Roate, George

From: Lori Wright [Lori.Wright@fmc-na.com]
Sent: Thursday, September 22, 2011 4:41 PM
To: Roate, George
Cc: Constantino, Mike
Subject: #11-025
Attachments: #11-025 Opposition.pdf

George,

Please see attached opposition to #11-025.

Thank you,
Lori Wright
Senior CON Specialist

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Fresenius Medical Care
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Fresenius Medical Care

September 22, 2011

Ms. Courtney Avery
Administrator
Illinois Health Facilities and Services Review Board
525 W. Jefferson, 2nd Floor
Springfield, IL 62716

Re: Opposition to #11-025, U.S. Renal Care Bolingbrook Dialysis

Dear Ms. Avery:

I am writing on behalf of Fresenius Medical Care in opposition to project #11-025, U.S. Renal Care Bolingbrook Dialysis (USR). There are some required criteria omissions within the application that we believe need to be addressed by the applicant in order to comply with Board rules, which I will detail further in this letter.

First I want to make it clear that Fresenius is not opposed to USR entering the dialysis market in Illinois nor are we opposing this project on the basis of whether or not there is a need for any additional stations in HSA 9. Our opposition to this project is based on the use by USR and the physicians supporting this project, of false and misleading comments about Fresenius Medical Care to justify the need for this facility, rather than addressing the Board's criteria for establishment of a facility for approval on its own merits. As a distinguished leader in the dialysis industry, Fresenius Medical Care finds it troubling that another large dialysis company such as U.S. Renal would stoop to these tactics. We did send a cease and desist letter (see attachment #1) to U.S. Renal evidencing the strength of all convictions that its comments were wholly inappropriate and inaccurate.

Examples of Unnecessary, Inaccurate and Irrelevant Comments

In regards to patient admissions, USR claims that the Fresenius admission policies negatively impact patients and that, "*the current system of admissions to Fresenius is not only increasing hospital costs with prolonged lengths of stay, it denies the patient choice in dialyzing at the facility closest to their home*". The Fresenius Medical Care admissions policies adhere to the same standards that all other dialysis providers are subject to, and which USR Bolingbrook will also have to adhere to. Many of the admission requirements are mandated by CMS such as a requirement of a current hepatitis B screen (within 30 days). CMS also expects an initial assessment by a member of the medical staff prior to initiation of the first treatment (see attachment #2).

Fresenius Medical Care also verifies the patient's insurance prior to admission to ensure that a patient is not inadvertently sent to a facility where they do not have insurance coverage. Fresenius Medical Care admissions makes every attempt to place the patient within 24 hours, however if we do not have all admission requirements according to CMS, there may be a delay in admission as we cannot violate CMS regulations. This is the case with any dialysis provider.

In response to U.S. Renal claims of delayed admissions Fresenius conducted a survey of all referrals into our centralized admissions department from Alexian Brothers, Adventist Glen Oaks, Hinsdale, La Grange and Bolingbrook, and Advocate Good Samaritan Hospitals over the time period 12/31/2010 to 07/31/2011. Results showed that out of 94 referrals, 13 were cancelled, 18 were prolonged due to patient illness/need for other healthcare services and of the remaining 63 patient referrals, the average length of time it took to place a patient was 2 days. (146 patient days/63 referrals)

Total Referrals/Patients	# of Days for Patient Placement	
5	0	
19	1	
11	2	
14	3	
7	4	
7	5	
18	>5	(prolonged d/t patient illness/need for other healthcare services)
13	N/A	(referrals cancelled)
94	**Total**	

The claim that the Fresenius admissions department denies the patients the choice of dialyzing near their home is absurd and is not backed up with any hard evidence. The goal of Fresenius Medical Care, as this Board has well been informed and has seen by our many applications for new facilities, is to bring dialysis closer to home for the patient. Many times we have been before the Board stressing the hardship that dialysis patients go through with finding transportation for treatments three times weekly, and how a facility in their community creates a higher quality of life for the patient. It would not make sense, nor would there be any reason for Fresenius to deny a patient access to a facility close to their home. In fact our admissions department utilizes mapping software to accurately locate the facility closest to the patient's home.

The three patient instances of admissions difficulties cited in Dr. Ahmed's letter are addressed with factual and truthful information below.

- **From Dr. Ahmed's letter:**
  - "These patients have reported and increasing number of problems with local dialysis facilities that this letter will summarize." "It is submitted subject to penalty of perjury and I am prepared to testify on the matters related. Because of HIPAA patient names are not disclosed."
  - "FMC-Bolingbrook is not only utilized at a high capacity, the current medical director is restricting care against patients who do not have an existing arterio-venous fistula (AVF)." "I will illustrate how this restriction of care has impacted at least three of my patients."

Exerpt from #11-025

Patient A Testimonial: In May of 2011, I accepted into my care a patient in her late 60's with end stage COPD who requires continuous oxygen and who had recently moved to the Bolingbrook area to live under the care of her sister. Patient A had three previous unsuccessful attempts to place an AVF and at this time surgeons consider her to be a high surgical risk due to her advanced COPD. This patient has requested to be transferred to FMC-Bolingbrook but after several attempts for placement by a social worker and family members, she was informed by the facility head nurse/manager that the medical director will not accept patients without an AVF access. As a result, Patient A's sister must drive her to Silver Cross Hospital in Joliet (30 miles round trip) thrice weekly and either wait 4.5 hours for the duration of her treatment, or double her mileage by returning home for the wait. If Patient A becomes sick on dialysis, she will be admitted to Silver Cross Hospital where I do not practice, and continuity of care is lost.

