company uses December 31 as the measurement date when measuring the funded status of all plans.

**(s) Stock Option Plans**

Effective January 1, 2006, the Company adopted the provisions of the accounting standards for share-based payments using the modified prospective transition method. Under this transition method, compensation cost recognized in 2006 includes applicable amounts of: (a) compensation cost of all stock-based payments granted prior to, but not yet vested as of January 1, 2006 and (b) compensation cost for all stock-based payments subsequent to January 1, 2006 based on the grant-date fair value estimated in accordance with the provisions of these standards.

**(t) Legal Contingencies**

From time to time, during the ordinary course of the Company's operations, the Company is party to litigation and arbitration and is subject to investigations relating to various aspects of its business (see note 18). The Company regularly analyzes current information about such claims for probable losses and provides accruals for such matters, including the estimated legal expenses and consulting services in connection with these matters, as appropriate. The Company utilizes its internal legal department as well as external resources for these assessments. In making the decision regarding the need for loss accrual, the Company considers the degree of probability of an unfavorable outcome and its ability to make a reasonable estimate of the amount of loss.

The filing of a suit or formal assertion of a claim or assessment, or the disclosure of any such suit or assertion, does not necessarily indicate that accrual of a loss is appropriate.

**(u) Recent Pronouncements**

**Recently Implemented Accounting Statements**

In July 2010, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update 2010-20 (ASU 2010-20), *Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses*. ASU 2010-20 is an update of Accounting Standards Codification Topic 310, *Receivables*. This update requires enhanced disclosures on a disaggregated basis about:

- The nature of the credit risk inherent in the portfolio of financing receivables,
- How that risk is analyzed and assessed in arriving at the allowance for credit losses and
- The changes and reasons for those changes in the allowance for credit losses.

The disclosures required under ASU 2010-20 as of the end of a reporting period are effective for interim and annual reporting periods ending on or after December 15, 2010. Disclosures about activity that occurs during a reporting period are effective for interim and annual reporting periods beginning on or after December 15, 2010. The Company adopted the provisions of ASU 2010-20 as of December 31, 2010.

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In June 2009, the FASB issued Accounting Standards Update 2009-17 (ASU 2009-17) (originally issued as FASB Statement No. 167), ASC 810, *Consolidations – Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities*. ASU 2009-17 requires reporting entities to evaluate former Qualifying Special Purpose Entities (QSPE) for consolidation and changes the approach to determining a VIE's primary beneficiary from a quantitative assessment to a qualitative assessment designed to identify a controlling financial interest. In addition, ASU 2009-17 increases the frequency of required reassessments to determine whether a company is the primary beneficiary of a VIE. It also clarifies, but does not significantly change, the characteristics that identify a VIE. ASU 2009-17 also requires additional year-end and interim disclosures about risks related to continuing involvement in transferred financial assets.

The amendments contained in ASU 2009-17 were effective as of the beginning of a company's first fiscal year that begins after November 15, 2009 and for subsequent interim and annual reporting periods. All former QSPEs and other variable interest entities needed to be reevaluated under the amended consolidation requirements as of the beginning of the first annual reporting period that began after November 15, 2009. Early adoption was prohibited. The Company implemented the amendments prescribed by ASU 2009-17 as of January 1, 2010.

In June 2009, the FASB issued Accounting Standards Update 2009-16 (ASU 2009-16) (originally issued as FASB Statement No. 166), ASC 60, *Transfers and Servicing – Accounting for Transfers of Financial Assets*. ASU 2009-16 eliminates the QSPE concept, creates more stringent conditions for reporting a transfer of a portion of a financial asset as a sale, clarifies the derecognition criteria, revises how retained interests are initially measured, and removes the guaranteed mortgage securitization recharacterization provisions. ASU 2009-16 also requires additional year-end and interim disclosures about risks related to variable interest entities.

ASU 2009-16 is effective as of the beginning of a company's first fiscal year that begins after November 15, 2009, and for subsequent interim and annual reporting periods. ASU 2009-16's disclosure requirements must be applied to transfers that occurred before and after its effective date. Early adoption is prohibited. The Company adopted provisions of ASU 2009-16 as of January 1, 2010.

(v) **Subsequent Events**

On February 3, 2011, Fresenius Medical Care U.S. Finance, Inc. (U.S. Finance), a wholly owned subsidiary of FMCAG & KGaA, issued \$650,000 aggregate principal amount of senior unsecured notes with a coupon of 5.75% (the 5.75% Senior Notes) at an issue price of 99.060% and FMC Finance VII S.A. (Finance VII), a wholly owned subsidiary of FMCAG & KGaA, issued €300,000 aggregate principal amount (\$412,350 at date of issuance) of senior unsecured notes with a coupon 5.25% (the 5.25% Senior Notes) at par. The 5.75% Senior Notes have a yield to maturity of 5.875% and are due February 15, 2021. The 5.25% Senior Notes are due February 15, 2021. U.S. Finance and Finance VII may redeem the 5.75% Senior Notes and 5.25% Senior Notes, respectively, at any time at 100% of principal plus accrued interest and a premium calculated pursuant to the terms of the applicable indenture. The holders of the 5.75% Senior Notes and the 5.25% Senior Notes have a right to request that the respective issuers of the notes repurchase the applicable issue of notes at

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101% of principal plus accrued interest upon the occurrence of a change of control of FMCAG & KGaA followed by a decline in the rating of the respective notes. FMCAG & KGaA used or will use the net proceeds of approximately \$1,035,000 to repay indebtedness outstanding under its asset securitization facility (see note 5) and the revolving credit facility of the Amended 2006 Senior Credit Agreement, for acquisitions, and for general corporate purposes to support its renal dialysis products and services business. The 5.75% Senior Notes and the 5.25% Senior Notes are guaranteed on a senior basis jointly and severally by FMCAG & KGaA, Fresenius Medical Care Holdings, Inc. and Fresenius Medical Care Deutschland GmbH.

**(3) Acquisitions**

During 2010 and 2009, the Company made acquisitions mostly of dialysis centers in the normal course of its operations, totaling \$125,921 and \$124,781, respectively.

The assets and liabilities of all acquisitions were recorded at their estimated fair values at the dates of the acquisitions and are included in the Company's consolidated financial statements and operating results from the effective date of acquisition.

**(4) Other Balance Sheet Items**

**(a) Inventories**

As of December 31, 2010 and 2009, inventories consisted of the following:

	2010	2009
Inventories:		
Raw materials	\$ 100,878	96,880
Manufactured goods in process	14,018	22,327
Manufactured and purchased inventory available for sale	130,450	132,128
	245,346	251,335
Health care supplies	89,757	101,289
Total	\$ 335,103	352,624

Under the terms of certain unconditional purchase commitments, the Company is obligated to purchase raw materials and healthcare supplies of \$2,135,449 of which \$345,001 is committed at December 31, 2010 for fiscal year 2011. The terms of these agreements run 1 to 9 years.

Inventories as of December 31, 2010 and 2009 include \$32,987 and \$34,788, respectively, of Erythropoietin (EPO), which is supplied by a single source supplier.

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**(b) Other Current Assets**

As of December 31, 2010 and 2009, other current assets consisted of the following:

	<u>2010</u>	<u>2009</u>
Vendor rebates	\$ 161,886	182,083
Miscellaneous accounts receivable	204,253	174,534
Deposits and prepaid expenses	<u>98,549</u>	<u>97,062</u>
Total	<u>\$ 464,688</u>	<u>453,679</u>

**(c) Accrued Liabilities**

As of December 31, 2010 and 2009, accrued liabilities consisted of the following:

	<u>2010</u>	<u>2009</u>
Accounts receivable credit balances	\$ 168,896	192,216
Accrued salaries and wages	211,937	178,059
Accrued insurance	162,628	169,168
Accrued operating expenses	75,408	63,745
Accrued lease obligations	80,979	75,807
Accrued legal and compliance	18,070	17,154
Accrued physician compensation	4,626	8,061
Accrued interest	3,136	1,850
Accrued other	<u>48,474</u>	<u>50,999</u>
Total	<u>\$ 774,154</u>	<u>757,059</u>

Accounts receivable credit balances principally reflect overpayments from third-party payors and are in the process of repayment.

**(5) Sale of Accounts Receivable**

The Company has an asset securitization facility (the AR Facility) which is typically renewed in October of each year and was most recently renewed and increased from \$650,000 to \$700,000 on September 28, 2010. Under the AR Facility, certain receivables are sold to NMC Funding Corporation (NMC Funding), a wholly owned subsidiary. NMC Funding then assigns undivided ownership interests in the accounts receivable to certain bank investors. Under the terms of the AR Facility, NMC Funding retains the right to recall all transferred interests in the accounts receivable assigned to the banks under the AR facility. As the Company has the right at any time to recall the then outstanding interests, the receivables remain on the consolidated balance sheet and the proceeds from the transfer of undivided interests are recorded as short-term borrowings.

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At December 31, 2010 and 2009 there were outstanding short-term borrowings under the AR Facility of \$510,000 and \$214,000, respectively. NMC Funding pays interest to the bank investors, calculated based on the commercial paper rates for the particular tranches selected. The average interest rate during 2010 and 2009 was 1.86% and 2.90%, respectively. Annual refinancing fees, which include legal costs and bank fees (if any), are amortized over the term of the facility.

**(6) Short Term Borrowings and Long-Term Debt**

***Short-Term Borrowings***

At December 31, 2010 and 2009, short-term borrowings consisted of the following:

	December 31	
	2010	2009
AR facility	\$ 510,000	214,000
Commercial paper	10,985	11,791
Other	25,627	4,353
Total short-term borrowings	\$ 546,612	230,144

***Long-Term Debt***

**(a) Amended 2006 Senior Credit Agreement**

FMCAG & KGaA, FMCH, and certain other subsidiaries of the Company that are borrowers and/or guarantors thereunder, including Fresenius Medical Care Deutschland GmbH (D-GmbH), entered into a \$4,600,000 syndicated credit facility (the 2006 Senior Credit Agreement) with Bank of America, N.A.; Deutsche Bank AG New York Branch; The Bank of Nova Scotia, Credit Suisse, Cayman Islands Branch; JPMorgan Chase Bank, National Association; and certain other lenders (collectively, the Lenders) on March 31, 2006 which replaced its prior credit agreement.

Since entering into the 2006 Senior Credit Agreement, the Parent Company arranged several amendments with the lenders and effected voluntary prepayments of the term loans, which led to a change in the total amount available under this facility. Pursuant to an amendment together with an extension arranged on September 29, 2010 the revolving facility was increased from \$1,000,000 to \$1,200,000 and the Term Loan A facility by \$50,000 to \$1,365,000. The maturity for both tranches was extended from March 31, 2011 to March 31, 2013 (a 2 year extension). Additionally, the early repayment requirement for the Term Loan B, which stipulated that Term Loan B was subject to early retirement if the Trust Preferred Securities due June 15, 2011 were not paid, refinanced or extended prior to March 1, 2011, has been removed. The definition of the Parent Company's Consolidated Leverage Ratio, which is used to determine the applicable margin, was amended to allow for the reduction of up to \$250,000 (increased from \$30,000) of cash and cash equivalents from Consolidated Funded Debt, as defined in the initial 2006 Senior Credit Agreement. In addition, the amendment includes increases in certain types of permitted borrowings outside of the Amended 2006 Senior Credit Agreement and provides further flexibility for certain types of investments. Furthermore, the parties agreed to change the limitation on dividends and other restricted payments

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for up to \$330,000 in 2011. Thereafter, these limitations increase by \$30,000 each year through 2013.

As of December 31, 2010, the Amended 2006 Senior Credit Agreement consists of:

- a \$1,200,000 revolving credit facility (of which up to \$400,000 is available for letters of credit, up to \$400,000 is available for borrowings in certain non-U.S. currencies, up to \$150,000 is available as swing line loans in U.S. dollars, up to \$250,000 is available as a competitive loan facility and up to \$50,000 is available as swing line loans in certain non-U.S. currencies, the total of which cannot exceed \$1,200,000) which will be due and payable on March 31, 2013.
- a term loan facility (Term Loan A) of \$1,335,000, also scheduled to mature on March 31, 2013. Quarterly repayments of \$30,000 are required at the end of each quarter with the remaining balance outstanding due on March 31, 2013.
- a term loan facility (Term Loan B) of \$1,292,764 scheduled to mature on March 31, 2013 with 5 quarterly repayments of \$4,036 followed by 4 quarterly repayments of \$379,396 each due at the end of its respective quarter.

Interest on these facilities will be, at the Parent Company's option, depending on the interest periods chosen, at a rate equal to either (i) LIBOR plus an applicable margin or (ii) the higher of (a) Bank of America's prime rate or (b) the Federal Funds rate plus 0.5%, plus an applicable margin.

The applicable margin is variable and depends on the Parent Company's Consolidated Leverage Ratio which is a ratio of its Consolidated Funded Debt less up to \$250,000 cash and cash equivalents to Consolidated EBITDA (as these terms are defined in the Amended 2006 Senior Credit Agreement).

In addition to scheduled principal payments, indebtedness outstanding under the Amended 2006 Senior Credit Agreement will be reduced by mandatory prepayments utilizing portions of the net cash proceeds from certain sales of assets, securitization transactions other than the Company's existing AR Facility, the issuance of subordinated debt other than certain intercompany transactions, certain issuances of equity and excess cash flow.

Obligations under the Amended 2006 Senior Credit Agreement are secured by pledges of capital stock of certain material subsidiaries in favor of the lenders. The Amended 2006 Senior Credit Agreement contains affirmative and negative covenants with respect to the Parent Company and its subsidiaries and other payment restrictions. Certain of the covenants limit indebtedness of the Parent Company and investments by the Parent Company, and require the Parent Company to maintain certain financial ratios defined in the agreement. In default, the outstanding balance under the Amended 2006 Senior Credit Agreement becomes immediately due and payable at the option of the Lenders. As of December 31, 2010, the Company is in compliance with all covenants under the Amended 2006 Senior Credit Agreement.

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The following table shows the Company's outstanding amounts under the Amended 2006 Senior Credit Agreement at December 31, 2010 and 2009:

	<b>Balance outstanding December 31</b>	
	<b>2010</b>	<b>2009</b>
Revolving credit facility	\$ 81,126	277,782
Loan A	85,000	123,418
Loan B	1,292,764	1,308,908
	\$ 1,458,890	1,710,108

In addition, at December 31, 2010 and 2009, \$121,518 and \$97,287, respectively, were utilized as letters of credit which are not included as part of the balances outstanding at those dates.

In conjunction with the Amended 2006 Senior Credit Agreement and the related variable rate based interest payments, the Company entered into additional interest rate swaps in the notional amount of \$1,215,000 with FMCAG & KGaA. As of December 31, 2010 and 2009 the Company had total interest rates swaps in the notional amount of \$900,000 and \$1,150,000, respectively. These instruments, designated as cash flow hedges, effectively convert forecasted LIBOR-based interest payments into fixed rate based interest payments which fix the interest rate on \$900,000 of the financing under the Amended 2006 Senior Credit Agreement at a weighted average rate of 4.66% plus an applicable margin. These swaps are denominated in U.S. dollars and expire at various dates between 2011 and 2013.

The weighted average interest rate for all Company debt outstanding as of December 31, 2010 and 2009 was approximately 4.91% and 5.06%, respectively, including the effects of interest rate swaps in effect during the period.

**(b) Senior Notes**

On July 2, 2007, FMC Finance III S.A., a wholly owned subsidiary of FMCAG & KGaA issued \$500,000 aggregate principal amount of 7 1/8% Senior Notes due 2017 at a discount. The Senior Notes are guaranteed on a senior basis jointly and severally by FMCAG & KGaA and by its subsidiaries FMCH and Fresenius Medical Care Deutschland GmbH (D-GmbH). The proceeds, net of discounts and bank fees but prior to the payment of other offering related expenses totaling approximately \$484,875 were used to reduce Loan A by \$150,000 and Loan B by \$150,000 under the Company's 2006 Senior Credit Agreement. The remaining \$184,875 was applied to the outstanding balance under the Company's AR Facility (see note 5). The \$500,000 of funds provided was recorded as intercompany borrowings from FMC Finance III, S.A. The discount is being amortized over the life of the Senior Notes.



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**(c) Long-Term Debt**

At December 31, 2010 and 2009, long-term debt consisted of the following:

	<u>December 31</u>	
	<u>2010</u>	<u>2009</u>
Amended 2006 Senior Credit Agreement	\$ 1,458,890	1,710,108
RSI deferred and milestone payments	—	9,488
Iron License Agreement (see note 7(a))	11,830	17,908
Other	124	194
	<u>1,470,844</u>	<u>1,737,698</u>
Less amounts classified as current	107,706	149,913
	<u>\$ 1,363,138</u>	<u>1,587,785</u>

**(d) Borrowings (Receivables) from Affiliates**

	<u>December 31</u>	
	<u>2010</u>	<u>2009</u>
Borrowings (receivables) from affiliates consists of:		
Fresenius Medical Care AG & Co. KGaA borrowings (receivables) primarily at interest rates approximating 0.0% and 0.39%, respectively	\$ 298	(4,105)
RTC Holdings International, Inc. borrowings at a fixed interest rate of 1.00% and 1.55%, respectively	12,961	12,803
Fresenius Medical Care Trust Finance S.a.r.l. borrowings at fixed interest rate of 8.25%	218,715	218,715
FMC Finance III S.A. borrowings, net of discounts at a fixed rate of 7.019%	494,231	493,344
Fresenius Medical Care North America Holdings Limited Partnership receivables at a rate of LIBOR plus 1%	<u>(322,676)</u>	<u>(311,042)</u>
	403,529	409,715
Less amounts classified as current	<u>(90,702)</u>	<u>(298,239)</u>
Total	<u>\$ 494,231</u>	<u>707,954</u>

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Scheduled maturities of long-term debt and borrowings (receivables) from affiliates are as follows:

2011		\$	17,004
2012			5,393
2013			1,142,223
2014			215,522
2015			—
2016 and thereafter			494,231
Total		\$	<u>1,874,373</u>

**(7) Goodwill and Other Intangible Assets**

At December 31, 2010 and 2009, the carrying value and accumulated amortization of other intangible assets consisted of the following:

	December 31, 2010			December 31, 2009		
	Gross carrying value	Accumulated amortization	Carrying value	Gross carrying value	Accumulated amortization	Carrying value
Amortizable intangible assets:						
Noncompete agreements	\$ 228,663	(163,951)	64,712	195,945	(130,696)	65,249
Acute care agreements	140,190	(130,334)	9,856	133,165	(122,655)	10,510
License and distribution agreements	52,984	(11,033)	41,951	52,984	(6,424)	46,560
Technology	65,536	(17,640)	47,896	65,536	(13,320)	52,216
Other intangibles	92,501	(22,635)	69,866	73,831	(13,116)	60,715
Construction in progress	50,894	—	50,894	58,567	—	58,567
	<u>630,768</u>	<u>(345,593)</u>	<u>285,175</u>	<u>580,028</u>	<u>(286,211)</u>	<u>293,817</u>
Nonamortizable intangible assets:						
Tradename	209,454	—	209,454	209,454	—	209,454
Management contracts	3,163	—	3,163	217,869	—	217,869
	<u>212,617</u>	<u>—</u>	<u>212,617</u>	<u>427,323</u>	<u>—</u>	<u>427,323</u>
Net intangibles	<u>\$ 843,385</u>	<u>(345,593)</u>	<u>497,792</u>	<u>1,007,351</u>	<u>(286,211)</u>	<u>721,140</u>

Amortization expense for amortizable intangible assets for the years ended December 31, 2010, 2009 and 2008 was \$37,200, \$31,790 and \$25,191, respectively. Amortization expense is estimated to be \$40,000 for 2011, \$39,000 for 2012, \$40,000 for 2013, \$41,000 for 2014 and \$42,000 for 2015.