Continuity of care would have been compromised had this patient been admitted to Bolingbrook. Patient A was known to Dr. Schlieben, Medical Director at Fresenius Bolingbrook, to be a long term patient of a Joliet nephrologist and long term patient at the Silver Cross Hospital dialysis facility. This patient was admitted to Bolingbrook Hospital where the patient's nephrologist is not on staff and was therefore seen by Dr. Ahmed/Rauf who wanted to admit her to Bolingbrook Dialysis. The clinic manager never spoke to this patient as the referral was handled through the admissions department. Dr. Schlieben did not want to take the patient at Bolingbrook because he felt it was in the patient's best interest to remain with her physician at Silver Cross Dialysis. As Dr. Schlieben stated in his opposition letter to the Board, Bolingbrook Dialysis **does** accept new patients without an AVF and currently all of Dr. Ahmed's patients at Bolingbrook do not have an AVF although that is the preferred method of delivering dialysis treatment recognized by all dialysis professionals and CMS.

Exerpt from #11-025

Patient B Testimonial: Patient B is in his late 50's with Type II Diabetes Mellitus, peripheral vascular disease (PVD), hypertension and End Stage Renal Disease (ESRD). This gentleman has had multiple podiatric procedures for necrosis of the foot, requiring several hospitalizations.

Patient B had the surgical procedure for the placement of an AVF and two subsequent revisions, all of which failed. As such, Patient B is currently dialyzed with a permanent internal juglar catheter at FMC-Naperville North, requiring a drive of approximately 26 miles round trip, three times weekly for his dialysis treatments. Patient B must rely on the help of a friend or family member to obtain his treatment due to his failing eye sight secondary to diabetes. Over the past two years, Patient B has made multiple attempts for placement at FMC-Bolingbrook to ease the burden of his commute, only to be turned away due to lack of an AVF access. Again, should this patient become ill on dialysis, he would be admitted to Edward Hospital, losing continuity of care of most of his Bolingbrook doctors, which include such essential specialists as a cardiologist and pulmonologist as well as nephrologist.

Patient B is a known patient at Fresenius Naperville North Dialysis Center and up until recently (due to amputation) drove himself to and from treatment. He is now driven by a friend. He originally requested a transfer to the Bolingbrook dialysis facility, but when the transfer was arranged the patient decided he was happy at the Naperville North facility and no longer wanted to transfer.

Exerpt from #11-025

Patient C Testimonial: My third illustration is a young woman in her 30's with a diagnosis of diabetic nephropathy. Patient C lives in the Bolingbrook area and commutes with difficulty to FMC-Plainfield, which is a 20+ mile round trip drive. Over the past year and a half under my care, Patient C has missed many dialysis treatments due to transportation difficulties, which subsequently has resulted in the need for admission and urgent dialysis at Adventist Bolingbrook Hospital on multiple occasions. Although venous mapping has been completed and several attempts have been made to schedule surgery for an AVF, to date, this has not been possible due to the instability of the patient resulting from multiple hospital admissions managing malignant hypertension and abdominal pain due largely to missed dialysis treatments. A fairly accurate accounting of her hospitalizations is approximately 25 admissions over the past 18 months. These issues have been raised with the FMC-Bolingbrook charge nurse/manager to no avail.

Patient C is a known patient at Fresenius Plainfield and has Medicare and Medicaid coverage. This patient has reliable medical car transportation that is fully funded by Medicaid. This patient has a record of non-compliance and skips many treatments. The transportation service has reported arriving to transport the patient and patient isn't home. Due to these missed treatments the patient becomes ill and is admitted to the hospital. This patient has also missed appointments to have an AVF placed. Due to patient's non-compliance the AVF has not been placed. The hospital admissions mentioned by Dr. Ahmed are due to missed treatments by the patient and have nothing to do with whether or not the patient was granted a transfer to Bolingbrook Dialysis. Any non-compliance issues would be handled by the Fresenius Plainfield facility where the patient receives treatment. The patient was not turned away from the Bolingbrook facility due to a lack of an AVF but due to patient's non compliance.

For the Board's information, a catheter is considered a temporary access for administering dialysis treatment and the preferred access is an arteriovenous fistula (AVF) which is a treatment access placed in the patient's arm. This is preferred because patients with an AVF have better quality outcomes, fewer hospitalizations, less risk of infection and higher mortality rates.

The Fresenius Bolingbrook facility does not restrict care against patients who do not have an AVF. In fact in the past two years the twenty patients admitted to the facility by Drs. Rauf and Ahmed all were admitted with catheters. As of June, Drs. Rauf and Ahmed had 10 patients at the Bolingbrook facility and 7 of them were dialyzing with a catheter. This quality measure is far below the remainder of other patients at the facility of whom 79% have an AVF. The statement mentioned earlier that Dr. Ahmed made regarding patient admissions being restricted due to the absence of an AVF's is therefore a blatant fabrication.

Importantly, the application includes inflated patient numbers. We would like to provide for the Board, the true picture of the patient numbers that Drs. Rauf and Ahmed have had historically and currently. Since in their own words Fresenius Medical Care is, *"the current provider in town", "one provider", or "existing provider"*, it would likely be dialyzing the majority of their patients in its clinics. Fresenius Medical Care records show the following hemodialysis admissions for the past 3 ½ years and current (as of June 30, 2011) hemodialysis patients in the area facilities. (Note that these numbers do not include the home dialysis or nursing home patients that Drs. Rauf and Ahmed report in their numbers.)