**(a) License and Distribution Agreement**

In July 2008, the Parent Company, entered into two separate and independent license and distribution agreements, one for the United States and one for certain countries in Europe and the Middle East, to market and distribute Galenica's intravenous iron products, such as Venofer® and Ferinject® for dialysis treatment. In North America, the license agreement among FMCH, Luitpold Pharmaceuticals Inc, American Regent, and Vifor (International), Inc. provides FMCH with

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exclusive rights to manufacture and distribute Venofer<sup>®</sup> to freestanding (nonhospital based) U.S. dialysis facilities. In addition, it grants FMCH similar rights for Injectafer<sup>®</sup> (ferric carboxymaltose), a proposed new IV iron medication currently under clinical study in the U.S. The U.S. license agreement has a term of ten years, includes FMCH extension options, and requires payment by FMCH over the ten-year term of aggregate royalties of approximately \$2,000,000 which the Company will expense as incurred (based upon the annual estimated units of sale of the licensed product), subject to certain early termination provisions. In addition to these payments, the Company will pay a total of approximately \$47,000 over a four-year period of which \$6,667, \$6,111 and \$22,000 was paid in 2010, 2009 and 2008, respectively. The Company recorded a liability for the balance. The cost of the agreement and related transaction costs of \$5,947 will be amortized over the 10-year expected useful life (based upon annual estimated units of sale of the licensed product).

**(b) Goodwill**

A change in New York state regulations allowed for the direct ownership of facilities in that state, which had previously been prohibited by state law. Due to this prohibition, the Company had historically used a combination of administrative service contracts, stock option agreements, and asset acquisitions to qualify for consolidation of such facilities under guidance originally issued as Emerging Issues Task Force 97-2, *Application of FASB Statement No. 94 and APB Opinion No. 16 to Physicians Practice Management Entities and Certain Other Entities with Contractual Management Arrangements*, which is now included within FASB Accounting Standards Codification Topic 810-10, *Consolidation: Overall*. In such qualifying transactions, a portion of the purchase price was allocated to identifiable intangible assets with the remainder classified as an "Administrative Services Agreement" intangible asset that was accounted for in the same manner as goodwill and was shown on the consolidated balance sheets at December 31, 2009, under the category Management Contracts within Intangible Assets. With the regulatory approval gained on April 1, 2010, the Company obtained the full ownership of these facilities and reclassified the \$214,706 of Administrative Services Agreement intangible asset to goodwill effective April 1, 2010, to be consistent with other clinic acquisitions where the Company obtained control via legal ownership.

Changes in the reporting unit's carrying amount of goodwill for the years ended December 31, 2010 and 2009 are as follows:

	December 31					
	2010			2009		
	Fresenius Medical Services	Renal Therapy Group	Total	Fresenius Medical Services	Renal Therapy Group	Total
Carrying value as of beginning of year	\$ 5,316,998	1,515,697	6,832,695	5,193,698	1,515,766	6,709,464
Goodwill acquired	118,632	18	118,650	133,348	—	133,348
Other reclassifications	211,228	50	211,278	(10,048)	(69)	(10,117)
Carrying value as of end of year	<u>\$ 5,646,858</u>	<u>1,515,765</u>	<u>7,162,623</u>	<u>5,316,998</u>	<u>1,515,697</u>	<u>6,832,695</u>

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**(8) Special Charge for Legal Matters**

In 2001, the Company recorded a \$258,159 special charge to address legal matters relating to transactions pursuant to the Agreement and Plan of Reorganization dated as of February 4, 1996 by and between W. R. Grace & Co. and Fresenius AG (the Merger), estimated liabilities and legal expenses arising in connection with the W. R. Grace & Co. Chapter 11 proceedings (the Grace Chapter 11 Proceedings) and the cost of resolving pending litigation and other disputes with certain commercial insurers. During the second quarter of 2003, the court supervising the Grace Chapter 11 Proceedings approved a definitive settlement agreement entered into among the Company, the committee representing the asbestos creditors and W. R. Grace & Co. Under the settlement agreement, the Company will pay \$115,000, without interest, upon plan confirmation (see note 18). With the exception of the proposed \$115,000 payment under the Settlement Agreement, all other matters included in the special charge have been resolved.

At December 31, 2010, there is a remaining balance of \$115,828 for the accrual for the special charge for legal matters. During the years ended December 31, 2010 and 2009, \$142 and \$529, respectively, in charges were applied against the accrued special charge for legal matters.

**(9) Income Taxes**

Income before income taxes are as follows:

		<b>Year ended December 31</b>		
		<b>2010</b>	<b>2009</b>	<b>2008</b>
	Domestic	\$ 1,090,111	940,885	879,226
	Foreign	(279)	6,055	8,704
	<b>Total income before income taxes</b>	<b>\$ 1,089,832</b>	<b>946,940</b>	<b>887,930</b>

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The provisions for income taxes are as follows:

	Year ended December 31		
	2010	2009	2008
Current tax expense:			
Federal	\$ 304,737	282,738	198,774
State	57,330	61,319	40,030
Foreign	987	1,494	2,668
Total current	<u>363,054</u>	<u>345,551</u>	<u>241,472</u>
Deferred tax expense (benefit):			
Federal	28,243	12,527	93,816
State	15,043	(3,518)	7,305
Foreign	1,195	854	—
Total deferred tax expense	<u>44,481</u>	<u>9,863</u>	<u>101,121</u>
Total provision	<u>\$ 407,535</u>	<u>355,414</u>	<u>342,593</u>

The provision for income taxes for the years ended December 31, 2010, 2009, and 2008 differed from the amount of income taxes determined by applying the applicable statutory federal income tax rate to pre-tax earnings as a result of the following differences:

	Year ended December 31		
	2010	2009	2008
Statutory federal tax rate	35.0%	35.0%	35.0%
State income taxes, net of federal tax benefit	4.1	4.0	3.8
Provision for tax audit liability	0.7	0.9	0.4
Noncontrolling partnership interests	(2.5)	(2.5)	(1.5)
Gain on sale of interest in clinics	—	—	0.4
Foreign losses and taxes	0.1	—	0.3
Manufacturing deduction	(0.2)	(0.1)	(0.2)
Other	0.2	0.2	0.4
Effective tax rate	<u>37.4%</u>	<u>37.5%</u>	<u>38.6%</u>

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Deferred tax liabilities (assets) are comprised of the following:

	December 31	
	2010	2009
Reserves and other accrued liabilities	\$ (188,555)	(246,319)
Depreciation and amortization	486,898	487,659
Special charge not currently deductible	(44,030)	(44,479)
Derivatives	(23,513)	(50,292)
Pension valuation	(34,681)	(26,305)
Stock based compensation expense	(20,058)	(19,732)
Net deferred tax liabilities	\$ 176,061	100,532

The Company has established valuation allowances for deferred tax assets of \$15,209 and \$11,739 at December 31, 2010 and 2009, respectively.

The net increase (decrease) in the valuation allowance for deferred tax assets was \$3,470, \$(3,030) and \$1,234 for the years ended December 31, 2010, 2009, and 2008, respectively. The changes for all three years relate to activities incurred in foreign jurisdictions.

It is the Company's expectation that it is more likely than not to generate future taxable income to utilize its remaining deferred tax assets.

At December 31, 2010, there is a federal net operating loss carryover of \$23,806 the majority of which will begin to expire in 2020. In addition, there is a Federal Tax Credit of \$1,270 which will begin to expire in 2020. State net operating loss carryovers are \$176,257 with varying expiration dates and foreign net operating losses are \$19,133, the majority of which expire within seven years.

Provision has not been made for additional federal, state, or foreign taxes on \$31,968 of undistributed earnings of foreign subsidiaries. Prior to a decision on the evaluation discussed below, those earnings have been and will continue to be reinvested. The earnings could be subject to additional tax if they were remitted as dividends, if foreign earnings were loaned to the Company or a U.S. affiliate or if the Company should sell its stock in these subsidiaries. The Company estimates that the distribution of these earnings would result in \$11,948 of additional foreign withholding tax and U.S. federal income taxes.

The Company adopted ASC 740, *Income Taxes* (ASC 740), formerly FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109*, as of January 1, 2007. ASC 740 prescribes a two-step approach to the recognition and measurement of all tax positions taken or expected to be taken in a tax return. The enterprise must determine whether it is more-likely than-not that a tax position will be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. If the threshold is met, the tax position is measured at the largest amount of benefit that is greater than 50% likely of being realized upon ultimate settlement and is recognized in the financial statements. The implementation of this interpretation had no impact on the assets and liabilities of the Company.

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The Company filed claims for refunds contesting the Internal Revenue Service's (IRS) disallowance of FMCH's civil settlement payment deductions taken by FMCH in prior year tax returns. As a result of a settlement agreement with the IRS to resolve the Company's appeal of the IRS's disallowance of deductions for the civil settlement payments made to qui tam relators in connection with the resolution of the 2000 U.S. government investigation, the Company received a refund in September 2008 of \$37,000, inclusive of interest. The settlement agreement preserves the right to continue to pursue claims in the U.S. federal courts for refunds of all other disallowed deductions. On December 22, 2008, the Company filed a complaint for a complete refund in the United States District Court for the District of Massachusetts, styled as FMCH v. United States. On June 24, 2010, the court denied FMCH's motion for summary judgment and the litigation is proceeding towards trial. The unrecognized tax benefit relating to these deductions is included in the total unrecognized tax benefit noted below.

The federal tax audit for the years 2002 through 2006 have been completed. The IRS has disallowed all deductions taken during these audit periods related to intercompany mandatorily redeemable preferred shares. The Company has protested the disallowed deductions and will avail itself of all remedies. An adverse determination with respect to the disallowed deductions related to the mandatorily redeemable preferred shares could have a material adverse effect on the results of operations and liquidity. In addition, the IRS proposed other adjustments which have been recognized in the consolidated financial statements.

Fiscal years 2007 and 2008 are currently under audit and 2009 and 2010 are open to audit. There are a number of state audits in progress and various years are open to audit in various states. All expected results have been recognized in the consolidated financial statements.

Upon adoption of ASC 740, the Company had \$77,755 of unrecognized tax benefits including the amounts relating to the tax audit items noted above. The following table shows the reconciliation of the beginning and ending amounts of unrecognized tax benefits:

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Unrecognized tax benefits (net of interest):			
Balance at January 1	\$ 100,928	92,552	80,377
Increases in unrecognized tax benefits prior periods	11,346	26,272	9,797
Decreases in unrecognized tax benefits prior periods	(9,880)	(11,998)	—
Increases in unrecognized tax benefits current periods	1,510	—	4,420
Changes related to settlements with tax authorities	(33,051)	(5,898)	(2,042)
Reductions due to statute of limitations	(128)	—	—
Balance at December 31	<u>\$ 70,725</u>	<u>100,928</u>	<u>92,552</u>

Included in the balance at December 31, 2010 are \$41,907 of unrecognized tax benefits which would affect the effective tax rate if recognized. The Company is currently not in a position to forecast the timing and magnitude of changes in the unrecognized tax benefits.

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During the year ended December 31, 2010, the Company recognized \$8,221 in interest and penalties. The Company has paid \$1,025 in interest and penalties at December 31, 2010.

**(10) Property, Plant and Equipment**

As of December 31, 2010 and 2009, property, plant and equipment consisted of the following:

	<b>December 31</b>	
	<b>2010</b>	<b>2009</b>
Land and improvements	\$ 12,034	11,911
Buildings	181,233	177,866
Capital lease property	363	363
Leasehold improvements	1,039,337	983,654
Equipment and furniture	1,149,540	1,039,334
Construction in progress	156,470	154,488
	2,538,977	2,367,616
Accumulated depreciation and amortization	(1,154,863)	(1,001,607)
Property, plant and equipment, net	\$ 1,384,114	1,366,009

Depreciation expense relating to property, plant and equipment amounted to \$248,281, \$232,192, and \$212,220 for the years ended December 31, 2010, 2009, and 2008, respectively.

Included in property, plant and equipment as of December 31, 2010 and 2009 were \$81,477 and \$59,996, respectively, of peritoneal dialysis cyclor machines which the Company leases to customers with end-stage renal disease on a month-to-month basis. Rental income for the peritoneal dialysis cyclor machines was \$8,202, \$6,715, and \$10,837 for the years ended December 31, 2010, 2009, and 2008, respectively.

**Leases**

The Company leases buildings and machinery and equipment under various lease agreements expiring on dates through 2019. Rental expense for operating leases was \$400,626, \$376,020, and \$347,702 for the years ended December 31, 2010, 2009, and 2008, respectively. Amortization of properties under capital leases amounted to \$2, \$3, and \$9 for the years ended December 31, 2010, 2009, and 2008, respectively.



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Future minimum payments under noncancelable leases (principally for clinics, offices and equipment) for the five years succeeding December 31, 2010 and thereafter are as follows:

	<b>Operating leases</b>	<b>Capital leases</b>	<b>Total</b>
2011	\$ 368,455	471	368,926
2012	331,287	482	331,769
2013	290,572	493	291,065
2014	242,242	504	242,746
2015	202,874	399	203,273
2016 and beyond	679,528	656	680,184
Total minimum payments	\$ 2,114,958	3,005	2,117,963
Less interest and operating costs		742	
Present value of minimum lease payments (\$262 payable in 2011)		\$ 2,263	

Lease agreements frequently include renewal options and require that the Company pay for utilities, taxes, insurance and maintenance expenses. Options to purchase are also included in some lease agreements, particularly capital leases.

**(11) Mandatorily Redeemable Preferred Securities**

FMCAG & KGaA issued Trust Preferred Securities through Fresenius Medical Care Capital Trusts, statutory trusts organized under the laws of the state of Delaware. FMCAG & KGaA owns all of the common securities of these trusts. The sole asset of each trust is a senior subordinated note of FMCAG & KGaA or a wholly owned subsidiary of FMCAG & KGaA. FMCAG & KGaA, Fresenius Medical Care Deutschland GmbH (D-GmbH) and FMCH have guaranteed payment and performance of the senior subordinated notes to the Fresenius Medical Care Capital Trusts. The Trust Preferred Securities are guaranteed by FMCAG & KGaA through series of undertakings by FMCAG & KGaA and FMCH and D-GmbH.

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The table below provides information for the remaining Redeemable Preferred Securities for the periods indicated:

	December 31	
	2010	2009
Mandatorily redeemable preferred securities:		
Series A preferred stock, 100 shares	\$ 665,500	665,500
Series I preferred stock, 1,000 shares	—	245,000
Series J preferred stock, 1,000 shares	—	202,581
	665,500	1,113,081
Mark to market adjustment	—	18,232
Total mandatorily redeemable	665,500	1,131,313
Less amounts classified as current	—	465,813
Long-term mandatorily redeemable	\$ 665,500	665,500

These securities are similar in substance except for the order of preference both as to dividends and liquidation, dissolution or winding-up of the subsidiary. The order of preference among the various series corresponds to the alphabetical order of Series A through Series J. In addition, the holders of the Redeemable Preferred Securities are entitled to receive dividends in an amount of dollars per share that varies from approximately 3% to 5% of the purchase price depending on the Series. The dividends will be declared and paid in cash at least annually. All the Redeemable Preferred Securities have a par value of \$0.01 per share.

Upon liquidation or dissolution or winding up of the issuer of the Redeemable Preferred Securities, the holders of the Redeemable Preferred Securities are entitled to an amount equal to the liquidation preference for each share of stock plus an amount equal to all accrued and unpaid dividends thereon through the date of distribution. The liquidation preference is the sum of the issuance price plus, for each year or portion thereof, an amount equal to one-half of one percent of the issue price, not to exceed 5% of the issue price in the aggregate.

The remaining Redeemable Preferred Securities will be sold back to the Company ranging in periods of three years to six years from their respective date of issuance for a total amount equal to €153,278 (Series J) and U.S. dollars \$910,500 (Series A and I) plus any accrued and unpaid dividends. Series I were offered in May 2004 in the amount of \$97,500 and were increased in the third quarter of 2004 by \$147,500 to a total of \$245,000 and were redeemed in May 2010. Series J were offered in December 2004 in the amount of €138,944 and were increased in the second quarter of 2005 by €14,334 to a total of €153,278 and were redeemed in May 2010. Series A were offered in March 2007 and have a redemption date in March 2013.

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Dividends were recorded and classified as part of interest expense in the consolidated statements of operations in the amounts of \$31,253, \$48,499, and \$53,767, for the years ended December 31, 2010, 2009 and 2008, respectively. During the years ended December 31, 2010, 2009 and 2008, cash dividend payments were made totaling \$40,543, \$50,139 and \$64,308, respectively.

The Company records mark to market adjustments based on fluctuations in currency rates and records the offset to accumulated other comprehensive income.

The holders of the Redeemable Preferred Securities have the same participation rights as the holders of all other classes of capital stock of the issuing subsidiary.

**(12) Pension and Other Post Retirement Benefits**

**(a) *National Medical Care, Inc. Defined Benefit Pension Plan***

The Company has a noncontributory, defined benefit pension plan (NMC plan). Each year the Company contributes at least the minimum required by the Employee Retirement Income Security Act of 1974, as amended. Plan assets consist primarily of publicly traded common stock, fixed income securities and cash equivalents.

During the first quarter of 2002, the Company curtailed its defined benefit and supplemental executive retirement plans. Under the curtailment amendment for substantially all employees eligible to participate in the plan, benefits have been frozen as of the curtailment date and no additional defined benefits for future services will be earned. The Company has retained all employee benefit obligations as of the curtailment date. There was no minimum funding requirement for FMCH for the defined benefit plan in 2010 and 2009. The Company did not contribute any amounts for the years ended December 31, 2010, 2009 and 2008. The Company does not expect to contribute any amounts to plan assets during 2011.

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The following table shows the changes in benefit obligations, the changes in plan assets, and the funded status of the NMC plan:

	<b>Year ended December 31</b>		
	<b>2010</b>	<b>2009</b>	<b>2008</b>
<b>Change in benefit obligation:</b>			
Benefit obligation at beginning of year	\$ 251,147	235,552	209,712
Service cost	1,625	1,445	1,885
Interest cost	15,086	14,000	13,606
Actuarial loss (gain)	11,586	11,711	15,468
Benefits paid	(7,571)	(5,568)	(5,119)
Curtailments	—	(5,993)	—
<b>Benefit obligation at end of year</b>	<b>271,873</b>	<b>251,147</b>	<b>235,552</b>
<b>Change in plan assets:</b>			
Fair value of plan assets at beginning of year	236,633	214,616	228,581
Actual return on plan assets	3,191	29,382	(9,092)
Employer contribution	72	264	246
Settlements	—	(2,061)	—
Benefits paid	(7,571)	(5,568)	(5,119)
<b>Fair value of plan assets at end of year</b>	<b>232,325</b>	<b>236,633</b>	<b>214,616</b>
<b>Funded status at year-end</b>	<b>\$ 39,548</b>	<b>14,514</b>	<b>20,936</b>

The pension liability recognized as of December 31, 2010, is equal to the amount shown as 2010 funded status at end of year in the table above. The funded status of \$39,548 is recorded as noncurrent pension liability in the consolidated balance sheet.

The accumulated benefit obligation for the NMC plan was \$269,212 and \$248,337 at December 31, 2010 and 2009, respectively. The accumulated benefit obligation for the NMC plan with an obligation in excess of plan assets was \$36,887 and \$11,704 at December 31, 2010 and 2009, respectively. The related plan assets had a fair value of \$232,325 and \$236,633 at December 31, 2010 and 2009, respectively.

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The pre-tax changes in the table below for 2010 and 2009 reflect actuarial losses (gains) in other comprehensive income relating to pension liabilities. As of December 31, 2010 there are no cumulative effects of prior service costs included in other comprehensive income.

	<b>Actuarial losses (gains)</b>
Adjustments related to pensions at January 1, 2008	\$ 74,235
Additions	(5,836)
Releases	(5,215)
Adjustments related to pensions at December 31, 2009	63,184
Additions	25,848
Releases	(5,032)
Adjustments related to pensions at December 31, 2010	\$ <u>84,000</u>

The actuarial loss expected to be amortized from other comprehensive income into net periodic pension cost over the next year is \$6,846.