Drs. Rauf and Ahmed Patient Admissions Past 3 ½ Years

	Dr. Rauf & Dr. Ahmed In-center Hemodialysis Admissions 01/01/08 Through 06/30/11				
Facility	**2008**	**2009**	**2010**	**2011**	**Total**
Fresenius Bolingbrook	3	11	5	3	**22**
Fresenius Downers Grove	2	5	4	2	**13**
Fresenius Elk Grove	0	0	0	0	**0**
Fresenius Glendale Heights	0	1	7	3	**11**
Fresenius Hoffman Estates	0	0	0	0	**0**
Fresenius Naperville	1	0	0	0	**1**
Fresenius Naperville North	3	2	0	0	**5**
Fresenius Plainfield	0	0	1	0	**1**
Fresenius Rolling Meadows	0	0	0	0	**0**
Fresenius Villa Park	1	3	2	1	**7**
Fresenius Westchester	1	5	7	1	**14**
Fresenius Willowbrook	4	9	7	1	**21**
Totals	**15**	**36**	**33**	**11**	**95**

16 of the 95 admissions reflected here are patients who transferred from one facility to another. That leaves a balance of 79 new ESRD referrals for the past 3 ½ years or an average of 23 patients yearly for 12 facilities spanning from Will county through Du Page and into northern and western Cook County.

Current Patients of Drs. Rauf & Ahmed Dialyzing in Fresenius Clinics

Facility	**Dr. Rauf and Dr. Ahmed's In-center Hemodialysis Patients**
Fresenius Bolingbrook	9
Fresenius Downers Grove	6
Fresenius Elk Grove	0
Fresenius Glendale Heights	4
Fresenius Hoffman Estates	0
Fresenius Naperville North	1
Fresenius Plainfield	1
Fresenius Rolling Meadows	0
Fresenius Villa Park	1
Fresenius Westchester	4
Fresenius Willowbrook	5
Totals	**31**

Facility	**Dr. Rauf and Dr. Ahmed's Home Dialysis Patients**
Fresenius Bolingbrook	3
Fresenius Downers Grove	
Fresenius Elk Grove	
Fresenius Glendale Heights	
Fresenius Hoffman Estates	
Fresenius Lombard Home	1
Fresenius Naperville North	
Fresenius Plainfield	
Fresenius Rolling Meadows	
Fresenius Villa Park	
Fresenius Westchester	
Fresenius Willowbrook	
Totals	**3**

It is evident that these numbers (average admissions of 23 per year and total of 31 in-center hemodialysis currently) do not support the elevated number of patients Drs. Rauf and Ahmed certify they will refer to USR Bolingbrook. In the application they anticipate they will refer 106 patients to the Bolingbrook facility in the first two years of operation. This would mean they would refer approximately 53 patients per year to this one facility. This amount is double the yearly average of the last 3 ½ years to all our area facilities. If you include the patients they claim they will refer to #11-024, USR Oak Brook and to #11-026 USR Streamwood the total number of expected referrals is 277 between August 1, 2012 and August 1, 2014. This amounts to a yearly average of 139 new referrals. A 504% increase in their historical admissions.

Even if the 66 new referrals the nephrologists state they had in 2010 were all considered in-center hemodialysis patients their projected referrals would still be more than double per year as they were historically. (In the physician's referral letter at Appendix 1 of the application many of the patients listed were referred to nursing homes, home dialysis, in-patient hospital and in one case to a clinic that does not exist, FMC Bartlett. As well in their facility referral list there are two other non-existent facilities listed, FMC Palos and FMC Tinely Park). While it is not against the Board rules to list referrals for all dialysis modalities, it needs to be noted that comparing these types of referrals to in-center hemodialysis referrals is like comparing apples to oranges and does not reflect referral trends to in-center hemodialysis, which is the only type of dialysis services that falls under the Illinois Health Facilities Planning Act and under Board rules. Admitting patients to the hospital, nursing home or home dialysis program does not support the continued referrals to an in-center hemodialysis program. We also question the listing of three fictitious facilities.

The listing on the following page shows all of the facilities that the physicians state they refer to. 40% of these facilities are either nursing homes, non-existent facilities, home dialysis programs, facilities outside of their general service area or are hospitals rather than dialysis centers. The listing of referrals to these facilities is misleading to the extent that if these patient referrals were removed, the total number of patients would decline significantly as seen below.

2008 - from 55 patients referred down to 40
2009 - from 86 patients referred down to 68
2010 - from 80 patients referred down to 65
1st Qtr 2011 – from 23 patients referred down to 1