The following weighted average assumptions were utilized in determining benefit obligations as of December 31:

	<b>2010</b>	<b>2009</b>	<b>2008</b>
Discount rate	5.80%	6.00%	6.10%
Rate of compensation increase	4.50	4.50	4.50

The NMC plan net periodic benefit costs are comprised of the following components:

	<b>2010</b>	<b>2009</b>	<b>2008</b>
Components of net periodic benefit cost:			
Service cost	\$ 1,625	1,445	1,885
Interest cost	15,086	14,000	13,606
Expected return on plan assets	(17,453)	(15,767)	(16,931)
Settlement	—	812	—
Amortization of unrealized losses	5,032	4,403	1,713
Net periodic benefit cost	\$ 4,290	4,893	273

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The discount rates for all plans are derived from an analysis and comparison of yields of portfolios of equity and highly rated debt instruments with maturities that mirror the plan's benefit obligation. The Company's discount rate is the weighted average of these plans based upon their benefit obligations at December 31, 2010. The following weighted average assumptions were used in determining net periodic benefit cost for the years ended December 31:

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Discount rate	6.00%	6.50%	6.50%
Expected return on plan assets	7.50	7.50	7.50
Rate of compensation increase	4.50	4.50	4.50

Expected benefit payments for the NMC plan for the next five years and in the aggregate for the five years thereafter are as follows:

2011	\$	8,869
2012		9,925
2013		10,528
2014		11,461
2015		12,569
2016 through 2020		79,362

**(b) Everest Employees' Retirement Plan and Trust**

The Company's Everest employees participated in the Everest Employees Retirement Plan (Everest Plan), a noncontributory defined benefit pension plan. The defined benefit plan covered all the employees of Everest and a related party with common ownership, Nephrology Associates of Northern Illinois, Ltd (NANI), who met certain eligibility requirements. Retirement benefit payments were based on years of credited service and average compensation over the final five years of employment. The funding policy was to contribute annually amounts, which were deductible for federal income tax purposes. Effective May 16, 1996, all participant plan benefits in the defined benefit plans were frozen. Everest and NANI ceased funding the defined benefit plans as of May 16, 1996 and no additional years of benefit service were accrued by plan participants subsequent to that date.

Effective December 31, 2009, the Everest Plan was merged into the NMC Plan.

**(c) Supplemental Executive Retirement Plan**

The Company's supplemental executive retirement plan provides certain key executives with benefits in excess of normal pension benefits. This plan was also curtailed during the first quarter 2002. The projected benefit obligation was \$10,919 and \$10,135 at December 31, 2010 and 2009, respectively. Pension expense for this plan, for the years ended December 31, 2010, 2009 and 2008 was \$876, \$765, and \$774, respectively. The Company has recorded \$3,604 and \$3,168 to accumulated other comprehensive income to recognize the additional liability for this plan at

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December 31, 2010 and 2009, respectively. The Company contributed \$528 and \$494 to this plan during 2010 and 2009, respectively. Expected funding for 2011 is \$661.

The pension liability recognized as of December 31, 2010 of \$10,919, includes a current portion of \$642 which is recognized as a current liability in the line item "accrued liabilities" within the consolidated balance sheets. The noncurrent portion of \$10,277 is recorded as noncurrent pension liability in "other liabilities" within the consolidated balance sheet.

The Company does not provide any post retirement benefits to its employees other than those provided under its pension plan and supplemental executive retirement plan.

**(d) Plan Assets**

The following table presents the fair values of the Company's pension plan assets at December 31, 2010:

	Fair value measurements at December 31, 2010			Fair value measurements at December 31, 2009		
	Total	Quoted prices in active markets for identical assets (Level 1)	Significant observable Inputs (Level 2)	Total	Quoted prices in active markets for identical assets (Level 1)	Significant observable Inputs (Level 2)
Asset category:						
Equity investments:						
Common stocks	\$ 2,565	2,565	—	\$ 5,904	5,904	—
Index Funds <sup>1</sup>	65,621	—	65,621	71,406	—	71,406
Fixed income investments:						
Government Securities <sup>2</sup>	4,479	1,967	2,512	3,655	394	3,261
Corporate Bonds <sup>3</sup>	152,564	—	152,564	149,367	—	149,367
Other Bonds <sup>4</sup>	2,442	—	2,442	163	—	163
U.S. Treasury Money Market Funds <sup>5</sup>	4,232	4,232	—	5,776	5,776	—
Other types of investments: Cash, Money Market and Mutual Funds <sup>6</sup>	422	422	—	362	362	—
Total	\$ 232,325	9,186	223,139	\$ 236,633	12,436	224,197

<sup>1</sup> This Category comprises low-cost equity index funds not actively managed that track the S&P 500, S&P 400, Russell 2000, MSCI EAFE Index, MSCI Emerging Markets Index for both 2010 and 2009 and the Barclays Capital Long Corporate Index in 2009.

<sup>2</sup> This Category comprises fixed income investments by the U.S. government and government sponsored entities.

<sup>3</sup> This Category represents investment grade bonds of U.S issuers from diverse industries.

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- <sup>4</sup> This Category comprises private placement bonds as well as collateralized mortgage obligations.
- <sup>5</sup> This Category represents funds that invest in treasury obligations directly or in treasury-backed obligations.
- <sup>6</sup> This Category represents cash, money market funds as well as mutual funds comprised of high grade corporate bonds.

The methods and inputs used to measure the fair value of plan assets are as follows:

Common stocks and index funds are valued at their market prices as of the balance sheet date.

Index funds are valued based on market quotes.

The majority of the fair values of the government bonds are measured based on market quotes. The remaining government bonds are valued at their market prices.

Corporate bonds and other bonds are valued based on market quotes as of the balance sheet date.

Cash is stated at nominal value which equals the fair value.

U.S. Treasury money market funds as well as other money market and mutual funds are valued at their market price.

*(e) Plan Investment Policy and Strategy*

The Company periodically reviews the assumption for long-term expected return on pension plan assets. As part of the assumptions review, independent consulting actuaries determine a range of reasonable expected investment returns for the pension plan as a whole based on their analysis of expected future returns for each asset class weighted by the allocation of the assets. The range of returns developed relies both on forecasts, which include the actuarial firm's expected long-term rates of return for each significant asset class or economic indicator, and on broad-market historical benchmarks for expected return, correlation, and volatility for each asset class. As a result, the Company's expected rate of return on pension plan assets was 7.50% for 2010, 2009 and 2008.

The Company's overall investment strategy is to achieve a mix of approximately 98% of investments for long-term growth and 2% for near-term benefit payments with a wide diversification of asset types, fund strategies and fund managers.

The investment policy, utilizing a revised target investment allocation of 35% equity and 65% long-term U.S. bonds, considers that there will be a time horizon for invested funds of more than 5 years. The total portfolio will be measured against a policy index that reflects the asset class benchmarks and the target asset allocation. The Plan policy does not allow investments in securities of the Company or other related-party securities. The performance benchmarks for the separate asset classes include: S&P 500 Index, S&P 400 Index, Russell 2000 Growth Index, MSCI EAFE Index,



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MSCI Emerging Markets Index, Barclays Capital Long Term Government Index and Barclays Capital 20 Year U.S. Treasury Strip Index.

**(f) Defined Contribution Plans**

Most of the Company's employees are eligible to join a 401(k) savings plan. Employees can deposit up to 75% of their pay up to a maximum of \$16.5 if under 50 years old (\$22.0 if 50 or over) under this savings plan. The Company will match 50% of the employee deposit up to a maximum Company contribution of 3% of the employee's pay. The Company's total expense under this defined contribution plan for the years ended December 31, 2010, 2009 and 2008 was \$31,583, \$28,567, and \$26,096, respectively.

**(13) Noncontrolling Interests Subject to Put Provisions**

The Company has potential obligations to purchase the noncontrolling interests held by third parties in certain of its consolidated subsidiaries. These obligations are in the form of put provisions and are exercisable at the third-party owners' discretion within specified periods as outlined in each specific put provision. If these put provisions were exercised, the Company would be required to purchase all or part of third-party owners' noncontrolling interests at the appraised fair value. The methodology the Company uses to estimate the fair values of the noncontrolling interest subject to put provisions assumes the greater of net book value or a multiple of earnings, based on historical earnings, development stage of the underlying business and other factors. The estimated fair values of the noncontrolling interests subject to these put provisions can also fluctuate and the implicit multiple of earnings at which these noncontrolling interest obligations may ultimately be settled could vary significantly from the current estimates depending upon market conditions.

As of December 31, 2010 and 2009 the Company's potential obligations under these put options are \$273,022 and \$231,303, respectively, of which, at December 31, 2010, \$88,471 were exercisable. In the last three fiscal years ending December 31, 2010, three puts have been exercised for a total consideration of \$6,535.

During 2008, the Company received cash contributions from holders of noncontrolling interests in the amount of \$17,174. This amount was recorded in net cash provided by operating activities in the cash flow statement.

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Following is a rollforward of noncontrolling interests subject to put provisions for the years ended December 31:

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Beginning balance	\$ 231,303	162,166	116,539
Dividend paid	(38,964)	(16,930)	(14,494)
Purchase/sale of noncontrolling interests	22,333	12,548	9,148
Contributions from noncontrolling interests	5,289	5,108	13,069
Changes in fair value of noncontrolling interests	24,223	39,816	24,258
Net income	28,838	28,595	13,646
Ending balance	<u>\$ 273,022</u>	<u>231,303</u>	<u>162,166</u>

**(14) Equity**

**(a) Preferred Stock \$1.00 Par Value**

During 2006, the Company issued to Fresenius Medical Care North America Holdings Limited Partnership (DLP), 5,000,000 shares at \$1.00 par value of Series C Preferred Stock. The Company received proceeds of \$1,250,000. Simultaneously to the issuance of the securities the Company entered into a conditional forward sale contract on the shares with DLP (see note 16 (d)). At December 31, 2009, the securities were marked to market at the Euro spot rate, increasing the fair value of the shares to \$1,487,731 with the change in fair value (\$50,500) recognized in earnings. At December 31, 2010, the securities were marked to market at the Euro spot rate, decreasing the fair value of the shares to \$1,379,916 with the change in fair value (\$107,815) recognized in earnings.

At December 31, 2010 and 2009, the components of the Company's preferred stocks as presented in the consolidated balance sheets consisted of the following:

	<u>December 31</u>	
	<u>2010</u>	<u>2009</u>
Preferred stock \$1.00 par value cumulative class C; 5,000,000 shares authorized and outstanding	\$ 1,379,916	1,487,731
Total preferred stock	<u>\$ 1,379,916</u>	<u>1,487,731</u>

**(b) Stock Options**

In connection with its stock option program, the Company incurred compensation expense of \$20,330, \$24,688, and \$23,212 for the years ended December 31, 2010, 2009, and 2008, respectively. There were no capitalized compensation costs in any of the three years presented. The Company also recorded a related deferred income tax of \$8,020, \$9,740, and \$9,158 for the years ended December 31, 2010, 2009, and 2008, respectively.

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In 1996, FMCAG adopted a stock incentive plan (the FMCAG Plan) under which the Parent Company and the Company's key management and executive employees are eligible. Under the FMCAG Plan, eligible employees will have the right to acquire preference shares of FMCAG. Options granted under the FMCAG Plan will be evidenced by a nontransferable convertible bond and corresponding nonrecourse loan to the employee, secured solely by the bond with which it was made. The bonds mature in ten years and are generally fully convertible after three to five years. Each convertible bond, which is deutsche mark (DM) denominated, entitles the holder thereof to convert the bond in preference shares equal to the face amount of the bond divided by the preference share's nominal value.

During 1998, FMCAG adopted a new stock incentive plan (FMCAG 98 Plan) under which the Parent Company and the Company's key management and executive employees are eligible. Under the FMCAG 98 Plan, eligible employees will have the right to acquire Preference Shares of FMCAG. Options granted under the FMCAG 98 Plan will be evidenced by a nontransferable convertible bond and a corresponding nonrecourse loan to the employee, secured solely by the bond with which it was made. Each convertible bond, which is DM denominated, will entitle the holder thereof to convert the bond in Preference Shares equal to the face amount of the bond divided by the preference share's nominal value. Effective September 2001, no additional grants or options will be awarded under the FMCAG 98 Plan.

On May 23, 2001, by resolution of the FMCAG shareholders, the FMCAG 98 Plan was replaced by a new plan (FMCAG International Plan). Under the FMCAG International Plan, options in the form of convertible bonds with a principal of up to 10,240 euros were issued to the members of the FMCAG Management Board and other employees of the Company representing grants for up to 4 million nonvoting preference shares. The convertible bonds originally had a par value of 2.56 euros and bear interest at a rate of 5.5%. In connection with the share split effected in 2007, the principal amount was adjusted in the same proportion as the share capital out of the capital increase and the par value of the convertible bonds was adjusted to 0.85 euros without affecting the interest rate. Except for the members of the FMCAG Management Board, eligible employees may purchase the bonds by issuing a nonrecourse note with terms corresponding to the terms of and secured by the bond. The Parent Company has the right to offset its obligation on a bond against the employee's obligation on the related note; therefore, the convertible bond obligations and employee note receivables represent stock options issued by the Parent Company and are not reflected in the Parent Company's consolidated financial statements. The options expire ten years from issuance and can be exercised beginning two, three or four years after issuance.

Upon issuance of the option, the employees had the right to choose options with or without a stock price target. The conversion price of options subject to a stock price target corresponds to the stock exchange quoted price of the preference shares upon the first time the stock exchange quoted price exceeds the initial value by at least 25%. The initial value (Initial Value) is the average price of the preference shares during the last 30 trading days prior to the date of grant. In the case of options not subject to a stock price target, the number of convertible bonds awarded to the eligible employee would be 15% less than if the employee elected options subject to the stock price target. The conversion price of the options without a stock price target is the Initial Value. Each option entitles the holder thereof, upon payment of the respective conversion price, to acquire one preference share.

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Effective May 2006, no further grants can be issued under the FMCAG International Plan and no options were granted under the FMCAG International Plan after 2005.

On May 9, 2006 as amended on May 15, 2007 the FMCAG & KGaA Stock Option Plan 2006 (the 2006 Amended Plan) was established by resolution of the FMCAG & KGaA annual general meeting with a conditional capital increase up to 15,000 euros subject to the issue of up to fifteen million no par value bearer ordinary shares with a nominal value of 1.00 euros each. Under the 2006 Amended Plan, up to 15 million options can be issued to members of the management board and to other employees of FMCAG and the Company.

Options under the 2006 Amended Plan can be granted the last Monday in July and/or the first Monday in December. The exercise price of the options granted under the 2006 Amended Plan shall be the average closing price on the Frankfurt Stock Exchange of FMCAG & KGaA ordinary shares during the 30 calendar days immediately prior to each grant date. Options granted under the 2006 Amended Plan have a seven-year term but can be exercised only after a three-year vesting period. The vesting of options granted is subject to satisfaction of performance targets measured over a three-year period from the grant date. The performance targets for 2010, 2009 and 2008 were met. Vesting of a portion or portions of a grant for a year in which the performance target is met does not occur until completion of the entire three-year vesting period. Upon the exercise of vested options, FMCAG & KGaA has the right to issue ordinary shares it owns or that it purchases on the market in place of increasing capital by the issuance of new shares.

Options granted under the 2006 Amended Plan to U.S. participants are nonqualified stock options under the United States Internal Revenue Code of 1986, as amended. Options under the 2006 Amended Plan are not transferable by a participant or a participant's heirs, and may not be pledged, assigned, or otherwise disposed of.

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The table below provides reconciliations for options outstanding at December 31, 2010, as compared to December 31, 2009.

	<u>Options</u> (In thousands)	<u>Weighted average exercise price</u>
Ordinary shares:		
Balance at December 31, 2009	7,550	\$ 42.17
Granted	1,995	57.07
Exercised	1,764	39.16
Forfeited	15	36.87
Balance at December 31, 2010	<u>7,766</u>	46.69
Preference shares:		
Balance at December 31, 2009	136	24.57
Exercised	62	25.01
Forfeited	15	18.65
Balance at December 31, 2010	<u>59</u>	25.65

The following table provides a summary of fully vested options outstanding and exercisable for both preference and ordinary shares at December 31, 2010:

<u>Fully vested outstanding and exercisable options</u>				
<u>Number of options</u> (In thousands)	<u>Weighted average remaining contractual life in years</u>	<u>Weighted average exercise price</u>	<u>Aggregate intrinsic value</u>	
Options for preference shares	59	3.38	\$ 25.65	1,255
Options for ordinary shares	2,171	3.56	37.32	44,380

At December 31, 2010, there is \$31,452 of total unrecognized compensation costs related to Nonvested options granted under all plans. These costs are expected to be recognized over a weighted average period of 1.6 years.

During the years ended December 31, 2010, 2009, and 2008, the Parent Company received cash of \$70,638, \$49,730, and \$26,135, respectively, from the exercise of stock options. The intrinsic value of options exercised for the years ended December 31, 2010, 2009, and 2008, were \$33,746, \$20,640, and \$18,468, respectively. The Company recorded a related tax benefit of \$13,313, \$8,123, and \$7,285 for the years ended December 31, 2010, 2009, and 2008, respectively.

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**(c) Fair Value Information**

The Parent Company used a binomial option-pricing model in determining the fair value of the awards under the 2006 Plan. Option valuation models require the input of highly subjective assumptions including expected stock price volatility. The Parent Company's assumptions are based upon its past experiences, market trends and the experiences of other entities of the same size and in similar industries. Expected volatility is based on historical volatility of the Parent Company's shares. To incorporate the effects of expected early exercise in the model, an early exercise of vested options was assumed as soon as the share price exceeds 155% of the exercise price. The Parent Company's stock options have characteristics that vary significantly from traded options and changes in subjective assumptions can materially affect the fair value of the option. The assumptions used to determine the fair value of the 2010, 2009 and 2008 grants are as follows:

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Expected dividend yield	1.98%	2.39%	1.85%
Risk-free interest rate	2.28	3.11	4.38
Expected volatility	22.92	25.85	25.58
Expected life of options	7 years	7 years	7 years
Weighted average exercise price	\$ 57.07	46.22	49.38

**(15) Financial Instruments**

As a supplier of dialysis services and products, the Company is faced with a concentration of credit risks due to the nature of the reimbursement system which are often provided by the governments of the jurisdictions in which the Company operates. Changes in reimbursement rates or scope of coverage could have a material adverse effect on the Company's business, financial condition and results of operations and thus on its capacity to generate cash flow. In the past the Company experienced and also expects in the future generally stable reimbursements for its dialysis services. This includes the balancing of favorable and unfavorable reimbursement changes. Due to the fact that a large portion of the Company's reimbursement is provided by public healthcare organizations and private insurers, the Company expects that most of its accounts receivables will be collectable.

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***Nonderivative Financial Instruments***

The following table presents the carrying amounts and fair values of the Company's nonderivative financial instruments at December 31, 2010 and 2009:

	2010		2009	
	Carrying amount	Fair value	Carrying amount	Fair value
Nonderivatives:				
Assets:				
Cash and cash equivalents	\$ 163,292	163,292	153,303	153,303
Receivables	1,176,849	1,176,849	1,067,621	1,067,621
Receivables from affiliates	322,676	322,676	311,042	311,042
Liabilities:				
Accounts payable	\$ 267,570	267,570	276,509	276,509
Short-term borrowings	546,612	546,612	230,144	230,144
Long-term debt and capital lease obligations	1,473,106	1,473,106	1,740,189	1,740,189
Mandatorily redeemable preferred securities	665,500	665,500	1,131,313	1,131,313
Borrowings from affiliates	726,205	726,205	720,757	720,757

The carrying amounts in the table are included in the consolidated balance sheets under the indicated captions, except derivatives, which are included in other assets or other liabilities.

The significant methods and assumptions used in estimating the fair values of financial instruments are as follows:

Cash and cash equivalents are stated at nominal value which equals the fair value.

Short-term financial instruments like accounts receivable and payable and short-term borrowings are valued at their carrying amounts, which are reasonable estimates of the fair value due to the relatively short period to maturity of these instruments.

The fair value of mandatorily redeemable preferred securities and borrowings from affiliates are based on market prices and quotes as of the balance sheet date. The fair values of other long-term financial liabilities, for which market quotes are not available, are calculated at the present value of the respective future cash flows. To determine these present values, the prevailing interest rates and credit spreads for the Company as of the balance sheet date are used.

**(16) Derivative Financial Instruments**

The Company is exposed to market risk from changes in interest rates and foreign exchange rates. In order to manage the risk of interest rate and currency exchange rate fluctuations, the Company enters into various hedging transactions with highly rated financial institutions as authorized by the Parent Company.