REFERRAL FACILITIES LISTED BY PHYSICIANS IN #11-025

Facility	Type	City	H S A
Advanced Home Dialysis	Home Dialysis	Lombard	Not In-center Facilty
Advanced Home Therapies	Home Dialysis	Lombard	Not In-center Facilty
Affiliated Dialysis	Home Dialysis	Glen Ellyn	Not In-center Facilty
Good Samaritan Inpatient Hospital	Hospital Inpatient	Downers Grove	Not In-center Facilty
Hinsdale Inpatient Hospital	Hospital Inpatient	Hinsdale	Not In-center Facilty
RML Specialty Hospital	Hospital Inpatient	Hinsdale	Not In-center Facilty
Glen Oaks Inpatient Hospital	Hospital Inpatient	Glendale Heights	Not In-center Facilty
Bolingbrook Inpatient Hospital	Hospital Inpatient	Bolingbrook	Not In-center Facilty
Elmhurst Memorial Inpatient Hospital	Hospital Inpatient	Elmhurst	Not In-center Facilty
Fresenius Ottawa	In-center Out of Area	Ottawa	2
DaVita Alton	In-center Out of Area	Alton	11
Neph Inc. Mishawauka Indiana	In-center Out of Area	Mishwauka IN	Out of State
Fresenius Bartlett	***Non-existant facility***	***Non-existant facility***	***Non-existant facility***
Fresenius Palos	***Non-existant facility***	***Non-existant facility***	***Non-existant facility***
Fresenius Tinley Park	***Non-existant facility***	***Non-existant facility***	***Non-existant facility***
Community Nursing Home	Nursing Home	Naperville	Not In-center Facilty
Fairview Baptist Nursing Home	Nursing Home	Downers Grove	Not In-center Facilty
Meadowbrook Bolingbrook Nursing Home	Nursing Home	Bolingbrook	Not In-center Facilty
Meadowbrook LaGrange Nursing Home	Nursing Home	LaGrange	Not In-center Facilty
Meadowbrook Naperville Nursing Home	Nursing Home	Naperville	Not In-center Facilty
Fresenius Neomedica West	In-center	Chicago	6
Fresenius Roseland	In-center	Chicago	6
Fresenius University Program	In-center	Chicago	6
Mt. Sinai Hosp Renal Unit	In-center	Chicago	6
UIC Downtown	In-center	Chicago	6
Fresenius Berwyn	In-center	Berwyn	7
Fresenius Blue Island	In-center	Blue Island	7
Fresenius Burbank	In-center	Burbank	7
Fresenius Crestwood	In-center	Crestwood	7
Fresenius Downers Grove	In-center	Downers Grove	7
Fresenius Elk Grove	In-center	Elk Grove	7
Fresenius Evergreen Park	In-center	Evergreen Park	7
Fresenius Glendale Heights	In-center	Glendale Heights	7
Fresenius Naperville	In-center	Naperville	7
Fresenius Naperville North	In-center	Naperville North	7
Fresenius Orland Park	In-center	Orland Park	7
Fresenius South Suburban	In-center	Olympia Fields	7
Fresenius Villa Park	In-center	Villa Park	7
Fresenius Westchester	In-center	Westchester	7
Fresenius Willowbrook	In-center	Willowbrook	7
Gotleib Hospital Dialysis (Fresenius No Ave)	In-center	Melrose Park	7
Loyola Dialysis Maywood	In-center	Maywood	7
Maple Avenue Kidney Center	In-center	Oak Park	7
Fox Valley Dialysis	In-center	Aurora	8
Tri Cities Dialysis	In-center	Geneva	8
Fresenius Bolingbrook	In-center	Bolingbrook	9
Fresenius Mokena	In-center	Mokena	9
Fresenius Oswego	In-center	Oswego	9
Fresenius Plainfield	In-center	Plainfield	9
Silver Cross Hospital Dialysis	In-center	Joliet	9

We would also like to point out that, along with the misleading comments/information previously detailed, that USR would have the Board believe they are coming into this market to provide patients with a choice over the current dominant provider in the area by offering services of independent physicians who can provide better quality care than the existing large provider can. In reality, USR is a large publicly traded corporation as are the other large providers of dialysis in Illinois. Different and separate physicians serve as medical directors in their facilities as they do in Fresenius clinics (see attachment #3 - U.S. Renal company information).

Fresenius Medical Care's patient satisfaction is backed by The Renal Network, which has not received any patient complaints from Fresenius Clinics in the Bolingbrook area for the most recent year (see attachment #4 Renal Network complaint reports). Fresenius Medical Care also conducts it own yearly patient satisfaction survey, which shows overwhelming patient satisfaction at area clinics, especially the Bolingbrook facility (see attachment #5 - surveys from these facilities).

At Fresenius Medical Care quality is at the top of its core values and the forefront of most company initiatives. Continuing quality improvement focuses on adequacy of dialysis treatment, anemia, nutrition, mineral balance and vascular access. Dialysis treatment adequacy is measured best by the patient's lab value of Kt/V $\geq$ 1.2. Currently 97% of Fresenius Medical Care's patients in North America meet this goal. This is evidence of the high standard and excellence of care given to its patients.

Technicial Errors and Required Criteria Omissions

We note that the applicant sent in supplemental information addressing some application errors, however, the following inaccuracies remain:

- The historic data for past three years sent in as supplemental information on July 26, 2011 is yearly referrals. The rules ask for:
    - *the physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, as reported to The Renal Network* ***at the end of the year*** *for the most recent three years and the end of the most recent quarter* - The applicant provided total referrals for the past three years, not patients at the end of the year as reported to the Renal Network.

- Per 1110.510 the applicant did not indicate travel times as adjusted. *Normal Travel Time for proposed projects shall be the time determined by MapQuest, Inc. multiplied by an adjustment factor that is based upon the location of the applicant facility.* For USR Bolingbrook the adjustment factor would be 1.15.

In closing we refute the insinuations that patient care is not Fresenius Medical Care's main concern and that patient care in our facilities is by any means sub-standard. Fresenius' team of highly trained, qualified, caring and compassionate staff treat over 8,000 patients in the State of Illinois. Each Fresenius facility has monthly quality meetings where the clinical team of physicians, nurses, social workers and dietitians review all aspects of patient care. Those things reviewed include patient labs, hospitalizations, infection control, catheter reduction, staffing, social work, dietary concerns and patient satisfaction. Each and every month a Quality Status Report is compiled on **every** referring nephrologist (including Drs. Rauf and Ahmed) and each nephrology practice as a whole. These reports summarize the nephrologist's patient's lab values, hospitalizations, percent patients with catheters, mortality rate, diabetic foot checks and transplant education. Clinical staff review these quality measures on a continual basis to make certain that Fresenius Medical Care and the physicians granted privileges are held accountable to providing the highest quality of care to each and every patient.

Fresenius Medical Care respectfully requests the Board to take these concerns into consideration when evaluating the U.S. Renal Bolingbrook application. Thank you for your time and attention to this information.

Sincerely,

Lori Wright

Lori Wright
Senior CON Specialist

cc: Clare Ranalli

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Clare Connor Ranalli
(312) 578-6567
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June 24, 2011

Via E-mail (eclancy@uhlaw.com)
Via First Class Mail

Edward Clancy
Ungaretti & Harris LLP
3500 Three First National Plaza
70 West Madison
Chicago, IL 60602

Re: Improper Statements Re: Fresenius Medical Care in U.S. Renal Care Permit Applications

Dear Ed:

This firm represents Fresenius Medical Care of Illinois, LLC and related entities ("Fresenius") in relation to healthcare regulatory matters in Illinois. We have reviewed three Applications for Permits, numbers 11-024, 11-025, and 11-026 (the "Applications"), filed by U.S. Renal Care ("U.S. Renal") on May 24, 2011 with the Illinois Facilities and Services Review Board (the "Board"). In each of the three Applications, U.S. Renal seeks to support its request for permits to build dialysis centers in Downers Grove, Bolingbrook, and Streamwood, respectively, by making material misrepresentations about Fresenius and its business practices, disparaging Fresenius Illinois' facilities and the services offered by them, and generally painting Fresenius in a potentially false light. We demand that U.S. Renal cease and desist in making defamatory and/or disparaging statements about Fresenius, modify the Applications to remove untrue statements about Fresenius, and refrain from making or publishing further defamatory statements to the Board, whether by application, written or oral communication, at public hearing, or otherwise.

The Illinois Uniform Deceptive Trade Practice Act makes it a deceptive trade practice to "disparage[] the goods, services, or business of another by false or misleading representation of fact." 815 ILCS 510/2(a)(9); *M & R Printing Equip., Inc. v. Anatol Equip. Mfg. Co.*, 321 F.Supp.2d 949, 952 (N.D.Ill. 2004) (recognizing that the broad statutory language includes "statements that impugn a business' integrity [or services]"). Such disparagement and misrepresentations constitute an independent violation of the Illinois Consumer Fraud and

Deceptive Business Practices Act, 815 ILCS 505/2, and may be further actionable under a variety of common law theories. *See, e.g.*, 815 ILCS 510/2(c); *Fedders Corp. v. Elite Classics*, 268 F.Supp.2d 1051, 1064 (S.D.Ill. 2003) (although the UDTPA codifies the common law tort of commercial disparagement, it does not necessary preempt claims for false light, tortuous interference with a business expectancy, tortuous interference with a prospective economic advantage, and other similar claims); *Intern. Union of Op. Engineers, Local 150 v. Lowe Excavating Co.*, 225 Ill.2d 456, 870 N.E.2d 303, 308, 311 (2007) (recognizing the appropriateness of compensatory and punitive damages awards to a company, whose union wrongly alleged that the company did not pay prevailing wages, upon trade libel and tortuous interference with a prospective economic advantage theories, amongst others"). Throughout the Applications, U.S. Renal asserts that Fresenius has acted to restrict trade, limit patient access to care, increase healthcare costs, and impede patient outcomes. The foregoing misrepresentations threaten to irreparably damage Fresenius' reputation with the Board, with the public and may result in lost business opportunities to Fresenius in Illinois and elsewhere.

For avoidance of doubt, all, but not necessarily limited to all, of the following statements in the Applications are passed off as fact, and yet are untrue, and either directly disparage Fresenius or otherwise cast it in a false light:

1. The Applications claim that Fresenius' "current system of admissions is increasing Hospital costs" by causing prolonged lengths of stay. As you well know, in the healthcare world this is a very damaging statement to make about another provider. It claims that federal and state government payer systems, as well as private insurers such as Blue Cross/Blue Shield, are paying more for care than is necessary as a direct result of Fresenius policies. No statement in the Applications may constitute a more clear violation of the Illinois Uniform Deceptive Trade Practice Act than this one, which is both a material misrepresentation and defamation. One of the Board's charges is to decrease health care costs. Thus, misrepresentations like this one may seriously and irreparably harm Fresenius' credibility before the Board. Despite the damaging nature of the statement, U.S. Renal offers nothing to support it.

2. U.S. Renal states that Fresenius "market dominance" leads to "severe" access issues for patients due to admissions policies of "existing providers." The only "existing provider" referenced in any of the Applications is Fresenius. Moreover, U.S. Renal claims that it is establishing the proposed facilities to give patients "choice," because Fresenius controls 70% of the market share and there are patients who either cannot or will not go to Fresenius.

    a. The statements imply, if not openly express, that Fresenius employs restrictive admissions, turns patients away and limits access to care. Such claims are false. Fresenius Illinois' facilities are generally open to all patients regardless of their ability to pay, citizenship/documentation or dialysis access situation (e.g., whether the patient has a catheter).

b. The statements further indicate to the Board that, due to the alleged admissions practices of Fresenius, there are patients who will not or cannot go to Fresenius. Again, such claims - particularly when couched as blanket generalizations - disparage Fresenius' services.

c. U.S. Renal is obligated under the Board's rules regarding the need to establish facilities in the face of maldistribution of services to explain why other dialysis providers are not an option. It is required to identify with specificity the alleged number of patients who will not or cannot go to Fresenius facilities and the reason why. The Applications fail to provide any specific information regarding patients who cannot or will not go to Fresenius, and simply disparage Fresenius.

3. The Applications claim that Fresenius enjoys a "monopoly" on dialysis services, and claims that physicians are therefore, "at their mercy" without referencing what the latter means. Again, both claims misrepresent material facts in a fashion which not only disparages Fresenius, but seeks Board reliance thereon for U.S. Renal's benefit.