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On a quarterly basis an assessment of the Company counterparty credit risk is performed, which the Company considers to be low. The Company does not use financial instruments for trading purposes.

The Company established guidelines for risk assessment procedures and controls for the use of financial instruments. They include a clear segregation of duties with regard to execution on one side and administration, accounting and controlling on the other.

**(a) Foreign Currency Contracts**

The Company uses foreign exchange contracts as a hedge against foreign exchange risks associated with the settlement of foreign currency denominated payables and firm commitments. At December 31, 2010 and 2009, the Company had outstanding foreign currency contracts for the purchase of Euros (EUR) totaling 53,783 and 219,403, respectively, contracts for the purchase of 225,860 and 114,242 Mexican pesos, respectively, and contracts for the sale of 12,856 and 32,493 Canadian dollars, respectively. The contracts outstanding at December 31, 2010 include forward contracts for purchase of EUR at rates ranging from \$1.281 to \$1.417 per EUR, forward contracts for the purchase of Mexican Pesos at rates ranging from 11.695 to 13.522 per U.S. dollar, and outright sale contracts for Canadian dollars at rates ranging from \$0.895 to \$0.958 per Canadian dollar. All contracts are for periods between January 2011 and May 2011.

The fair value of currency contracts are the estimated amounts that the Company would receive or pay to terminate the agreements at the reporting date, taking into account the current exchange rates and the current creditworthiness of the counterparties in addition to the Company's own nonperformance risk. At December 31, 2010, the Company would have received approximately \$715 to terminate these contracts and at December 31, 2009, the Company would have received approximately \$8,564 to terminate these contracts.

**(b) Interest Rate Agreements**

The Company enters into derivatives, particularly interest rate swaps to hedge interest exposures arising from long-term debt at floating rates by effectively swapping them into fixed rates.

At December 31, 2010, the Company had interest rate swaps outstanding with various commercial banks for notional amounts totaling \$900,000. All of these agreements were solely entered into for interest rate hedging purposes.

For a notional amount of \$900,000, the interest rate swaps effectively change the Company's interest rate exposure on its variable-rate loans under the FMCH Credit Agreement (drawn as of December 31, 2010: \$85,000 Loan A and \$1,292,764 Loan B) to fixed rates of interest approximating 4.66%.

The fair value of the interest rate swaps and options is the estimated amount that the Company would receive or pay to terminate the agreements at the reporting date, taking into account the current exchange rates and the current creditworthiness of the counterparties in addition to the Company's own nonperformance risk. The fair value of these agreements at December 31, 2010 and 2009 would generate a negative cash flow of \$61,582 and \$118,630, respectively. These estimates are subjective



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in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision. Changes in assumptions significantly affect the estimates.

**(c) Credit Risk**

The Company is exposed to credit risk to the extent of potential nonperformance by counterparties on financial instruments. As of December 31, 2010, the Company's credit exposure was insignificant and limited to the fair value stated above; the Company believes the risk of incurring losses due to credit risk is remote. Also, the Company does not require collateral or other security to support financial instruments subject to credit risk. The Company's standard contracts do not contain credit-risk-related contingent features whereby the Company would be required to post cash collateral as a result of a credit event.

**(d) Forward Sale and Currency Exchange Agreements**

The Company entered into a conditional forward sale agreement related to preference shares (Preferred Stock) issued to DLP. The conditional aspects of the contract are not certain to occur and are related to dissolution or reorganization of DLP. However, if the conditions were to occur, the forward sale agreement requires that the Company redeem the securities at the same Euro value that was used to acquire the shares when initially issued plus any accumulated and declared but unpaid dividends at the spot rate in effect on the settlement date. At year-end, the securities were marked to market at the Euro spot rate. Changes in fair value are recognized in earnings.

The Company also entered into a currency exchange agreement with DLP. The notional principal amount of the currency exchange agreement is \$1,250,000 and a Euro amount with equal market value applying the market foreign exchange rate at the time the exchange agreement was entered into. The currency exchange agreement requires that at each periodic settlement date, DLP is obligated to pay to FMCH, Euro interest on the Euro equivalent of \$1.25 billion. Conversely, at the periodic settlement date, FMCH is obligated to pay DLP, the interest on \$1.25 billion in U.S. dollars.

Upon maturity (March 31, 2013) or execution of the currency exchange agreement, DLP is obligated to pay to FMCH, the Euro equivalent of \$1.25 billion converted at the spot rate and FMCH will pay to DLP the final settlement amount of \$1.25 billion (plus any outstanding period interest payments).

This instrument is reflected in other assets and deferred charges within the consolidated balance sheets at fair value as a derivative asset at the reporting date with changes in fair value recognized in earnings. At December 31, 2010 and 2009, the fair value of the derivative asset was \$130 million and \$235 million, respectively.

**FRESENIUS MEDICAL CARE HOLDINGS, INC.  
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The following table shows the Company's derivatives at December 31, 2010 and 2009:

	<u>2010</u>		<u>2009</u>	
	<u>Assets (2)</u>	<u>Liabilities (2)</u>	<u>Assets (2)</u>	<u>Liabilities (2)</u>
Derivatives in cash flow hedging relationships (1):				
Current:				
Foreign currency contracts	\$ 2,256	(2,167)	12,104	(3,238)
Dollar interest rate hedges	—	(1,372)	—	(345)
Noncurrent:				
Foreign currency contracts	130,533	(49)	235,141	(222)
Dollar interest rate hedges	—	(60,211)	—	(118,285)
Total	<u>\$ 132,789</u>	<u>(63,799)</u>	<u>247,245</u>	<u>(122,090)</u>

- (1) As of December 31, 2010 and 2009, the valuation of the Company's derivatives was determined using Significant Other Observable inputs (Level 2) in accordance with the fair value hierarchy levels established in the Codification.
- (2) Derivative instruments are marked to market each reporting period resulting in carrying amounts being equal to fair values at each reporting date.

The carrying amounts for the current portion of derivatives indicated as assets in the table above are included in other current assets in the consolidated balance sheets while the current portion of those indicated as liabilities are included in other current liabilities. The noncurrent portions indicated as assets or liabilities are included in the consolidated balance sheets in other assets or other liabilities, respectively.

The significant methods and assumptions used in estimating the fair values of derivative financial instruments are as follows:

The fair value of interest rate swaps is calculated by discounting the future cash flows on the basis of the market interest rates applicable for the remaining term of the contract as of the balance sheet date. To determine the fair value of foreign exchange forward contracts, the contracted forward rate is compared to the current forward rate for the remaining term of the contract as of the balance sheet date. The result is then discounted on the basis of the market interest rates prevailing at the balance sheet date for the applicable currency.

The Company includes its own credit risk when measuring the fair value of derivative financial instruments.

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**The Effect of Derivatives on the Consolidated Financial Statements**

	Amount of gain (loss) recognized in OCI on derivatives (effective portion) December 31		Location of gain (loss) reclassified from OCI in income (effective portion)	Amount of gain (loss) reclassified from OCI in income (effective portion) for the twelve months ended December 31	
	2010	2009		2010	2009
	Dollar interest rate hedges	\$ (41,077)		(41,837)	Interest income/expense
Foreign currency contracts	(11,849)	9,118	General and administrative expenses	18,232	(7,495)
			Cost of medical supplies	4,536	3,406
	<u>\$ (52,926)</u>	<u>(32,719)</u>		<u>\$ 120,892</u>	<u>87,675</u>

The Company expects to recognize \$55,000 of losses deferred in accumulated other comprehensive income at December 31, 2010, in earnings during the next twelve months.

As of December 31, 2010, the Company had foreign currency contracts with maturities of up to 5 months and dollar interest rate hedges with maturities of up to 15 months.

**(17) Related-Party Transactions**

**(a) Services**

Related-party transactions pertaining to services performed and products purchased/sold between affiliates are recorded as net accounts payable to affiliates on the consolidated balance sheets. At December 31, 2010 and 2009, the Company had net accounts payable of \$43,669 and \$90,658, respectively.

**(b) Borrowings with Affiliates**

The Company has various outstanding borrowings with FMCH and affiliates. The funds were used for general corporate purposes. The loans are due at various maturities. See notes 6(c) and 11.

**(18) Legal Proceedings**

**(a) Commercial Litigation**

The Company was originally formed as a result of a series of transactions it completed pursuant to the Agreement and Plan of Reorganization dated as of February 4, 1996, by and between W.R. Grace & Co. and Fresenius SE (the Merger). At the time of the Merger, a W.R. Grace & Co. subsidiary known as W.R. Grace & Co.-Conn. had, and continues to have, significant liabilities arising out of product-liability related litigation (including asbestos-related actions), pre-Merger tax claims and other claims unrelated to National Medical Care, Inc. (NMC), which was W.R. Grace & Co.'s dialysis business prior to the Merger. In connection with the Merger, W.R. Grace & Co.-Conn. agreed to indemnify the Company, FMCH, and NMC against all liabilities of W.R. Grace & Co., whether relating to events occurring before or after the Merger, other than liabilities arising from or relating to NMC's operations. W.R. Grace & Co. and certain of its subsidiaries filed for

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reorganization under Chapter 11 of the U.S. Bankruptcy Code (the Grace Chapter 11 Proceedings) on April 2, 2001.

Prior to and after the commencement of the Grace Chapter 11 Proceedings, class action complaints were filed against W.R. Grace & Co. and FMCH by plaintiffs claiming to be creditors of W.R. Grace & Co.-Conn., and by the asbestos creditors' committees on behalf of the W.R. Grace & Co. bankruptcy estate in the Grace Chapter 11 Proceedings, alleging among other things that the Merger was a fraudulent conveyance, violated the uniform fraudulent transfer act and constituted a conspiracy. All such cases have been stayed and transferred to or are pending before the U.S. District Court as part of the Grace Chapter 11 Proceedings.

In 2003, the Company reached agreement with the asbestos creditors' committees on behalf of the W.R. Grace & Co. bankruptcy estate and W.R. Grace & Co. in the matters pending in the Grace Chapter 11 Proceedings for the settlement of all fraudulent conveyance and tax claims against it and other claims related to the Company that arise out of the bankruptcy of W.R. Grace & Co. Under the terms of the settlement agreement as amended (the Settlement Agreement), fraudulent conveyance and other claims raised on behalf of asbestos claimants will be dismissed with prejudice and the Company will receive protection against existing and potential future W.R. Grace & Co. related claims, including fraudulent conveyance and asbestos claims, and indemnification against income tax claims related to the non-NMC members of the W.R. Grace & Co. consolidated tax group upon confirmation of a W.R. Grace & Co. bankruptcy reorganization plan that contains such provisions. Under the Settlement Agreement, the Company will pay a total of \$115,000 without interest to the W.R. Grace & Co. bankruptcy estate, or as otherwise directed by the Court, upon plan confirmation. No admission of liability has been or will be made. The Settlement Agreement has been approved by the U.S. District Court. On January 31, 2011, the U.S. Bankruptcy Court approved W.R. Grace & Co.'s plan of reorganization, including the Settlement Agreement, and recommended approval of the plan to the U.S. District Court. Subsequent to the Merger, W.R. Grace & Co. was involved in a multi-step transaction involving Sealed Air Corporation (Sealed Air, formerly known as Grace Holding, Inc.). The Company is engaged in litigation with Sealed Air to confirm its entitlement to indemnification from Sealed Air for all losses and expenses incurred by the Company relating to pre-Merger tax liabilities and Merger-related claims. Under the Settlement Agreement, upon final confirmation of a plan of reorganization that satisfies the conditions of the Company's payment obligation, this litigation will be dismissed with prejudice.

On April 4, 2003, FMCH filed a suit in the U. S. District Court for the Northern District of California, styled Fresenius USA, Inc., et al., v. Baxter International Inc., et al., Case No. C 03-1431, seeking a declaratory judgment that FMCH does not infringe patents held by Baxter International Inc. and its subsidiaries and affiliates (Baxter), that the patents are invalid, and that Baxter is without right or authority to threaten or maintain suit against FMCH for alleged infringement of Baxter's patents. In general, the asserted patents concern the use of touch screen interfaces for hemodialysis machines. Baxter filed counterclaims against FMCH seeking more than \$140,000 in monetary damages and injunctive relief, and alleging that FMCH willfully infringed on Baxter's patents. On July 17, 2006, the court entered judgment on a jury verdict in favor of FMCH finding that all the asserted claims of the Baxter patents are invalid as obvious and/or anticipated in light of prior art.

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On February 13, 2007, the court granted Baxter's motion to set aside the jury's verdict in favor of FMCH and reinstated the patents and entered judgment of infringement. Following a trial on damages, the court entered judgment on November 6, 2007 in favor of Baxter on a jury award of \$14,300. On April 4, 2008, the court denied Baxter's motion for a new trial, established a royalty payable to Baxter of 10% of the sales price for continuing sales of FMCH's 2008K hemodialysis machines and 7% of the sales price of related disposables, parts and service beginning November 7, 2007, and enjoined sales of the touchscreen-equipped 2008K machine effective January 1, 2009. The Company appealed the court's rulings to the United States Court of Appeals for the Federal Circuit (Federal Circuit). In October 2008, the Company completed design modifications to the 2008K machine that eliminate any incremental hemodialysis machine royalty payment exposure under the original District Court order. On September 10, 2009, the Federal Circuit reversed the district court's decision and determined that the asserted claims in two of the three patents at issue are invalid. As to the third patent, the Federal Circuit affirmed the district court's decision; however, the Court also vacated the injunction and award of damages. These issues were remanded to the District Court for reconsideration in light of the invalidity ruling on most of the claims. As a result, FMCH is no longer required to fund the court-approved escrow account set up to hold the royalty payments ordered by the district court, although funds already contributed will remain in escrow until the case is finally concluded. On March 18, 2010, the U.S. Patent and Trademark Office (USPTO) and the Board of Patent Appeals and Interferences ruled in reexamination that the remaining Baxter patent is invalid. On October 5, 2010, Baxter appealed the Board's ruling to the Federal Circuit.

On April 28, 2008, Baxter filed suit in the U.S. District Court for the Northern District of Illinois, Eastern Division (Chicago), styled Baxter International, Inc. and Baxter Healthcare Corporation v. Fresenius Medical Care Holdings, Inc. and Fresenius USA, Inc., Case No. CV 2389, asserting that FMCH's hemodialysis machines infringe four patents issued in 2007 and 2008, all of which are based on one of the patents at issue in the April 2003 Baxter case described above. The new patents expire in April 2011 and relate to trend charts shown on touch screen interfaces and the entry of ultrafiltration profiles (ultrafiltration is the removing of liquid from a patient's body using osmotic pressure). This case is currently stayed pursuant to court order. The Company believes that its hemodialysis machines do not infringe any valid claims of the Baxter patents at issue. All the asserted patents now stand rejected in an ongoing reexamination at the USPTO.

On October 17, 2006, Baxter and DEKA Products Limited Partnership (DEKA) filed suit in the U.S. District Court for the Eastern District of Texas which was subsequently transferred to the Northern District of California, styled Baxter Healthcare Corporation and DEKA Products Limited Partnership v. Fresenius Medical Care Holdings, Inc. d/b/a Fresenius Medical Care North America and Fresenius USA, Inc., Case No. CV 438 TJW. The complaint alleged that FMCH's Liberty™ cyclor infringes nine patents owned by or licensed to Baxter. During and after discovery, seven of the asserted patents were dropped from the suit. On July 28, 2010, at the conclusion of the trial, the jury returned a verdict in favor of FMCH finding that the Liberty™ cyclor does not infringe any of the asserted claims of the Baxter patents. Baxter has asked the District Court to overturn the jury verdict.

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**(b) Other Litigation and Potential Exposures**

Renal Care Group, Inc. (RCG) is named as a nominal defendant in a complaint originally filed September 13, 2006 in the Chancery Court for the State of Tennessee Twentieth Judicial District at Nashville styled Indiana State District Council of Laborers and Hod Carriers Pension Fund v. Gary Brukardt et al. Following the trial court's dismissal of the complaint, plaintiff's appeal in part, and reversal in part by the appellate court, the cause of action purports to be a class action on behalf of former shareholders of RCG and seeks monetary damages only against the individual former directors of RCG. The individual defendants, however, may have claims for indemnification and reimbursement of expenses against the Company. The Company expects to continue as a defendant in the litigation, which is proceeding toward trial in the Chancery Court, and believes that defendants will prevail.

On July 17, 2007, resulting from an investigation begun in 2005, the United States Attorney filed a civil complaint in the United States District Court for the Eastern District of Missouri (St. Louis) against Renal Care Group, Inc., its subsidiary RCG Supply Company, and FMCH in its capacity as RCG's current corporate parent. The complaint seeks monetary damages and penalties with respect to issues arising out of the operation of RCG's Method II supply company through 2005, prior to FMCH's acquisition of RCG in 2006. The complaint is styled United States of America ex rel. Julie Williams et al. vs. Renal Care Group, Renal Care Group Supply Company and FMCH. On August 11, 2009, the Missouri District Court granted RCG's motion to transfer venue to the United States District Court for the Middle District of Tennessee (Nashville). On March 22, 2010, the Tennessee District Court entered judgment against defendants for approximately \$23,000 in damages and interest under the unjust enrichment count of the complaint but denied all relief under the six False Claims Act counts of the complaint. The Company appealed the Tennessee District Court's decision to the United States Court of Appeals for the Sixth Circuit and secured a stay of enforcement of the judgment pending appeal. The United States Attorney filed a cross appeal, but also asked the Tennessee District Court for an indicative or supplemental ruling. On June 23, 2010, the Tennessee District Court issued an indicative ruling to the effect that, if the case were remanded to the District Court, it would expect to enter a judgment under the False Claims Act against the Company for approximately \$104,000. On September 23, 2010, the Court of Appeals remanded the case to the Tennessee District Court to permit revision or supplementation of the original judgment, after which the Company may pursue its appeals to the Court of Appeals. The Company believes that RCG's operation of its Method II supply company was in compliance with applicable law, that no relief is due to the United States, and that its position in the litigation will ultimately be sustained.

On November 27, 2007, the United States District Court for the Western District of Texas (El Paso) unsealed and permitted service of two complaints previously filed under seal by a qui tam relator, a former FMCH local clinic employee. The first complaint alleged that a nephrologist unlawfully employed in his practice an assistant to perform patient care tasks that the assistant was not licensed to perform and that Medicare billings by the nephrologist and FMCH therefore violated the False Claims Act. The second complaint alleged that FMCH unlawfully retaliated against the relator by discharging her from employment constructively. The United States Attorney for the Western District of Texas declined to intervene and to prosecute on behalf of the United States. On March 30, 2010, the District Court issued final judgment in favor of defendants on all counts based on a jury

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verdict rendered on February 25, 2010 and on rulings of law made by the Court during the trial. The plaintiff has appealed from the District Court judgment.

On February 15, 2011, a *qui tam* relator's complaint under the False Claims Act against FMCH was unsealed by order of the United States District Court of the District of Massachusetts and served by the relator. The United States has not intervened in the case. *United States ex rel. John Doe v. Fresenius Medical Holdings, Inc.*, 2009 Civ. 10179 (D. Mass). The relator's complaint, which was first filed under seal in February 2009, alleges that FMCH seeks and receives reimbursement from government payers for medically unnecessary serum ferritin and hepatitis B antigen and antibody laboratory tests. On March 6, 2011, the United States Attorney for the District of Massachusetts issued a Civil Investigative Demand seeking the production of documents related to the same laboratory tests that are the subject of the relator's complaint. FMCH will cooperate fully in responding to the additional Civil Investigative Demand, and will vigorously contest the relator's complaint.

The Company filed claims for refunds contesting the Internal Revenue Service's (IRS) disallowance of FMCH's civil settlement payment deductions taken by FMCH in prior year tax returns. As a result of a settlement agreement with the IRS, the Company received a partial refund in September 2008 of \$37,000, inclusive of interest and preserved its right to pursue claims in the United States Courts for refunds of all other disallowed deductions. On December 22, 2008, the Company filed a complaint for complete refund in the United States District Court for the District of Massachusetts, styled as *Fresenius Medical Care Holdings, Inc. v United States*. On June 24, 2010, the court denied FMCH's motion for summary judgment and the litigation is proceeding towards trial.