We reiterate that Fresenius hereby demands that U.S. Renal cease and desist in making defamatory and/or disparaging statements about Fresenius, modify its Applications to remove any such untrue statements about Fresenius, and cease in making or publishing further defamatory and/or disparaging statements to the Board, whether by application, written communication, at public hearing, or otherwise. If U.S. Renal does not modify its Applications, utilizing the process in the Board's rules for doing so, Fresenius will take all necessary actions to remedy U.S. Renal's unlawful conduct before the Board, and as may otherwise be appropriate in alternate venues/jurisdictions. Fresenius intends to vigorously defend its reputation, but also prefers to avoid a prolonged dispute with U.S. Renal, which can be accomplished if U.S. Renal simply modifies the Applications and refrains from making further blanket untrue statements about Fresenius. If you have any questions, please do not hesitate to contact me directly.

Sincerely yours,

HOLLAND & KNIGHT LLP

Clare Connor Ranalli

Clare Connor Ranalli

CCR:mjy

cc: Steffanie Garrett
Daniel Farris
Michelle Wiest
Jessica Stewart
Julie Hawkins

TAG NUMBER	REGULATION	INTERPRETIVE GUIDANCE
		and clean and disinfect all surfaces of the containers associated with the prime waste (including containers attached to the machines) after each treatment. After each treatment, the staff needs to clean and disinfect medical devices and equipment. Items such as scissors, hemostats, clamps, stethoscopes, and blood pressure cuffs need to be cleaned and disinfected between patient uses. If the item is visibly contaminated with blood, an intermediate-level disinfectant must be used. Staff must appropriately clean and disinfect the internal circuits of the dialysis machines. Single-pass machines may be rinsed and disinfected at the beginning or end of each day, while batch recirculating machines must be drained, rinsed and disinfected after each use. If a blood leak occurs, the manufacturer's recommendations for additional disinfection should be followed. A facility should document procedures for the dialysis machine disinfection, including testing for residual disinfectant.
No tag	(3) Patient isolation procedures to minimize the spread of infectious agents and communicable diseases;	This is an information tag. At the time of publication of these regulations, isolation procedures required by the CDC were related to the care and treatment of HBV+ patients. For guidance and references to isolation, refer to the individual tags related to isolation which are provided below in this section.
V124	**CDC RR-5 Requirements as Adopted by Reference 42 CFR 494.30 (a)(1)(i)** **Routine Testing for Hepatitis B** The HBV serological status (i.e. HBsAg, total anti-HBc and anti-HBs) of all patients should be known before admission to the hemodialysis unit.	Clarification of terminology: "HBsAg positive" is used synonymously with "HBV+" meaning that the person has tested positive for the presence of Hepatitis B surface antigen. "HBsAg negative" is used synonymously with "HBV-" meaning that the person does not have the Hepatitis B surface antigen. "HBV susceptible" means that the person does not have sufficient Hepatitis B surface antibody levels to achieve immunity to the virus. "HBV immune" means the person has sufficient Hepatitis B surface antibodies to achieve immunity to the virus.

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CMS Admissions Regulations
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	Routinely test all patients [as required by the referenced schedule for routine testing for Hepatitis B Virus]. Promptly review results, and ensure that patients are managed appropriately based on their testing results.	According to CDC, although the incidence of HBV infection is low among chronic hemodialysis patients, preventing transmission depends on timely detection of patients converting from HBsAg negative to HBsAg positive and rapid implementation of isolation procedures before cross-contamination can occur. In order to prevent the transmission of Hepatitis B among ESRD patients, all new patients should be tested and their HBV serologic status (i.e., HBsAg, total anti-HBc, and anti-HBs results) should be known prior to admission for treatment. If the results of this testing are not known at admission because of an emergency situation; the patient should be tested immediately upon intake and results known within 7 days of admission. CDC's schedule for Hepatitis B testing is below: **Schedule for Routine Testing for Hepatitis B Virus (HBV) Infections**

Patient Status	On Admission	Monthly	Semi-annual	Annual
All patients	HBsAg,* Anti-HBc* (total), Anti-HBs,*			
HBV-susceptible, including nonresponders to vaccine		HBsAg		
Anti-HBs positive (≥10 mIU/mL),				Anti-HBs

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anti-HBc negative					
Anti-HBs and anti-HBc positive		No additional HBV testing needed			

* Results of HBV testing should be known before the patient begins dialysis.
† HBsAg = hepatitis B surface antigen; Anti-HBc = antibody to hepatitis B core antigen; Anti-HBs = antibody to hepatitis B surface antigen.

HBV-Susceptible Patients. Susceptible patients should begin receipt of hepatitis B vaccine immediately upon admission. Test susceptible patients monthly for HBsAg, including those who a) have not yet received hepatitis B vaccine, b) are in the process of being vaccinated, or c) have not adequately responded to vaccination. Note that, while the patient's anti-HBs is <10 mIU/mL, he/she is considered susceptible to hepatitis B, and should be tested for HBsAg monthly.

Follow-Up of Vaccine Responders. Retest patients who respond to the vaccine annually for anti-HBs.

HBV-Infected Patient. Chronically infected patients do not require any routine follow-up testing for purposes of infection control. Annual testing for HBsAg is reasonable to detect the small percentage of HBV-infected patients who might lose their HBsAg.