The IRS tax audits of FMCH for the years 2002 through 2006 have been completed. The IRS has disallowed all deductions taken during these audit periods related to intercompany mandatorily redeemable preferred shares. The Company has protested the disallowed deductions and will avail itself of all remedies. An adverse determination with respect to the disallowed deductions related to intercompany mandatorily redeemable preferred shares could have a material adverse effect on the Company's results of operations and liquidity. In addition, the IRS proposed other adjustments which have been recognized in the consolidated financial statements.

From time to time, the Company is a party to or may be threatened with other litigation or arbitration, claims or assessments arising in the ordinary course of its business. Management regularly analyzes current information including, as applicable, the Company's defenses and insurance coverage and, as necessary, provides accruals for probable liabilities for the eventual disposition of these matters.

The Company, like other health care providers, conducts its operations under intense government regulation and scrutiny. It must comply with regulations which relate to or govern the safety and efficacy of medical products and supplies, the operation of manufacturing facilities, laboratories and dialysis clinics, and environmental and occupational health and safety. The Company must also comply with the Anti-Kickback Statute, the False Claims Act, the Stark Law, and other federal and state fraud and abuse laws. Applicable laws or regulations may be amended, or enforcement agencies or courts may make interpretations that differ from the Company's interpretations or the manner in

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which it conducts its business. Enforcement has become a high priority for the federal government and some states.

In addition, the provisions of the False Claims Act authorizing payment of a portion of any recovery to the party bringing the suit encourage private plaintiffs to commence "whistle blower" actions. In May 2009, the scope of the False Claims Act was expanded and additional protections for whistle blowers and procedural provisions to aid whistle blowers' ability to proceed in a False Claims Act case were added. By virtue of this regulatory environment, the Company's business activities and practices are subject to extensive review by regulatory authorities and private parties, and continuing audits, investigative demands, subpoenas, other inquiries, claims and litigation relating to the Company's compliance with applicable laws and regulations. The Company may not always be aware that an inquiry or action has begun, particularly in the case of "whistle blower" actions, which are initially filed under court seal.

The Company operates many facilities throughout the United States. In such a decentralized system, it is often difficult to maintain the desired level of oversight and control over the thousands of individuals employed by many affiliated companies. The Company relies upon its management structure, regulatory and legal resources, and the effective operation of its compliance program to direct, manage and monitor the activities of these employees. On occasion, the Company may identify instances where employees, deliberately or inadvertently, have submitted inadequate or false billings. The actions of such persons may subject the Company and its subsidiaries to liability under the Anti-Kickback Statute, the Stark Law and the False Claims Act, among other laws.

Physicians, hospitals and other participants in the health care industry are also subject to a large number of lawsuits alleging professional negligence, malpractice, product liability, worker's compensation or related claims, many of which involve large claims and significant defense costs. The Company has been and is currently subject to these suits due to the nature of its business and expects that those types of lawsuits may continue. Although the Company maintains insurance at a level which it believes to be prudent, it cannot assure that the coverage limits will be adequate or that insurance will cover all asserted claims. A successful claim against the Company or any of its subsidiaries in excess of insurance coverage could have a material adverse effect upon it and the results of its operations. Any claims, regardless of their merit or eventual outcome, could have a material adverse effect on the Company's reputation and business.

The Company has also had claims asserted against it and has had lawsuits filed against it relating to alleged patent infringements or businesses that it has acquired or divested. These claims and suits relate both to operation of the businesses and to the acquisition and divestiture transactions. The Company has, when appropriate, asserted its own claims, and claims for indemnification. A successful claim against the Company or any of its subsidiaries could have a material adverse effect upon its business, financial condition, and the results of its operations. Any claims, regardless of their merit or eventual outcome, could have a material adverse effect on the Company's reputation and business.



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**(c) *Accrued Special Charge for Legal Matters***

At December 31, 2001, the Company recorded a pre-tax special charge of \$258,159 to reflect anticipated expenses associated with the defense and resolution of pre-Merger tax claims, Merger-related claims, and commercial insurer claims. The costs associated with the Settlement Agreement and settlements with insurers have been charged against this accrual. With the exception of the proposed \$115,000 payment under the Settlement Agreement, all other matters included in the special charge have been resolved. While the Company believes that its remaining accrual reasonably estimates its currently anticipated costs related to the continued defense and resolution of this matter, no assurances can be given that its actual costs incurred will not exceed the amount of this accrual (see note 8).

**(19) Significant Concentrations**

For the periods presented, approximately 53% in 2010 and 2009 and 57% in 2008, respectively, of the Company's healthcare services net revenues are paid by and subject to regulations under governmental programs, primarily Medicare and Medicaid. The Company maintains reserves for losses related to these programs, including uncollectible accounts receivable, and such losses have been within management's expectations.

Revenues from EPO accounted for approximately 20%, 21% and 20% of the Dialysis Services division's net revenues for the years ended December 31, 2010, 2009, and 2008, respectively, and materially contribute to Dialysis Services operating earnings. EPO is produced by a single source manufacturer, Amgen, Inc. In October 2006, the Company entered into a five-year exclusive sourcing and supply agreement with Amgen. Any interruption of supply could materially adversely affect the Company's business and results of operations.

**(20) Industry Segments and Information about Foreign Operations**

The Company has identified two reportable segments, Fresenius Medical Services and Renal Therapy Group. Fresenius Medical Services segment primarily reflects the activity of providing dialysis treatment to patients with end stage renal disease. The Renal Therapy Group segment primarily reflects the activities of manufacturing and distributing products and equipment for the treatment of end stage renal disease. In addition it also performs clinical laboratory testing. All prior years' financial information reflects reporting under the present segment reporting structure.

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The table below provides information for the years ended December 31, 2010, 2009 and 2008 pertaining to the Company's reportable segments by geographic area:

	<u>North America</u>	<u>Asia/Pacific</u>	<u>Total</u>
Net revenues for years ended:			
2010	\$ 8,023,586	—	8,023,586
2009	7,515,711	—	7,515,711
2008	6,910,628	—	6,910,628
Operating earnings (loss) for years ended:			
2010	\$ 1,524,898	338	1,525,236
2009	1,354,313	(90)	1,354,223
2008	1,249,842	226	1,250,068
Total assets at December 31:			
2010	\$ 5,990,686	1,285	5,991,971
2009	5,731,316	1,218	5,732,534
2008	5,477,983	1,520	5,479,503

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The table below provides information for the years ended December 31, 2010, 2009 and 2008 pertaining to the Company's two industry segments:

	<u>Fresenius Medical Services</u>	<u>Renal Therapy Group</u>	<u>Less intersegment sales</u>	<u>Total</u>
Net revenues for years ended:				
2010	\$ 6,930,336	1,885,695	792,445	8,023,586
2009	6,439,572	1,782,887	706,748	7,515,711
2008	5,940,349	1,560,944	590,665	6,910,628
Operating earnings for years ended:				
2010	\$ 1,208,721	316,515	—	1,525,236
2009	1,031,766	322,457	—	1,354,223
2008	931,213	318,855	—	1,250,068
Total assets at December 31:				
2010	\$ 4,146,695	1,845,276	—	5,991,971
2009	3,919,827	1,812,707	—	5,732,534
2008	3,792,106	1,687,397	—	5,479,503
Capital expenditures for years ended:				
2010	\$ 178,624	88,316	—	266,940
2009	176,772	103,998	—	280,770
2008	209,989	106,540	—	316,529
Depreciation and amortization of properties and equipment and intangibles for years ended:				
2010	\$ 204,905	64,656	—	269,561
2009	189,685	58,043	—	247,728
2008	168,407	49,015	—	217,422

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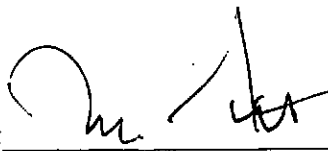
The table below provides the reconciliations of reportable segment operating earnings, assets, capital expenditures, and depreciation and amortization to the Company's consolidated totals:

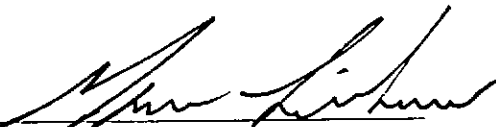
<u>Segment reconciliation</u>	<u>Years ended December 31</u>		
	<u>2010</u>	<u>2009</u>	<u>2008</u>
<b>Income (loss) before income taxes:</b>			
Total operating earnings for reportable segments	\$ 1,525,236	1,354,223	1,250,068
Corporate G&A (including foreign exchange)	(177,341)	(128,755)	(108,772)
Corporate depreciation and amortization	(15,920)	(16,255)	(19,990)
Research and development expense	(31,272)	(22,330)	(19,033)
Net interest expense	(210,871)	(239,943)	(214,343)
Income before income taxes	<u>\$ 1,089,832</u>	<u>946,940</u>	<u>887,930</u>
<b>Assets:</b>			
Total assets for reportable segments	\$ 5,991,971	5,732,534	5,479,503
Intangible assets not allocated to segments	4,643,511	4,643,561	4,639,803
Corporate assets and other	1,382,136	1,464,317	1,324,289
Total assets	<u>\$ 12,017,618</u>	<u>11,840,412</u>	<u>11,443,595</u>
<b>Capital expenditures:</b>			
Total capital expenditures for reportable segments	\$ 266,940	280,770	316,529
Corporate capital expenditures	12,555	12,665	55,051
Total capital expenditures	<u>\$ 279,495</u>	<u>293,435</u>	<u>371,580</u>
<b>Depreciation and amortization:</b>			
Total depreciation and amortization for reportable segments	\$ 269,561	247,728	217,422
Corporate depreciation and amortization	15,920	16,255	19,989
Total depreciation and amortization	<u>\$ 285,481</u>	<u>263,983</u>	<u>237,411</u>

**Criterion 1120.310(a) Reasonableness of Financing Arrangements**

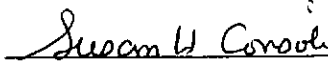
Fresenius Medical Care Lockport, LLC

The applicant is paying for the project with cash on hand, and not borrowing any funds for the project. However, per the Board's rules the entering of a lease is treated as borrowing. As such, we are attesting that the entering into of a lease (borrowing) is less costly than the liquidation of existing investments which would be required for the applicant to buy the property and build a structure itself to house a dialysis clinic. Further, should the applicant be required to pay off the lease in full, its existing investments and capital retained could be converted to cash or used to retire the outstanding lease obligations within a sixty (60) day period.

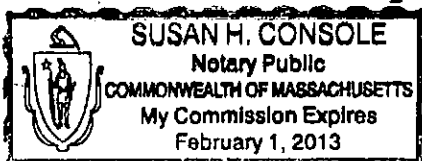
By:   
Title: Mark Fawcett  
Vice President & Treasurer

By:   
Title: Marc Lieberman  
Asst Treasurer

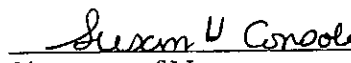
Notarization:  
Subscribed and sworn to before me  
this 21 day of April, 2011

  
Signature of Notary

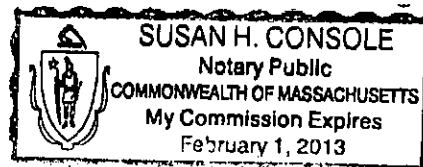
Seal



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Signature of Notary

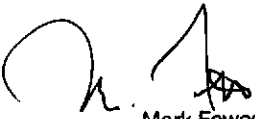
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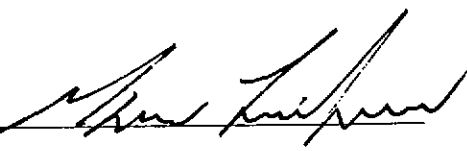


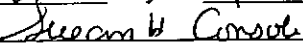
**Criterion 1120.310(a) Reasonableness of Financing Arrangements**

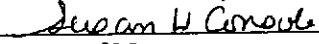
Fresenius Medical Care Holdings, Inc.

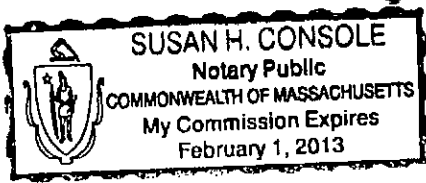
The applicant is paying for the project with cash on hand, and not borrowing any funds for the project. However, per the Board's rules the entering of a lease is treated as borrowing. As such, we are attesting that the entering into of a lease (borrowing) is less costly than the liquidation of existing investments which would be required for the applicant to buy the property and build a structure itself to house a dialysis clinic. Further, should the applicant be required to pay off the lease in full, its existing investments and capital retained could be converted to cash or used to retire the outstanding lease obligations within a sixty (60) day period.

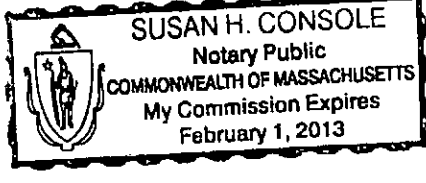
By:   
Mark Fawcett  
Vice President & Asst. Treasurer  
ITS: \_\_\_\_\_

By:   
Marc Lieberman  
Asst Treasurer  
ITS: \_\_\_\_\_

Notarization:  
Subscribed and sworn to before me  
this 21 day of April, 2010  
  
Signature of Notary

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this 21 day of April, 2010  
  
Signature of Notary

Seal 

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**Criterion 1120.310(b) Conditions of Debt Financing**


Fresenius Medical Care Lockport, LLC.

In accordance with 77 ILL. ADM Code 1120, Subpart D, Section 1120.310, of the Illinois Health Facilities & Services Review Board Application for Certificate of Need; I do hereby attest to the fact that:

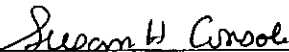
There is no debt financing. The project will be funded with cash and leasing arrangements; and

The expenses incurred with leasing the proposed facility and cost of leasing the equipment is less costly than constructing a new facility or purchasing new equipment.

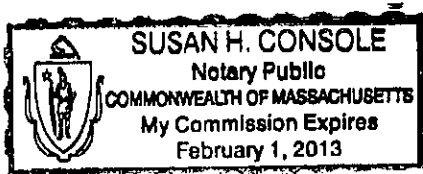
By:   
Mark Fawcett  
ITS Vice President & Treasurer

By:   
Marc Lieberman  
ITS Asst Treasurer

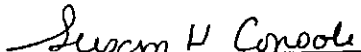
Notarization:  
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this 21 day of April, 2011

  
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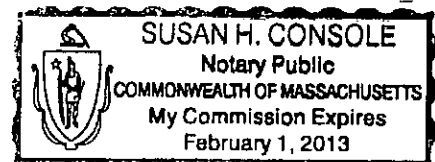
Seal



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Signature of Notary.

Seal



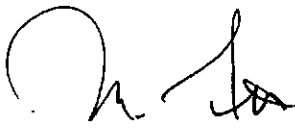
**Criterion 1120.310(b) Conditions of Debt Financing**

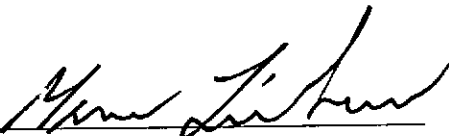
Fresenius Medical Care Holdings, Inc.

In accordance with 77 ILL. ADM Code 1120, Subpart D, Section 1120.310, of the Illinois Health Facilities & Services Review Board Application for Certificate of Need; I do hereby attest to the fact that:

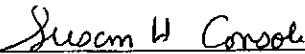
There is no debt financing. The project will be funded with cash and leasing arrangements; and

The expenses incurred with leasing the proposed facility and cost of leasing the equipment is less costly than constructing a new facility or purchasing new equipment.

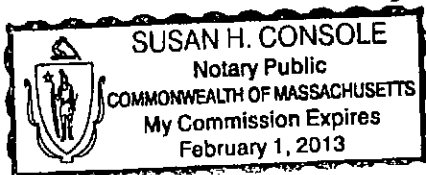
By:   
Mark Fawcett  
ITS: vice President & Asst. Treasurer

By:   
Marc Lieberman  
ITS: Asst Treasurer

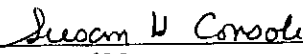
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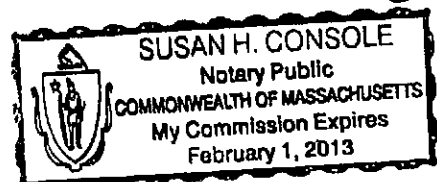
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Seal





## Safety Net Impact Statement

The establishment of the Fresenius Medical Care Lockport dialysis facility will not have any impact on safety net services in the Lockport community. Outpatient dialysis services are not typically considered "safety net" services, to the best of our knowledge. However, we do provide care for patients in the community who are economically challenged and/or who are undocumented aliens, who do not qualify for Medicare/Medicaid. We assist patients who do not have insurance in enrolling when possible in Medicaid and/or Medicaid as applicable, and also our social services department assists patients who have issues regarding transportation and/or who are wheel chair bound or have other disabilities which require assistance with respect to dialysis services and transport to and from the unit.

This particular application will not have an impact on any other safety net provider in the area, as no hospital within the area provides dialysis services on an outpatient basis.

Fresenius Medical Care is a for-profit publicly traded company and is not required to provide charity care, nor does it do so according to the Board's definition. However, Fresenius provides care to all patients regardless of their ability to pay. There are a number of patients treated by Fresenius who either do not qualify for or will not seek any type of coverage for dialysis services. These patients are considered "self-pay" patients. These patients are invoiced as all patients are invoiced, however payment is not expected and Fresenius does not initiate any collections activity on these accounts. These unpaid invoices are written off as bad debt. Fresenius notes that as a for profit entity, it does pay sales, real estate and income taxes. It also does provide community benefit by supporting various medical education activities and associations, such as the Renal Network and National Kidney Foundation.

The table below shows the amount of "self-pay" care provided for the 3 fiscal years prior to submission of the application for all Fresenius Medical Care facilities in Illinois and the amount of care provided to Medicaid patients for the three fiscal years prior to submission of the application for all Fresenius Medical Care facilities in Illinois. This includes in-center hemodialysis, peritoneal dialysis, home hemodialysis & sub-acute hemodialysis. (data by facility on next page)

SAFETY NET INFORMATION			
<b>CHARITY CARE</b>			
	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Charity (# of self-pay patients)</b>	305	260	146
<b>Charity (self-pay) Cost</b>	3,524,880	3,642,751	1,307,966
<b>MEDICAID</b>			
	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Medicaid (Patients)</b>	1,626	1,783	1,828
<b>Medicaid (Revenue)</b>	37,043,006	40,401,403	44,001,539

There is no other information directly relevant to safety net services.