HBV-Immune Patients. Annual anti-HBs testing of patients who are positive for anti-HBs (>10 mIU/mL) and negative for anti-HBc determines the need for booster doses of vaccine to ensure that protective levels of antibody are maintained. Follow-up testing after booster doses of vaccine are given is not recommended, nor is routine follow-up testing necessary for patients who are positive for both anti-

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		HBs and anti-HBc. A facility should have systems in place for communicating these test results to other units or hospitals when patients are transferred for care.
V125	**CDC RR-5 Requirements as Adopted by Reference 42 CFR 494.30 (a)(1)(i)** **Routine Testing for Hepatitis B: seroconversion** When a seroconversion occurs, review all patients' routine laboratory test results to identify additional cases. Investigate potential sources for infection to determine if transmission might have occurred within the dialysis unit, including review of newly infected patients' recent medical history (e.g., blood transfusion, hospitalization), history of high-risk behavior (e.g., injecting-drug use, sexual activity), and unit practices and procedures.	According to the CDC, in patients newly infected with HBV, HBsAg often is the only serologic marker initially detected. HBsAg-positive seroconversions must be reported to the State or local health department as required by law or regulation. Patients with a positive HBsAg must be isolated. Patients newly identified with a positive HBsAg should be evaluated for the need for counseling, medical evaluation, and vaccination of contacts. Repeat HBsAg testing should be conducted and patient should be tested for anti-HBc (including IgM anti-HBc) 1–2 months later. Six months later, the facility should repeat HBsAg testing and test for anti-HBs to determine clinical outcome and need for counseling, medical evaluation, and referral of contacts for vaccination. Patients who become HBsAg negative are no longer infectious and can be removed from isolation. If there have been any seroconversions since last survey, there should be documentation of actions taken in response. Recognize that seroconversions should be relatively rare, and each seroconversion should be carefully analyzed for any potential that transmission occurred within the dialysis unit.
V126	**CDC RR-5 Requirements as Adopted by Reference 42 CFR 494.30 (a)(1)(i)** **Hepatitis B Vaccination** Vaccinate all susceptible patients and staff members against hepatitis B.	According to the CDC, hepatitis B vaccination is recommended for all susceptible chronic hemodialysis patients and staff members, whether or not the facility accepts HBV+ patients. OSHA mandates that each facility provide HBV vaccine to all susceptible staff members. Hepatitis B vaccination is also recommended for Stage 1-5 chronic kidney disease patients not yet on dialysis and peritoneal dialysis (PD) and home hemodialysis (home HD) patients because they might require in-center hemodialysis. While not a requirement, best practice would suggest that the home training nurse advise anyone who assists

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		they are made. Corporate-owned or corporate-managed facilities may use standard policies and procedures developed by the corporation. There should be a mechanism for the facility medical director to have input into the policies and procedures, and to have some authority to individualize corporate policies to address unique facility situations. Policies are expected to be adequate, accurate and up to date.
V715	(2) Ensure that— (i) All policies and procedures relative to patient admissions, patient care, infection control, and safety are adhered to by all individuals who treat patients in the facility, including attending physicians and nonphysician providers; and	The medical director is responsible for the implementation of the policies and procedures by all staff. This includes holding medical staff accountable for complying with facility policies and procedures, e.g., updating plans of care, signing verbal orders, being knowledgeable of the QAPI targets and working to achieve those targets in their patients. In reviewing the performance of the medical staff, the medical director should consider using currently-available methods, such as practitioner profiles, to review and evaluate performance. The medical director is responsible for ensuring that the facility has an established policy regarding admissions to the facility Policies relative to patient admission must address the expectation for an initial assessment by a member of the medical staff (i.e., physician, APRN or PA) before the initiation of the patient's first dialysis treatment in the facility, in order to develop the admission treatment orders and to provide for prompt recognition and action to address urgent patient medical needs (e.g., anemia with Hgb <10 gm/dL, fluid overload, hyperkalemia) prior to completion of the comprehensive patient assessment. This evaluation could be accomplished by review of medical records and consultation with the referring physician, and is not intended to require the medical staff member to "see" the patient in the facility prior to this first treatment. Orders for treatment must be in place prior to the initial treatment, as

TAG NUMBER	REGULATION	INTERPRETIVE GUIDANCE
		well as a patient evaluation by a registered nurse for any immediate needs. At the time of publishing these regulations, according to the American Nephrology Nurses' Association, the minimal nursing evaluation prior to initiating treatment for a patient new to the facility should include: • Neurologic: level of alertness/mental status, orientation, identification of sensory deficits • Subjective Complaints • Rest and comfort: pain status • Activity: ambulation status, support needs, fall risk • Access: assessment • Respiratory: respirations description, lung sounds • Cardiovascular: heart rate and rhythm; presence and location of edema • Fluid gains, blood pressure and temperature pre-treatment • Integumentary: skin color, temperature and as needed, type/location of wounds Note that other parts of these regulations address adherence to policies and procedures as applicable to specific Conditions, e.g., Infection control at V142, Water and dialysate quality at V259, Reuse at V306, and Physical environment at V408. Generally, these more specific tags should be used for deficient practices identified in those areas.
V716	(ii) The interdisciplinary team adheres to the discharge and transfer policies and procedures specified in § 494.180(f).	The medical director must monitor and review each involuntary patient discharge to ensure that the facility interdisciplinary team follows the discharge and transfer policies and completes the steps required under the Condition for Governance at V766 and V767. The records of any patients who have been involuntarily discharged must show evidence of compliance with each of the requirements detailed at V767, including evidence that the medical director as well as the patient's attending physician, signed the order for involuntary discharge.
V725	**§ 494.170 Condition: Medical records.**	This Condition requires the facility to maintain complete and accurate

U.S. RENAL CARE®

A Renal Disease Management Company

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US Renal Care's mission is to be the highest-quality provider available to patients with chronic and acute renal disease

U.S. Renal Care was founded in 2000 by an experienced team of healthcare executives. Its senior management team and board of directors include individuals who have worked in a variety of healthcare segments during their careers, including many years of service to dialysis patients.