**CHARITY CARE BY FACILITY - (Self Pay)**

CHARITY CARE Facility	2008		2009		2010	
	Charity Patients	Charity Cost	Charity Patients	Charity Cost	Charity Patients	Charity Cost
CARBONDALE	2	2,500	2	20,723	0	11,262
NORTHCENTER	1	30,407	2	34,727	3	22,117
BRIDGEPORT	6	99,428	11	118,493	2	10,991
POLK	3	51,467	4	60,738	1	26,376
EVERGREEN PARK	4	23,541	10	140,975	4	52,782
GURNEE	3	67,702	0	29,403	2	8,329
HOFFMAN ESTATES	2	19,789	2	7,418	2	4,037
MELROSE PARK	0	0	1	5,156	0	0
MARQUETTE PARK	3	39,118	3	100,681	0	0
NORRIDGE	0	3,002	2	1,506	1	747
NORTH KILPATRICK	1	11,290	0	0	0	14,200
ROLLING MEADOWS	1	55,625	0	0	5	53,516
SOUTH CHICAGO	3	115,038	8	205,498	4	70,577
SOUTH HOLLAND	4	22,191	4	31,917	1	26,731
SOUTH SHORE	2	20,591	1	30,066	0	2,086
SOUTHWESTERN ILLINOIS	1	242	0	0	0	0
SALINE COUNTY	1	3,645	2	5,583	1	2,952
RANDOLPH COUNTY	0	0	2	1,219	3	8,913
WEST BELMONT	2	26,984	0	51,980	2	18,896
SUB ACUTES-CHICAGO	12	80,452	3	37,748	0	0
DU QUOIN	0	0	1	10,433	0	2,756
WILLIAMSON COUNTY	1	1,812	0	0	1	7,468
HAZEL CREST	3	53,440	1	9,226	1	6,303
ROUNDLAKE	4	57,640	2	44,165	1	255
AURORA	6	67,864	0	18,818	4	21,087
BOLINGBROOK	4	31,451	0	12,317	3	5,081
BLUE ISLAND	2	21,901	4	49,341	3	22,611
DUPAGE WEST	3	43,409	3	18,336	2	9,290
CHICAGO DIALYSIS CENTER	9	66,732	6	89,972	1	14,202
DOWNERS GROVE	3	31,380	1	4,878	2	56,124
ELK GROVE	9	75,105	2	29,711	4	12,642
ELK GROVE HOME	0	0	1	18,394	1	289
GLENVIEW DIALYSIS	4	18,692	1	19,974	1	10,095
GREENWOOD	9	46,374	5	62,205	4	42,481
JACKSON PARK	11	115,160	7	125,578	2	681
WESTCHESTER	3	56,641	0	0	0	0
NAPERVILLE	5	41,182	4	67,077	3	22,565
NORTH AVENUE	0	0	0	23,669	3	18,189
OAK PARK	5	40,346	2	32,752	2	1,487
SOUTHSIDE	9	209,871	8	129,554	3	34,459
WEST METRO	2	54,133	11	187,505	3	49,677
WEST SUBURBAN	4	34,283	5	65,129	3	34,504
ALSIP	2	9,960	0	0	0	0
AUSTIN	3	8,284	3	40,504	0	0
CONGRESS PARKWAY	2	63,900	2	46,511	1	3,760
GLENDALE HEIGHTS	4	81,125	5	35,089	3	3,681
WILLOWBROOK	3	23,477	0	10,815	0	0
BURBANK	3	63,286	5	185,201	2	12,597
OSWEGO	1	25,307	1	3,389	1	305
ANTIOCH	2	21,689	2	28,682	0	0
MCHENRY	3	26,941	4	57,292	1	1,332
LAKE BLUFF	5	54,948	3	17,317	1	1,112
NILES	3	55,817	3	37,442	2	6,096
CHICAGO WESTSIDE	4	77,512	3	46,548	0	0

NAPERVILLE NORTH	2	18,437	1	48,627	0	0
LAKEVIEW	2	61,074	1	7,377	1	3,217
CHICAGO SUB ACUTE SOUTH	6	15,336	4	53,195	0	0
SOUTH SUBURBAN	10	92,140	15	148,380	8	64,049
ROGERS PARK	2	44,464	3	85,647	3	60,351
BERWYN	19	199,885	13	163,817	5	52,363
CRESTWOOD	9	59,373	3	17,034	4	84,179
ORLAND PARK	4	43,222	1	30,148	0	0
GARFIELD	5	97,761	3	45,903	2	14,915
EAST PEORIA	6	55,285	1	12,238	0	0
MC LEAN COUNTY	2	31,715	2	17,291	2	4,152
SPRING VALLEY	1	236	0	233	1	6,422
SPOON RIVER	3	14,971	1	9,033	1	8,835
PRAIRIE	5	25,383	3	32,357	3	15,634
PEKIN	0	0	0	0	2	4,721
PEORIA DOWNTOWN	2	13,799	1	10,980	2	11,301
OTTAWA	4	32,866	1	2,357	1	454
KEWANEE	0	0	0	0	1	20,619
MORRIS	0	0	1	11,267	0	29,076
NORTHWESTERN UNIVERSITY	12	89,528	9	58,416	3	21,695
DECATUR	0	0	0	0	0	0
DECATUR EAST HOME	1	282	5	18,622	0	0
PONTIAC	3	9,732	3	4,801	0	0
VILLA PARK	2	35,003	3	95,048	2	7,258
PEORIA NORTH	4	27,782	3	13,179	0	3,245
ROCKFORD	0	18,003	2	24,267	2	6,946
SKOKIE	0	0	1	4,508	1	2,698
EVANSTON	4	58,821	5	49,319	3	63,059
MC LEAN COUNTY HOME	1	2,144	1	3,971	2	6,544
FMS OTTAWA HOME	1	4,256	1	9,605	0	0
MERRIONETTE PARK HOME	0	1,792	0	0	0	0
MERRIONETTE PARK	0	0	2	28,882	1	9,936
UPTOWN CHICAGO	2	35,291	3	44,148	1	33,311
MIDWAY	0	0	0	0	0	0
WEST CHICAGO IL	0	0	3	24,152	0	0
MOKENA	1	544	1	16,250	1	1,012
ROSELAND	5	108,043	3	61,632	1	31,345
STREATOR	0	0	0	0	0	0
ROSS DIALYSIS - ENGLEWOOD	3	55,077	7	56,239	1	2,132
DUPAGE PD	2	19,961	2	14,011	1	0
HOME DIALYSIS NETWORK	0	0	0	0	0	0
MACOMB	0	0	0	0	0	0
DEERFIELD	0	0	0	0	0	0
SANDWICH JV	0	0	0	8,161	1	985
PLAINFIELD	0	0	0	0	1	494
JOLIET HOME	0	0	0	0	0	1,382
<b>TOTAL</b>	<b>305</b>	<b>3,524,880</b>	<b>260</b>	<b>3,642,751</b>	<b>146</b>	<b>1,307,966</b>

## MEDICAID BY FACILITY

MEDICAID Facility	2008		2009		2010	
	Medicaid Patients	Medicaid Revenue	Medicaid Patients	Medicaid Revenue	Medicaid Patients	Medicaid Revenue
CARBONDALE	12	283,148	16	415,952	16	522,725
NORTHCENTER	15	405,569	20	558,533	24	594,242
BRIDGEPORT	40	1,180,753	54	1,248,522	56	1,497,867
POLK	32	925,431	23	834,213	30	931,482
EVERGREEN PARK	33	1,375,747	25	809,312	35	900,105
GURNEE	18	478,528	21	500,856	24	539,340
HOFFMAN ESTATES	15	336,993	18	409,503	27	625,205
MELROSE PARK	12	310,393	12	311,744	16	404,480
MARQUETTE PARK	21	648,670	22	588,349	27	693,007
NORRIDGE	5	89,895	12	233,683	11	280,710
NORTH KILPATRICK	22	545,259	29	584,295	35	628,314
ROLLING MEADOWS	13	262,758	17	413,596	21	565,024
SOUTH CHICAGO	47	1,027,670	46	1,236,396	52	1,409,444
SOUTH HOLLAND	18	422,618	15	365,421	15	453,076
SOUTH SHORE	29	794,571	27	658,469	22	499,015
SOUTHWESTERN ILLINOIS	2	52,064	4	89,559	5	151,753
SALINE COUNTY	9	153,579	14	204,043	8	131,145
RANDOLPH COUNTY	2	71,698	3	82,832	2	71,635
WEST BELMONT	22	664,716	26	661,051	28	863,976
SUB ACUTES-CHICAGO	34	572,566	23	271,619	0	0
DU QUOIN	4	118,815	5	121,331	3	58,717
WILLIAMSON COUNTY	7	155,810	8	101,072	5	96,058
HAZEL CREST	13	241,853	10	287,286	10	214,477
ROUNDLAKE	21	475,824	24	493,893	30	664,115
AURORA	15	282,952	13	340,956	23	409,254
BOLINGBROOK	14	369,776	15	302,564	16	391,443
BLUE ISLAND	18	520,857	19	639,785	20	587,079
DUPAGE WEST	14	340,246	17	478,342	23	619,706
CHICAGO DIALYSIS CENTER	54	1,701,836	52	1,611,952	51	1,527,810
DOWNERS GROVE	11	185,345	12	246,657	15	259,648
ELK GROVE	9	246,004	19	391,391	22	557,917
ELK GROVE HOME	3	65,936	4	56,185	6	86,193
GLENVIEW DIALYSIS	11	296,108	11	253,113	10	236,826
GREENWOOD	31	1,020,091	34	1,104,451	42	1,098,034
JACKSON PARK	60	1,763,376	50	1,611,563	60	1,851,859
WESTCHESTER	8	137,417	7	168,327	9	131,141
NAPERVILLE	6	77,624	8	115,372	6	119,920
NORTH AVENUE	21	391,879	21	458,432	22	506,854
OAK PARK	28	841,810	25	664,166	26	564,587
SOUTHSIDE	61	1,634,898	61	1,681,211	76	1,912,184
WEST METRO	63	1,747,068	67	2,010,301	76	1,962,013
WEST SUBURBAN	65	2,090,809	60	1,846,835	72	1,843,959
ALSIP	9	244,090	7	191,197	9	225,197
AUSTIN	13	332,346	19	528,817	27	671,506
CONGRESS PARKWAY	41	1,083,913	46	1,180,866	47	1,367,495
GLENDALE HEIGHTS	21	465,902	22	482,868	24	565,137
WILLOWBROOK	3	94,728	5	101,999	10	233,802
BURBANK	29	664,960	28	569,628	22	577,991
OSWEGO	7	98,019	7	143,557	5	122,456
ANTIOCH	2	10,824	7	43,266	16	287,398
MCHENRY	2	21,351	10	135,724	8	170,111
LAKE BLUFF	11	255,400	25	512,844	16	345,663

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NILES	23	381,191	15	378,443	20	502,907
CHICAGO WESTSIDE	33	666,627	39	1,046,926	57	1,118,766
NAPERVILLE NORTH	4	62,580	10	141,891	11	165,756
LAKEVIEW	15	287,692	16	308,998	15	347,176
CHICAGO SUB ACUTE SOUTH	21	196,373	22	180,149	0	0
SOUTH SUBURBAN	25	354,674	33	394,309	26	507,127
ROGERS PARK	37	641,736	28	449,528	20	512,444
BERWYN	53	968,039	69	949,396	50	1,149,178
CRESTWOOD	19	272,090	19	326,320	14	299,259
ORLAND PARK	10	119,775	14	182,338	11	249,556
GARFIELD	42	784,977	48	844,222	38	974,577
EAST PEORIA	21	171,700	19	165,516	14	272,155
MC LEAN COUNTY	22	323,592	23	379,599	13	315,092
SPRING VALLEY	0	0	1	7,835	5	50,230
SPOON RIVER	0	0	1	3,368	1	14,403
PRAIRIE	24	426,557	19	290,328	20	289,441
PEKIN	2	21,427	1	5,605	2	75,355
PEORIA DOWNTOWN	26	436,300	30	478,951	21	476,682
OTTAWA	5	68,546	4	50,152	3	18,974
KEWANEE	3	24,709	3	52,898	1	55,679
MORRIS	2	10,197	2	36,784	3	71,705
NORTHWESTERN UNIVERSITY	56	896,346	59	1,977,014	34	958,461
DECATUR	1	7,642	1	139	2	26,534
DECATUR EAST HOME	1	6,333	0	0	2	25,777
PONTIAC	2	43,448	4	50,662	5	76,620
VILLA PARK	22	270,734	20	283,318	12	266,218
PEORIA NORTH	6	94,974	8	105,519	6	77,577
ROCKFORD	6	71,682	12	181,373	11	196,457
SKOKIE	15	148,400	14	152,005	10	236,890
EVANSTON	14	260,902	23	414,068	12	391,703
MC LEAN COUNTY HOME	0	0	1	8,184	2	6,038
FMS OTTAWA HOME	0	0	2	28,754	1	25,393
MERRIONETTE PARK HOME	4	31,251	3	32,228	1	24,985
MERRIONETTE PARK	10	121,995	18	303,698	12	226,148
UPTOWN CHICAGO	0	0	13	185,174	19	294,031
MIDWAY	0	0	0	0	1	7,882
WEST CHICAGO IL	0	0	1	2,447	14	95,727
MOKENA	0	0	0	0	1	43,121
ROSELAND	6	33,873	8	247,925	20	621,823
STREATOR	0	0	1	1,918	1	7,690
ROSS DIALYSIS - ENGLEWOOD	17	241,686	22	257,522	32	606,518
DUPAGE PD	2	10,958	2	26,658	5	32,570
HOME DIALYSIS NETWORK	0	0	3	48,741	0	0
MACOMB	1	3,507	4	52,762	2	30,803
DEERFIELD	0	0	0	0	3	92,714
SANDWICH JV	0	0	3	13,838	3	36,284
PLAINFIELD	0	0	0	0	9	102,051
JOLIET HOME	0	0	0	0	2	5,400
<b>TOTAL</b>	<b>1,626</b>	<b>37,043,006</b>	<b>1,783</b>	<b>40,401,403</b>	<b>1,828</b>	<b>44,001,539</b>

## **Charity Care Information**

From a charity standpoint Fresenius Medical Care accepts any patient regardless of their ability to pay. Most ESRD patients qualify for Medicare coverage or have private insurance and there are some who qualify for Medicaid. For those patients who don't have insurance and for whatever reason don't pursue government payor sources, Fresenius Medical Care will treat and bill the patient even though payment is not expected. These patients are considered "self-pay" patients. These unpaid accounts are then written off as bad debt. This practice does not meet the Board's definition of Charity Care so therefore, Fresenius Medical Care would have no charity care to report.



# MAPQUEST.

Notes

TO SILVER CROSS HOSPITAL DIALYSIS

## Trip to 1788 Silver Cross Blvd

New Lenox, IL 60451

5.65 miles - about 9 minutes



**1143 E 9th St, Lockport, IL 60441-3219**



1. Start out going **EAST** on **IL-7 / E 9TH ST** toward **THORNTON ST / CR-68**. Continue to follow **IL-7 E**.

go 1.1 mi



2. Merge onto **I-355 S / VETERANS MEMORIAL TOLLWAY** toward **SOUTHWEST SUBURBS** (Portions toll).

go 3.5 mi



3. Take the **US-6 / SOUTHWEST HWY** exit.

go 0.4 mi



4. Take the ramp toward **JOLIET**.

go 0.0 mi



5. Turn **RIGHT** onto **MAPLE RD / W MAPLE RD / SOUTHWEST HWY / US-6 W**.

go 0.3 mi



6. Turn **LEFT** onto **SILVER CROSS BLVD**.

go 0.4 mi



7. **1788 SILVER CROSS BLVD** is on the **LEFT**.

go 0.0 mi



**1788 Silver Cross Blvd, New Lenox, IL 60451**

Total Travel Estimate : 5.65 miles - about 9 minutes

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# MAPQUEST.

**Trip to 721 E Jackson St**  
Joliet, IL 60432-2560  
5.62 miles - about 10 minutes

Notes

TO FRESENIUS MEDICAL CARE JOLIET



**1143 E 9th St, Lockport, IL 60441-3219**



1. Start out going **SOUTHWEST** on **IL-7 / E 9TH ST** toward **LOCH LN.** go 1.0 mi



2. Turn **LEFT** onto **GARFIELD AVE.** go 0.3 mi



3. Turn **LEFT** onto **E DIVISION ST.** go 0.2 mi



4. Turn **RIGHT** onto **S BRIGGS ST / CR-62.** go 2.9 mi



5. Turn **RIGHT** onto **MAPLE RD / US-6.** Continue to follow **US-6.** go 1.2 mi



6. **721 E JACKSON ST** is on the **RIGHT.** go 0.0 mi



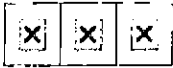
**721 E Jackson St, Joliet, IL 60432-2560**

Total Travel Estimate : 5.62 miles - about 10 minutes

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# MAPQUEST.

Notes

TO FRESENIUS MEDICAL CARE ORLAND PARK

## Trip to 9160 W 159th St

Orland Park, IL 60462-5648

9.98 miles - about 14 minutes



### 1143 E 9th St, Lockport, IL 60441-3219



1. Start out going **EAST** on **IL-7 / E 9TH ST** toward **THORNTON ST / CR-68**. Continue to follow **IL-7 E**.

go 7.4 mi



2. Stay **STRAIGHT** to go onto **W 159TH ST / US-6**.

go 2.6 mi



3. **9160 W 159TH ST** is on the **LEFT**.

go 0.0 mi



### 9160 W 159th St, Orland Park, IL 60462-5648

Total Travel Estimate : 9.98 miles - about 14 minutes

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# MAPQUEST.

**Trip to 329 Remington Blvd**  
Bolingbrook, IL 60440-5827  
12.40 miles - about 18 minutes

Notes

TO FRESENIUS MEDICAL CARE  
BOLINGBROOK



## 1143 E 9th St, Lockport, IL 60441-3219



1. Start out going **EAST** on **IL-7 / E 9TH ST** toward **THORNTON ST / CR-68**. Continue to follow **IL-7 E**. go 1.3 mi



2. Merge onto **I-355 N / VETERANS MEMORIAL TOLLWAY** via the ramp on the **LEFT** toward **WEST SUBURBS** (Portions toll). go 7.7 mi



3. Merge onto **I-55 S** toward **ST LOUIS**. go 2.4 mi



4. Take the **IL-53 / BOLINGBROOK** exit, **EXIT 267**. go 0.3 mi



5. Take the ramp toward **BOLINGBROOK**. go 0.0 mi



6. Turn **RIGHT** onto **S BOLINGBROOK DR / IL-53 N**. go 0.1 mi



7. Turn **LEFT** onto **REMINGTON BLVD**. go 0.6 mi



8. Make a **U-TURN** onto **REMINGTON BLVD**. go 0.0 mi



9. **329 REMINGTON BLVD** is on the **RIGHT**. go 0.0 mi



## 329 Remington Blvd, Bolingbrook, IL 60440-5827

Total Travel Estimate : 12.40 miles - about 18 minutes

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# MAPQUEST.

**Trip to 2121 Oneida St**  
Joliet, IL 60435-6544  
9.58 miles - about 19 minutes

Notes

TO SUN HEALTH DIALYSIS



**1143 E 9th St, Lockport, IL 60441-3219**



1. Start out going **WEST** on **IL-7 / E 9TH ST** toward **LOCH LN.** go 2.5 mi



2. Turn **LEFT** onto **BROADWAY ST / IL-53 / IL-7.** go 2.0 mi



3. Turn **RIGHT** onto **W CATON FARM RD.** go 1.8 mi



4. Turn **LEFT** onto **WEBER RD.** go 0.6 mi



5. **WEBER RD** becomes **N LARKIN AVE.** go 2.3 mi



6. Turn **RIGHT** onto **W ONEIDA ST.** go 0.4 mi



7. **2121 ONEIDA ST** is on the **RIGHT.** go 0.0 mi

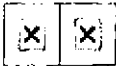


**2121 Oneida St, Joliet, IL 60435-6544**

**Total Travel Estimate : 9.58 miles - about 19 minutes**

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# MAPQUEST.

**Trip to 8910 W 192nd St**  
Mokena, IL 60448-8110  
13.80 miles - about 19 minutes

Notes

TO FRESENIUS MEDICAL CARE MOKENA



## 1143 E 9th St, Lockport, IL 60441-3219



1. Start out going EAST on IL-7 / E 9TH ST toward THORNTON ST / CR-68. Continue to follow IL-7 E. go 1.1 mi



2. Merge onto I-355 S / VETERANS MEMORIAL TOLLWAY toward SOUTHWEST SUBURBS (Portions toll). go 4.7 mi



3. Merge onto I-80 E via the exit on the LEFT toward INDIANA. go 6.0 mi



4. Merge onto US-45 S / LA GRANGE RD via EXIT 145. go 1.0 mi



5. Turn LEFT onto 191ST ST / CR-84. go 0.6 mi



6. Turn RIGHT onto DARVIN DR. go 0.2 mi



7. DARVIN DR becomes W 192ND ST. go 0.3 mi



8. 8910 W 192ND ST is on the LEFT. go 0.0 mi



## 8910 W 192nd St, Mokena, IL 60448-8110

Total Travel Estimate : 13.80 miles - about 19 minutes

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# MAPQUEST.

Trip to 13155 S la Grange Rd  
Orland Park, IL 60462-1162  
12.86 miles - about 19 minutes

Notes

TO DAVITA PALOS PARK



1143 E 9th St, Lockport, IL 60441-3219



1. Start out going EAST on IL-7 / E 9TH ST toward THORNTON ST / CR-68. Continue to follow IL-7 E.

go 7.4 mi



2. Stay STRAIGHT to go onto W 159TH ST / US-6.

go 2.0 mi



3. Turn LEFT onto S LA GRANGE RD / US-45 / 96TH AVE.

go 3.5 mi



4. 13155 S LA GRANGE RD.

go 0.0 mi

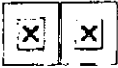


13155 S la Grange Rd, Orland Park, IL 60462-1162

Total Travel Estimate : 12.86 miles - about 19 minutes

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# MAPQUEST.

**Trip to 1051 Essington Rd**  
Joliet, IL 60435-2801  
10.07 miles - about 20 minutes

Notes

TO SILVER CROSS RENAL WEST



**1143 E 9th St, Lockport, IL 60441-3219**



1. Start out going **WEST** on **IL-7 / E 9TH ST** toward **LOCH LN.** go 2.5 mi



2. Turn **LEFT** onto **BROADWAY ST / IL-53 / IL-7.** go 0.9 mi



3. Turn **RIGHT** onto **W DIVISION ST.** go 3.6 mi



4. Turn **LEFT** onto **HENNEPIN DR.** go 0.8 mi



5. Turn **LEFT** onto **ESSINGTON RD.** go 2.2 mi



6. **1051 ESSINGTON RD** is on the **RIGHT.** go 0.0 mi



**1051 Essington Rd, Joliet, IL 60435-2801**

**Total Travel Estimate : 10.07 miles - about 20 minutes**

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# MAPQUEST.

Notes

TO FRESENIUS MEDICAL CARE PLAINFIELD

**Trip to 2320 Michas Dr**  
Plainfield, IL 60586-5045  
12.26 miles - about 21 minutes



**1143 E 9th St, Lockport, IL 60441-3219**



1. Start out going **WEST** on **IL-7 / E 9TH ST** toward **LOCH LN.** go 2.5 mi



2. **IL-7 / E 9TH ST** becomes **RENWICK RD.** go 0.5 mi



3. Stay **STRAIGHT** to go onto **RENWICK RD / CR-36.** Continue to follow **CR-36.** go 6.1 mi



4. Turn **LEFT** onto **S DIVISION ST / IL-59.** Continue to follow **IL-59.** go 2.0 mi



5. Turn **RIGHT** onto **W CATON FARM RD / CR-5.** go 1.1 mi



6. Turn **LEFT** onto **MICHAS DR.** go 0.0 mi



7. **2320 MICHAS DR** is on the **LEFT.** go 0.0 mi



**2320 Michas Dr, Plainfield, IL 60586-5045**

**Total Travel Estimate : 12.26 miles - about 21 minutes**

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# MAPQUEST.

**Trip to 6300 Kingery Hwy**  
Willowbrook, IL 60527-2248  
16.54 miles - about 22 minutes

Notes

TO FRESENIUS MEDICAL CARE  
WILLOWBROOK



**1143 E 9th St, Lockport, IL 60441-3219**



1. Start out going EAST on IL-7 / E 9TH ST toward THORNTON ST / CR-68. Continue to follow IL-7 E. go 1.3 mi



2. Merge onto I-355 N / VETERANS MEMORIAL TOLLWAY via the ramp on the LEFT toward WEST SUBURBS (Portions toll). go 7.3 mi



3. Merge onto I-55 N / JOLIET RD N toward CHICAGO. go 5.0 mi



4. Take the IL-83 / KINGERY RD exit, EXIT 274. go 0.2 mi



5. Merge onto IL-83 N / KINGERY HWY. go 2.8 mi



6. Turn LEFT onto 63RD ST. go 0.0 mi



7. 6300 KINGERY HWY. go 0.0 mi



**6300 Kingery Hwy, Willowbrook, IL 60527-2248**

Total Travel Estimate : 16.54 miles - about 22 minutes

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## SOUTHWEST NEPHROLOGY ASSOCIATES, S.C.

3650 West 95th Street – Evergreen Park, Illinois 60805  
Tel (708) 422-7715 – Fax (708) 422-7816  
16605 South 107th Court – Orland Park, Illinois 60467  
Tel (708) 226-9860 – Fax (708) 226-9864  
E-Mail Address: [swnamd@aol.com](mailto:swnamd@aol.com)

Joseph H. Oyama, MD, FACP  
Kent F.W. Armbruster, MD  
Ronald K. Hamburger, MD  
Demetrios Zikos, MD, FACP  
Ejikeme O. Obasi, MD, FACP  
Kelly E. Guglielmi, MD  
Daniel P. McCormick, MD, FACP  
Abraham Thomas, MD, MPH, FACP  
Akash Ahuja, MD  
Jeanette S. McLaughlin, MD

May 16, 2011

Ms. Courtney Avery  
Administrator  
Illinois Health Facilities & Services Review Board  
525 W. Jefferson St., 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Avery,

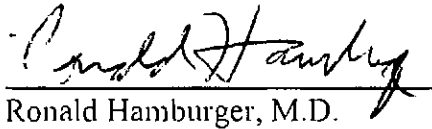
As a nephrologist with Southwest Nephrology Associates, SC (SWNA) and as Medical Director of the Fresenius Crestwood dialysis clinic, I am writing to support the proposed 12 station Fresenius Medical Care Lockport facility, which was previously approved by this Board in December 2009. I have been practicing in the south suburbs for 31 years and have privileges at Little Company of Mary, Palos Community and Christ hospitals. I consistently refer ESRD patients to Fresenius Orland Park, Merrionette Park and Crestwood.

SWNA had 453 hemodialysis patients at the end of 2008, 450 patients at the end of 2009 and 468 patients at the end of 2010, as reported to The Renal Network. As of the most recent quarter, SWNA was treating 513 hemodialysis patients. Over the past twelve months, the 10 physicians who comprise SWNA have collectively referred 148 patients for dialysis services to Fresenius Crestwood, Mokena, Orland Park, Merrionette Park, Southside, DaVita Beverly and DSI Scottsdale. SWNA currently has 97 pre ESRD patients that will be referred to Fresenius Lockport within 24 months of the completion of the facility. This does not include those patients that present in the emergency room in renal failure who may also be referred to the Lockport facility based upon their place of residence. SWNA also has approximately 35 home dialysis patients, 10 of which were referred in the past year.

I find it unfortunate that the dialysis patients who reside in and near Lockport have had their access to treatment delayed by the inability of the developer to begin this project and urge the Board to prevent further delay by once again approving a dialysis facility for our Lockport patients. Thank you for your consideration.

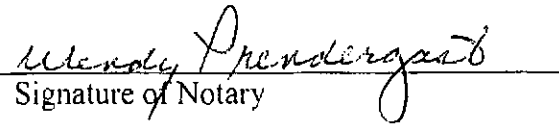
I attest to the fact that to the best of my knowledge, all the information contained in this letter is true and correct and that the projected referrals in this document were not used to support any other CON application.

Sincerely,

  
Ronald Hamburger, M.D.

Notarization:

Subscribed and sworn to before me  
this 16<sup>th</sup> day of MAY, 2011

  
Signature of Notary

Seal



**PRE ESRD PATIENTS SWNA EXPECTS TO REFER TO FRESENIUS  
MEDICAL CARE LOCKPORT IN THE 1<sup>ST</sup> 2 YEARS (24 MONTHS)  
AFTER PROJECT COMPLETION**

Zip Code	Akash Ahuja	Kent Ambruster	Patricia Busch	Kelly Guglielmi	Ronald Hamburger	Daniel McCormick	Jeanette McLaughlin	Ejikeme Obasi	Joseph Oyama	Chris Sutich	Abraham Thomas	Demetrios Zikos	Total
60439	1	2			5	2	2	2	1		4		19
60440		1			1		1					1	3
60441				4	2	2	3	1	2				17
60448					7	2	8	1			4		22
60451					3		2		1	1	1	1	9
60491		1	1	1	6	4	2	1	1	4	3	3	27
<b>Total</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>24</b>	<b>10</b>	<b>18</b>	<b>5</b>	<b>5</b>	<b>7</b>	<b>12</b>	<b>5</b>	<b>97</b>

**Summary**

Zip Code	Pre-ESRD Patients
60439	19
60440	3
60441	17
60448	22
60451	9
60491	27
<b>Total</b>	<b>97</b>

**NEW REFERRALS OF SWNA FOR THE PAST TWELVE MONTHS**

**04/01/2010 THROUGH 03/31/2011**

Zip Code	Fresenius Medical Care					DSI	DaVita	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Scottsdale	Beverly	
46567					1			1
49026					1			1
60053								0
60406	3							3
60409				1				1
60415		2						2
60423					3			3
60428								0
60445	1	4						5
60446					1			1
60448					3			3
60451					1			1
60452		1						1
60453	2	5				7		14
60455						1		1
60458						1		1
60459		1				4		5
60462		2	7		1			10
60463		1	1					2
60464			1					1
60465								0
60466	1							1
60467			3		2			5
60469		1						1
60471		1						1
60477		1	3		3			7
60478		1						1
60482	1	4						5
60487					1			1
60491			1					1
60563						1		1
60608						1		1
60609								0
60619		1		1		1		3
60620	1	1		1		3	1	7
60621						2		2
60628	2	1				1	1	5
60629				1		6		7
60632						1		1
60634	1							1
60636	1			1		1		3
60637						1		1
60638						1		1
60643	4							4
60649						1		1
60652				2		8		10
60655	2	3			1	1		7
60803	1	1						2
60805	3	3			1	2		9
60827	1					2		3
<b>Total</b>	<b>24</b>	<b>34</b>	<b>17</b>	<b>6</b>	<b>19</b>	<b>46</b>	<b>2</b>	<b>148</b>

**PATIENTS OF SWNA AT YEAR END 2008**

Zip Code	Fresenius Medical Care						DSI	DaVita	Total
	Merrionette Park	Hazel Crest	Crestwood	Orland Park	Southside	Mokena	Scottsdale	Mt. Greenwood	
60406	2		8						10
60411		1	2						3
60415	1		5				1		7
60419	1	1		1					3
60422			1						1
60423				2		6			8
60425							1		1
60426		3	4						7
60428			1						1
60429	1								1
60430		1							1
60431			1						1
60433							1		1
60438			1				1		2
60441				1		1			2
60445	3		7				1		11
60448				1		6			7
60451						1			1
60452			8	1					9
60453	4		11				16	2	33
60455	1		1				4		6
60456		1					2		3
60457			1				1		2
60459							13		13
60462			2	20		1			23
60463			6	6			2		14
60464			2	1					3
60465	1		6	2			1		10
60466							1		1
60467			1	4		1			6
60471		1							1
60472			3						3
60473							1		1
60477			4	10		5			19
60478		2							2
60482			5	1					6
60487				1					1
60491				4					4
60540			1						1
60609			1						1
60616							3		3
60617	1		1				8	1	12
60619	1		1			1			3
60620	6	1	3			2	36	1	49
60621	1					3	2		6
60627			1						1
60628	10		5			1	5		21
60629	1						22	1	24
60632		1					6		7
60636	1					1	5		7
60638							7		7
60639							1		1
60640				1					1
60643	8		4				9	1	22
60649			1				1		2
60652	3		2				12		17
60653						1			1
60655	8		3						11
60803	2		4						6
60804							1		1
60804							3	1	12
60805	5		2			1			8
60827	5		3						8
<b>Total</b>	<b>66</b>	<b>12</b>	<b>112</b>	<b>66</b>	<b>10</b>	<b>21</b>	<b>169</b>	<b>7</b>	<b>453</b>

PATIENTS OF SWNA AT YEAR END 2009

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip			
60153	1								1
60406	2	7							9
60409	1								1
60411		1							1
60416	1	4					1		6
60416					1				1
60419	3								3
60422		1							1
60423			1		7				8
60425		1					1		2
60426		4							4
60428		1							1
60429	1								1
60431		1							1
60438		1					1		2
60441		1	2		1				4
60445	1	10							11
60446			1						1
60447		1							1
60448			1		6				7
60449					1				1
60451					1				1
60452		8	1			1	1		11
60453	5	8				1	13	2	29
60455	1	1					4		6
60456							3		3
60457		1					3		4
60459	2						9		11
60462		2	19		1				22
60463	2	4	4				1		11
60464		1							1
60465	1	7	2				1		11
60467			5						5
60469		1							1
60471					1				1
60472		3							3
60473							1		1
60477		3	12		7				22
60482	1	5	1						7
60487			1		1				2
60491			3						3
60609		1							1
60616		1							1
60617	1	1					3		5
60619	2						7	1	10
60620	10	2			1		34	2	49
60621	1				2		2		5
60627		1							1
60627		1					4		18
60628	10	4							14
60629	1				3		17	1	22
60632							6		6
60636	1				3		6	1	11
60638							8		8
60639							1		1
60643	14	3					6	1	24
60647							1		1
60649		1					1		2
60652	2	5					15		22
60653					1				1
60655	9	2						1	12
60803	4	5							9
60804				1			1		2
60805	7	1			1		3		12
60827	2	3							5
Total	86	107	54	11	27	2	164	9	450

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**PATIENTS OF SWNA AT YEAR END 2010**

Zip Code	Fresenius Medical Care					DSI	DaVita	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Scottsdale	Mt. Greenwood	
46375					1			1
60406	3	7						10
60409	1							1
60411		1						1
60415		6				1		7
60416					1			1
60419	3							3
60422		1						1
60423					6			6
60425						1		1
60426		3						3
60428		1						1
60429		1						1
60430		1						1
60431		1						1
60438		1				1		2
60439			1					1
60441		1	3		1			5
60445	1	13						14
60448			1		5			6
60449			1		1			2
60451					3			3
60452		6	1					7
60453	7	7				12	1	27
60455		1				8		9
60456						3		3
60457		1	1			3		5
60458						1		1
60459	2					11		13
60462		2	20		1			23
60463	1	5	3			1	2	12
60464	1	1	1					3
60465	1	6	1					8
60466	1							1
60467			6		2			8
60469		2						2
60471					1			1
60472		3						3
60477		3	7		7			17
60478		1						1
60482	1	5	1					7
60487			1		3			4
60491			1					1
60509		1						1
60509		1				3		5
60617	1	1				7		8
60619	1					33	2	50
60620	7	2		6		2		6
60621	1			2	1			1
60627		1						1
60627		1				4	1	22
60628	13	4				19	1	24
60629	1			3		4		4
60632						7	1	11
60636				3		7		7
60638						1		1
60639						6	1	31
60643	18	6				1		1
60647								1
60649		1				16		21
60652	1	4						2
60653		1		1			1	11
60655	7	2			1		1	10
60803	5	3			1			2
60804			1			3		14
60805	10			1		1		7
60827	4	2					11	468
Total	91	108	50	16	35	167	11	

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**PATIENTS OF SWNA AT END OF 1<sup>ST</sup> QUARTER 2011**

Zip Code	Fresenius Medical Care							DSI Scottsdale	DaVita		Total	
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip	Evergreen Park		Mt. Greenwood	Beverly		
53711								1			1	
60053											0	
60406		5	4								9	
60409		1		1							2	
60410				1							1	
60411			1								1	
60415			4					1			5	
60419		2				1					3	
60422			1								1	
60423						8					8	
60425								1			1	
60426			3								3	
60428			1								1	
60429			1								1	
60431			1								1	
60435				1							1	
60438			1					1			2	
60439				1							1	
60441				3		1					4	
60445		2	15					2			19	
60446						1					1	
60448				1		7					8	
60449				1		1					2	
60451						2					2	
60452			6	1			1	1			9	
60453		7	8				1	18	1		35	
60455			1					4			5	
60456								2			2	
60457				1				3			4	
60458								1			1	
60459		1	1					10			12	
60462			2	25		3					30	
60463			5	3				1	2		11	
60464			1	1							2	
60465		1	5	1							7	
60466						1					1	
60467				7		3					10	
60469		1	2								3	
60471			1			1					2	
60472			3								3	
60473											0	
60477			2	9		6					17	
60482		1	8	1							10	
60487				1		4					5	
60491				2							2	
60504											0	
60513						1					1	
60563								1			1	
60586		1									1	
60608								1			1	
60609		1	1								2	
60617		1	1					2			4	
60619		1	1		1			8			11	
60620		11	1		6			26	2		46	
60621		1			2	1		2			6	
60627			1							1	1	
60628		14	4					7	1		27	
60629		2			4			21			27	
60631				1							1	
60632								5			5	
60634		1								1	1	
60636		1			4			5	1		11	
60637								1			1	
60638								7			7	
60639								1			1	
60643		16	4					6			26	
60647								1			1	
60649			1								1	
60652		2	4		2			2	22	1	33	
60653			1							2	14	
60655		8	3			1					8	
60803		4	4					1			1	
60804								5			18	
60805		9	2		1	1		1			6	
60827		3	1								1	
Total		97	106	62	20	43	2	2	170	9	2	513



## SOUTHWEST NEPHROLOGY ASSOCIATES, S.C.

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3650 West 95th Street – Evergreen Park, Illinois 60805  
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16605 South 107th Court – Orland Park, Illinois 60467  
Tel (708) 226-9860 – Fax (708) 226-9864  
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Joseph H. Oyama, MD, FACP  
Kent F.W. Armbruster, MD  
Ronald K. Hamburger, MD  
Demetrios Zikos, MD, FACP  
Ejike O. Obasi, MD, FACP  
Kelly E. Guglielmi, MD  
Daniel P. McCormick, MD, FACP  
Abraham Thomas, MD, MPH, FACP  
Akash Ahuja, MD  
Jeanette S. McLaughlin, MD

May 16, 2011

Ms. Courtney Avery  
Administrator  
Illinois Health Facilities & Services Review Board  
525 W. Jefferson St., 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Avery,

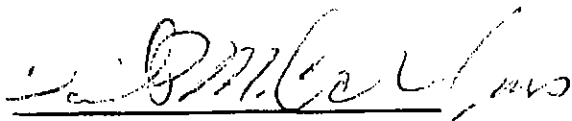
As a nephrologist with Southwest Nephrology Associates, SC (SWNA) and as Medical Director of the Fresenius Crestwood dialysis clinic, I am writing to support the proposed 12 station Fresenius Medical Care Lockport facility, which was previously approved by this Board in December 2009. I have been practicing in the south suburbs for 31 years and have privileges at Little Company of Mary, Palos Community and Christ hospitals. I consistently refer ESRD patients to Fresenius Orland Park, Merrionette Park and Crestwood.

SWNA had 453 hemodialysis patients at the end of 2008, 450 patients at the end of 2009 and 468 patients at the end of 2010, as reported to The Renal Network. As of the most recent quarter, SWNA was treating 513 hemodialysis patients. Over the past twelve months, the 10 physicians who comprise SWNA have collectively referred 148 patients for dialysis services to Fresenius Crestwood, Mokena, Orland Park, Merrionette Park, Southside, DaVita Beverly and DSI Scottsdale. SWNA currently has 97 pre ESRD patients that will be referred to Fresenius Lockport within 24 months of the completion of the facility. This does not include those patients that present in the emergency room in renal failure who may also be referred to the Lockport facility based upon their place of residence. SWNA also has approximately 35 home dialysis patients, 10 of which were referred in the past year.

I find it unfortunate that the dialysis patients who reside in and near Lockport have had their access to treatment delayed by the inability of the developer to begin this project and urge the Board to prevent further delay by once again approving a dialysis facility for our Lockport patients. Thank you for your consideration.

I attest to the fact that to the best of my knowledge, all the information contained in this letter is true and correct and that the projected referrals in this document were not used to support any other CON application.

Sincerely,

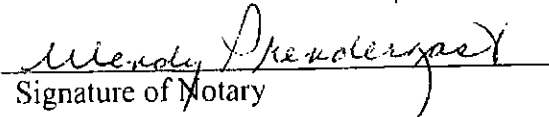


Daniel McCormick, M.D.

Notarization:

Subscribed and sworn to before me

this 16<sup>th</sup> day of MAY, 2011

  
Signature of Notary

Seal



**PRE ESRD PATIENTS SWNA EXPECTS TO REFER TO FRESINIUS  
MEDICAL CARE LOCKPORT IN THE 1<sup>ST</sup> 2 YEARS (24 MONTHS)  
AFTER PROJECT COMPLETION**

Zip Code	Akash Ahuja	Kent Armbruster	Patricia Busch	Kelly Guglielmi	Ronald Hamburger	Daniel McCormick	Jeanette McLaughlin	Ejikeme Obasi	Joseph Oyama	Chris Sutich	Abraham Thomas	Demetrios Zikos	Total
60439	1	2			5	2	2	2	1		4		19
60440		1			1		1						3
60441				4	2	2	3	1	2	2		1	17
60448					7	2	8	1			4		22
60451					3		2		1	1	1	1	9
60491		1	1	1	6	4	2	1	1	4	3	3	27
<b>Total</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>24</b>	<b>10</b>	<b>18</b>	<b>5</b>	<b>5</b>	<b>7</b>	<b>12</b>	<b>5</b>	<b>97</b>

**Summary**

Zip Code	Pre-ESRD Patients
60439	19
60440	3
60441	17
60448	22
60451	9
60491	27
<b>Total</b>	<b>97</b>

**NEW REFERRALS OF SWNA FOR THE PAST TWELVE MONTHS**  
**04/01/2010 THROUGH 03/31/2011**

Zip Code	Fresenius Medical Care					DSI Scottsdale	DaVita Beverly	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena			
46567					1			1
49026					1			1
60053								0
60406	3							3
60409				1				1
60415		2						2
60423								3
60428					3			3
60445	1	4						5
60446					1			1
60448					3			3
60451					1			1
60452		1						1
60453	2	5						7
60455						7		14
60458						1		1
60459		1				1		2
60462		2		7	1	4		14
60463		1		1				2
60464				1				1
60465								0
60466	1							1
60467				3	2			5
60469		1						1
60471		1						1
60477		1		3	3			7
60478		1						1
60482	1	4						5
60487					1			1
60491				1				1
60563								1
60608						1		1
60609						1		1
60619		1		1		1		3
60620	1	1		1		3	1	7
60621						2		2
60628	2	1				1	1	5
60629				1		6		7
60632						1		1
60634	1							1
60636	1			1		1		3
60637						1		1
60638						1		1
60643	4							4
60649						1		1
60652				2		8		10
60655	2	3			1	1		7
60803	1	1						2
60805	3	3			1	2		9
60827	1					2		3
<b>Total</b>	<b>24</b>	<b>34</b>	<b>17</b>	<b>6</b>	<b>19</b>	<b>46</b>	<b>2</b>	<b>148</b>

PATIENTS OF SWNA AT YEAR END 2008

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Hazel Crest	Crestwood	Orland Park	Southside	Mokena			
60406	2		8						10
60411		1	2						3
60415	1		5						7
60419	1	1		1			1		3
60422			1						1
60423					2				2
60425						6			6
60426		3	4				1		8
60428			1						1
60429	1								1
60430		1							1
60431			1						1
60433									1
60438			1				1		2
60441							1		1
60445	3		7		1		1		12
60448					1		1		2
60451						6			6
60452						1			1
60453			8	1					9
60455	4		11				16	2	33
60456	1		1				4		6
60457		1					2		3
60459			1				1		2
60462							13		13
60463			2	20		1			23
60464			6	6			2		14
60465	1		2	1					3
60466			6	2			1		10
60467							1		1
60471		1	1	4		1			6
60472			3						3
60473							1		1
60477			4	10		5			19
60478		2							2
60482			5	1					6
60487				1					1
60491				4					4
60540			1						1
60609			1				1		2
60616							1		1
60617	1		1				3		5
60619	1		1		1		8	1	12
60620	6	1	3		2		36	1	49
60621	1				3		2		6
60627			1						1
60628	10		5		1		5		21
60629	1						22	1	24
60632		1					6		7
60636	1				1		5		7
60638							7		7
60639							1		1
60640				1					1
60643	8		4				9	1	22
60649			1				1		2
60652	3		2				12		17
60653					1				1
60655	8		3						11
60803	2		4						6
60804							1		1
60805	5		2		1		3	1	12
60827	5		3						8
Total	66	12	112	56	10	21	169	7	453

PATIENTS OF SWNA AT YEAR END 2009

Zip Code	Fresenius Medical Care						DSI Scottsdale	DaVita Mt. Greenwood	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip			
60153	1							1	
60406	2	7						9	
60409	1							1	
60411		1						1	
60415	1	4						5	
60416						1		1	
60419	3							3	
60422		1						1	
60423			1			7		8	
60425		1					1	2	
60426		4						4	
60428		1						1	
60429	1							1	
60431		1						1	
60438		1					1	2	
60441		1	2			1		4	
60445	1	10						11	
60446			1					1	
60447		1						1	
60448			1		6			7	
60449					1			1	
60451					1			1	
60452		8	1					9	
60453	5	8				1		14	
60455	1	1				13	2	17	
60456						4		4	
60457						3		3	
60459	2					9		11	
60462		2	19		1			22	
60463	2	4	4				1	11	
60464		1						1	
60465	1	7	2			1		11	
60467			5					5	
60469		1						1	
60471					1			1	
60472		3						3	
60473						1		1	
60477		3	12		7			22	
60482	1	5	1					7	
60487			1		1			2	
60491			3					3	
60609		1						1	
60616		1						1	
60617	1	1				3		5	
60619	2					7	1	10	
60620	10	2		1		34	2	49	
60621	1			2		2		5	
60627		1						1	
60628	10	4				4		18	
60629	1			3		17	1	22	
60632						6		6	
60636	1			3		6	1	11	
60638						8		8	
60639						1		1	
60643	14	3				6	1	24	
60647						1		1	
60649		1				1		2	
60652	2	5				15		22	
60653				1				1	
60655	9	2					1	12	
60803	4	5						9	
60804			1			1		2	
60805	7	1		1		3		12	
60827	2	3						5	
Total	86	107	64	11	27	2	154	9	450

**PATIENTS OF SWNA AT YEAR END 2010**

Zip Code	Fresenius Medical Care					DSI Scottsdale	DaVita ML Greenwood	Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena			
46375								1
60406	3	7			1			10
60409	1							1
60411		1						1
60415		6						7
60416						1		1
60419	3				1			3
60422		1						1
60423					6			6
60425						1		1
60426		3						3
60428		1						1
60429		1						1
60430		1						1
60431		1						1
60438		1						1
60439			1			1		2
60441		1	3		1			5
60445	1	13						14
60448			1		5			6
60449			1		1			2
60451					3			3
60452		6	1					7
60453	7	7				12	1	27
60455		1				8		9
60456						3		3
60457		1	1			3		5
60458						1		1
60459	2					11		13
60462		2	20		1			23
60463	1	5	3			1	2	12
60464	1	1	1					3
60465	1	6	1					8
60466	1							1
60467			6		2			8
60469		2						2
60471					1			1
60472		3						3
60477		3	7		7			17
60478		1						1
60482	1	5	1					7
60487			1		3			4
60491			1					1
60609		1						1
60617	1	1				3		5
60619	1					7		8
60620	7	2		6		33	2	50
60621	1			2	1	2		6
60627		1						1
60628	13	4				4	1	22
60629	1			3		19	1	24
60632						4		4
60636				3		7	1	11
60638						7		7
60639						1		1
60643	18	6				6	1	31
60647						1		1
60649		1						1
60652	1	4				16		21
60653		1		1				2
60655	7	2			1		1	11
60803	5	3			1		1	10
60804			1			1		2
60805	10			1		3		14
60827	4	2				1		7
Total	91	108	60	16	35	157	11	458

**PATIENTS OF SWNA AT END OF 1<sup>ST</sup> QUARTER 2011**

Zip Code	Fresenius Medical Care							DSI Scottsdale	DaVita		Total
	Merrionette Park	Crestwood	Orland Park	Southside	Mokena	Alsip	Evergreen Park		ML Greenwood	Beverly	
53711											1
60053								1			1
60406	5	4									0
60409	1		1								9
60410			1								2
60411		1									1
60415		4						1			1
60419	2				1						5
60422		1									3
60423					8						1
60425								1			8
60426		3									1
60428		1									3
60429		1									1
60431		1									1
60435			1								1
60438		1						1			1
60439			1								2
60441			3		1						1
60445	2	15						2			4
60446					1						19
60448			1		7						1
60449			1		1						8
60451					2						2
60452		6	1			1		1			2
60453	7	8									9
60455		1						18	1		35
60456								4			5
60457			1					2			2
60458								3			4
60459	1	1						1			1
60462		2	25		3						12
60463		5	3					1			30
60464		1	1						2		11
60465	1	5	1								2
60466					1						7
60467			7		3						1
60469	1	2									10
60471		1			1						3
60472		3									2
60473											3
60477		2	9		6						0
60482	1	8	1								17
60487			1		4						10
60491			2								5
60504											2
60513					1						0
60563								1			1
60586	1										1
60608								1			1
60609	1	1									2
60617	1	1						2			4
60619	1	1		1				8			11
60620	11	1		6				26	2		46
60621	1			2	1			2			6
60627		1									1
60628	14	4						7	1	1	27
60629	2			4				21			27
60631			1								1
60632								5			5
60634	1										1
60636	1			4				5	1		11
60637								1			1
60638								7			7
60639								1			1
60643	16	4						6			26
60647								1			1
60649		1						1			2
60652	2	4		2			2	22		1	33
60653		1									1
60655	8	3			1				2		14
60803	4	4									8
60804								1			1
60805	9	2		1	1			5			18
60827	3	1						1			5
Total	97	106	62	20	43	2	2	170	9	2	513



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1  
2 The following pages contain  
3 testimony/letters from Public Hearing  
4 held on 09/14/2009 for  
5 Fresenius Medical Care Lockport, #09-037

- 6  
7 • Tim Schloneger – Lockport City Administrator  
8 • Dev Trevedi – Lockport Mayor  
9 • Ronald Hamburger, M.D.  
10 • Christine Yazumbek - Social Worker  
11 • Dick Van Dyke – Lockport City Alderman  
12  
13  
14

15 MR. SCHLONEGER: Thank you. Tim  
16 Schloneger. I'm the City administrator for  
17 Lockport, and I was asked by Mayor Trivedi to  
18 come here and speak in support of the kidney  
19 dialysis unit.

20 We have a --

21 HEARING OFFICER HALL: Excuse me.  
22 Can you spell your name for the Court Reporter,  
23 please.

24 MR. SCHLONEGER: I'm sorry?

1 HEARING OFFICER HALL: Spell your  
2 name for the Court Reporter.

3 MR. SCHLONEGER: Sure.

4 Schloneger is S C H L O N E G E R.

5 There's a high support for this type of  
6 facility in Lockport, a high demand. We're  
7 in a growing community, emerging market --  
8 355 extension, many entitled housing units, many  
9 age-restricted senior housing units on the books  
10 ready to be developed -- so that the demand and  
11 the need is dramatically increasing here in  
12 Lockport. It exists today and will only get  
13 greater in the future.

14 In talking to community members, phone  
15 calls to residents and council members, I think  
16 there's close to unanimous support for the need  
17 of this type of facility here in Lockport, and,  
18 again, I just want to express, on behalf of  
19 Mayor Trivedi especially, that we have support  
20 for this facility in Lockport.

21  
22  
23  
24

# LOCKPORT

**Mayor**  
Dev Trivedi

**City Clerk**  
Alice Matteucci

**Administrator**  
Tim Schloneger



**Alderman**  
Pete Colarelli - 1st Ward  
Dick Van Dyke - 1st Ward  
Joe Fracaro - 2nd Ward  
Brian Smith - 2nd Ward  
Tom Kelly - 3rd Ward  
Bob Morris - 3rd Ward  
John Robert Krzos - 4th Ward  
Robert Perretta - 4th Ward

*City of Historic Pride*

222 E Ninth Street • Lockport, IL 60441-3497

August 31, 2009

Illinois Health Facilities Planning Board  
535 West Jefferson Street  
Springfield, IL 62761

**Re: Proposed Dialysis Clinic in Lockport**

To Whom It May Concern:

On behalf of the Lockport City Council, I would like to express the City's support for the 12-station dialysis clinic proposed for Lockport, in the Lockport Crossings Development. Currently, there are a number of Lockport residents who have to drive to Orland for dialysis. For some, who have to go several times a week for dialysis, this distance becomes extremely inconvenient, especially since the Orland area is so congested.

In adhering to the City's Mission Statement, which is to "promote and provide for the safety, health and welfare of its citizens," I fully support the establishment of this facility in Lockport. This facility will not only provide easier access to a life-dependent service such as dialysis, but the building, leasing and employment opportunities would benefit the local economy as well.

If you have any questions or would like additional information, please do not hesitate to contact me at 815/838-0549, ext. 2115.

Otherwise, I want to thank you for considering Lockport as the location for the proposed kidney dialysis facility.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dev Trivedi', is written over a horizontal line.

Dev Trivedi  
Mayor, City of Lockport

1

2

3

HEARING OFFICER HALL: Marla Vasquez.

4

MS. VASQUEZ: Good morning. I'd like

5

to read a letter on behalf of Donald -- Ronald

6

Hamburger.

7

"My name is Dr. Hamburger, and I am in

8

support of the Lockport clinic because many of

9

the patients I see in my nephrology practice have

10

end-stage renal disease which will require

11

dialysis in the near future and live in the

12

Lockport area. These patients are known to me

13

and wish to see me when they have to go on

14

dialysis.

15

"It is much better for continuity of care

16

for patients to remain with their own

17

nephrologist when they start to dialyze.

18

Typically the nephrologist has followed them for

19

years and knows their other health issues and

20

circumstances that may affect their care.

21

"These patients are very sick, and

22

traveling a half an hour or more for care is

23

simply not acceptable for many of them. While a

24

MapQuest travel time may reveal that Willowbrook,

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1 Plainfield, and Mokena are options for these  
2 patients, they simply are not.

3 "Our practice is located in southwest  
4 suburban Chicago, so I am very familiar with the  
5 area. Given traffic congestion and travel  
6 impediments, our patients simply cannot travel to  
7 these clinics within a half an hour. Even if  
8 they could, the Willowbrook and Plainfield  
9 clinics are not clinics where I or my partners  
10 intend to do rounds. These clinics are supported  
11 by other nephrologists and other patients.

12 "I cannot impress enough on the Board how  
13 end-stage renal disease is progressing in our  
14 communities. More and more of our population is  
15 aging, and as they age, they have kidney disease.  
16 Our population is becoming more diverse, and  
17 Latinos and African-Americans are  
18 disproportionately affected by diabetes and other  
19 comorbidities that cause kidney disease.

20 "Finally, obesity is impacting our  
21 population in a way that has dramatic effects on  
22 health, including higher incidence of diabetes,  
23 even among young people, and, hence, kidney  
24 disease prevalence is ever-increasing. As time

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1 progresses, we may find a solution. In the  
2 meantime, these patients must receive dialysis,  
3 and access to it is very important.

4 "I urge the Board to approve the Lockport  
5 application for my patients. I am not an  
6 employee of Fresenius and do not financially  
7 benefit from the clinic. My concern is only my  
8 patients.

9 "Thank you for your time and consideration.  
10 Respectfully submitted, Ronald Hamburger,  
11 Southwest Nephrology Associates."

12 HEARING OFFICER HALL: Christine  
13 Yazumbek.

14 MS. YAZUMBEEK: I'm going to read a  
15 letter I wrote and then also one of the patient  
16 letters. My name is Christine Yazumbek and I am  
17 the social worker for FMC Orland Park dialysis  
18 clinic.

19 One of the major challenges I have seen  
20 from the Lockport/Homer Glen area is  
21 transportation. People -- patients who live in  
22 the Lockport area cannot get transportation to  
23 Orland Park because it is a different county.  
24 Patients in these areas have to rely on family or

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1 pay for transportation if they are not able to  
2 drive.

3 Both Pace special services and Pace  
4 Dial-a-Ride have services within Will County, but  
5 they will only provide services if they live --  
6 within Will County.

7 As the social worker covering Orland Park  
8 and previously Mokena, I have had the experience  
9 of having patients being referred to both Orland  
10 Park and Mokena because they could not get into  
11 the Silver Cross Hospital unit. I've also had  
12 the experience of patients that would initially  
13 have to travel to the Renal West clinic and then  
14 transfer there when space is available.

15 The demands of kidney disease are  
16 overwhelming. One might not -- one might think  
17 an extra 10, 15 minutes one way is not that big  
18 of a deal but it is.

19 As a social worker, it is my role to help  
20 the patients continue to live as normal a life as  
21 possible. We need to do our part to allow  
22 patients to have access to health services near  
23 their home with hours that will accommodate their  
24 work and -- work schedules and volunteer

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1 activities. These patients are productive parts  
2 of our community, and it is important that we  
3 give them the chance to continue their life  
4 outside of dialysis.

5 Some of the activities my patients are  
6 involved in include working full- or part-time,  
7 volunteering, church activities, community  
8 organization work, and they are valuable members  
9 of their families.

10 Medicare has also put forth new conditions  
11 of coverage that require dialysis centers to look  
12 at quality of life. I complete quality-of-life  
13 surveys with patients to see how the demands of  
14 dialysis are impacting their life. Being able to  
15 get transportation and being able to have a  
16 choice in their dialysis time is a huge -- has a  
17 huge impact on their quality of life.

18 I am in support of adding the new unit.  
19 The Lockport and Homer Glen area is definitely  
20 underserved when it comes to dialysis services.  
21 Patients are not able to utilize public  
22 transportation and are limited in dialysis times.  
23 I mean, that's one thing we haven't talked about,  
24 about patients that -- you know, they work. They



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1 need certain schedules -- same thing with the  
2 family -- and it's very difficult.

3 I worked at Orland Park when we were  
4 overutilized, and it was very difficult on these  
5 patients if they were trying to accommodate their  
6 work schedules, the family schedules.

7 And in terms of getting to dialysis, a unit  
8 can be 2 miles away and, if they don't have  
9 access to some type of transportation, it might  
10 as well be a hundred miles away.

11 The other thing I'm going to read is a  
12 patient of mine.

13 "My name is Nazar Marouf, and I am a  
14 patient of Dr. McLaughlin and dialyze at  
15 Fresenius Medical Care in Orland Park.

16 "I am hopeful that the Board will approve  
17 the Lockport application as I currently travel  
18 12 miles -- 12 miles, and it will make my life  
19 much better and less -- and less expensive -- it  
20 will be less expensive if we have the dialysis  
21 center in Lockport. My kidney disease is very  
22 challenging for me, and anything that will  
23 provide me better access to care makes my life  
24 better.

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1                    "I live and work in Lockport, and the  
2                    Lockport unit would improve my quality of life by  
3                    reducing my travel time. I have my own business,  
4                    which requires a great deal of my time. I have a  
5                    family and would like to spend more time with  
6                    them.

7                    "I need to continue to work to support my  
8                    family. The Lockport unit would help me by  
9                    reducing my travel time. 12 miles may not seem  
10                   like a lot, but when you add in traffic, it can  
11                   take a long time."

12                   HEARING OFFICER HALL: Can you spell  
13                   your name for the Court Reporter.

14                   MS. YAZUMBEK: His first name, Nazar,  
15                   is N A --

16                   HEARING OFFICER HALL: Your name.

17                   MS. YAZUMBEK: Oh, my name?  
18                   Christine. The last name, Y A Z U M B E K.

19                   HEARING OFFICER HALL: B E K?

20                   MS. YAZUMBEK: B E K.

21                   HEARING OFFICER HALL: Thank you.

22                   Amy O'Brien.

23

24

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MR. VAN DYKE: My name is Dick

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1 VanDyke. I'm an alderman in the City of  
2 Lockport, and the proposed facility will fall  
3 within the first ward. That's the ward that I  
4 represent.

5 I'm struck with the two sides that are  
6 presented here. I think I understand both sides  
7 very well and would only point out that having  
8 been an advocate for the well-being of three  
9 now-deceased family members, having had more than  
10 my fair share in the hospital, as well, I fully  
11 realize that the concept here that I think the  
12 past few speakers have represented is the -- the  
13 perspective of the patient.

14 The Health Facility Planning Board, I  
15 understand the concept, limiting to having -- not  
16 having too many duplicate services; however, when  
17 one is either the patient or the patient's  
18 advocate and involved in not only the travel --  
19 which has been expressed here -- but, also, the  
20 incessant wait that always accompanies any kind  
21 of service, I think it begs the question that,  
22 for Lockport -- which is a community which is  
23 growing and committed to growing -- in fact,  
24 we're probably on the cusp of growth right now --

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1 I think that it best serves our residents now and  
2 in the immediate future, as well.

3 Thank you.

4 HEARING OFFICER HALL: Ray Ozak

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