From its beginnings in Arkansas, USRC has grown to include a network of 85 dialysis centers, home and specialty hospital dialysis programs and facilities, caring for approximately 5,500 dialysis patients in Arkansas, Texas, Georgia, Maryland, New Jersey, Ohio, Pennsylvania, South Carolina, Virginia, and soon in Oklahoma.

The company provides patients with a choice of a full range of quality care, including in-center or at-home hemodialysis and peritoneal dialysis services. In addition, the company also manages several acute setting dialysis programs in conjunction with local community hospitals. USRC's clinical results consistently exceed national averages. We support dialysis centers with experienced operations management, strong clinical leadership, and well-trained clinical and support staff.

USRC works in partnership with nephrologists to develop, acquire, and operate outpatient treatment centers for persons suffering from chronic kidney failure, also known as end stage renal disease. We support dialysis centers with experienced operations management, state of the art technology, well-trained facility staff, patient and family education, strong financial resources, and by dedicating ourselves to clinical excellence in the centers.

September 1, 2010 – U.S. Renal Care Builds Its First Dialysis Center in Oklahoma

New Dialysis Center Offers Closer-to-Home Solution for Patients in Northeast Oklahoma

June 3, 2010 – U.S. Renal Care, Inc. acquired Dialysis Corporation of America

USRC is pleased to have the opportunity to work with DCA's caregivers and employees. We welcome those who were seeking the DCA website and invite you to USRC.

U.S. RENAL CARE®

A Renal Disease Management Company

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Press Release

Thomas L. Weinberg, (214) 736-2730

U.S. Renal Care, Inc. Completes Acquisition of Dialysis Corporation of America — *Company to serve approximately 5,500 patients through 120 dialysis programs in 9 states*

PLANO, TX and JONESBORO, AR — June 7, 2010 — U.S. Renal Care, Inc. (USRC), a leading privately-held provider of outpatient dialysis services, today announced that it has completed its $110.25 million acquisition of Dialysis Corporation of America, Inc. (NASDAQ: DCAI) (DCA), a leading provider of outpatient kidney dialysis services. With this acquisition, USRC will provide dialysis services to approximately 5,500 patients and operate 84 dialysis centers, home and specialty hospital dialysis programs and facilities in nine states: Arkansas, Georgia, Maryland, New Jersey, Ohio, Pennsylvania, South Carolina, Texas, and Virginia.

"This transaction represents a major milestone for our organization as we transition from being a regional provider to a national leader," said Chris Brengard, Chief Executive Officer of US Renal Care. "DCA is a top tier company in our industry and from the start of this transaction we have been excited about the many benefits of combining our companies. We look forward to working with the DCA physicians, employees and team leaders to make the transition to a unified company seamless."

"By broadening our geographic footprint, we are extending our high-quality dialysis care to thousands more patients suffering from chronic and acute renal disease," said Brengard. "As we continue to provide best-in-class patient care, we will look for additional opportunities to strategically grow our business and improve our programs."

The acquisition of DCA is the latest in a series of achievements for USRC. During the past five years, USRC has raised over $75 million in equity capital, including $25 million in new equity in 2010 to complete its tender offer for DCA. Since 2005, USRC's funding has come from the Company's management and several leading investment firms including SV Life Sciences, Cressey & Company, Salix Ventures, and Select Capital Ventures.

"I am very proud of the business we built at DCA," said Thomas K. Langbein, former Chairman of the Board of DCA. "I thank our shareholders who can be proud to have been part of DCA's success. I thank our employees and our physicians for contributing to our growth and success. Given the compatibilities of the two companies, the integration of DCA with USRC will be a smooth and efficient transition."

With shared values and a mission to provide best-in-class renal care, USRC and DCA are well-matched. "As a company, we put the needs of our patients first," said Stephen Everett, former President and CEO of DCA. "This philosophy has fueled our growth. I am grateful to the physicians and employees of DCA who ensured the company never lost sight of our patient-centric values. USRC is the perfect match for DCA's culture, philosophy, and commitment to exemplary patient care. There is no doubt that the future is bright for USRC, our combined physicians and staff."

USRC was founded in Jonesboro, Arkansas in 2000 by Chris Brengard and is recognized as a leader in establishing joint ventures with nephrologists for the operation outpatient treatment centers for individuals suffering from chronic kidney failure. In 2006, the company moved its

headquarters to Dallas, Texas, though its executive offices and certain other key business functions still operate in Arkansas.

About U.S. Renal Care Inc.

Founded in 2000 by an experienced team of healthcare executives, U.S. Renal Care, Inc. works in partnership with nephrologists to develop, acquire, and operate outpatient treatment centers for persons suffering from chronic kidney failure, also known as End Stage Renal Disease. The company provides patients with their choice of a full range of quality in-center, acute or at-home hemodialysis and peritoneal dialysis services. U.S. Renal Care operates dialysis programs in Arkansas, Texas, Georgia, Maryland, New Jersey, Ohio, Pennsylvania, South Carolina, and Virginia. For more information on U.S. Renal Care, Inc. please visit www.usrenalcare.com

U.S. Renal Care Contact:
Thomas L. Weinberg
(214) 736-2730
Senior Vice President & General Counsel

Media Contact:
Daniel Black
(215) 564-3200, x120
dblack@gobraithwaite.com

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

LEONARD POTEMPA, MD
FMC - LAGRANGE HOME DIALYSIS CENTER
2400 WOLF RD. SUITE 101-B
WESTCHESTER, IL 60154

Dear LEONARD POTEMPA:

As an End-Stage Renal Disease Network, contracted by the Centers for Medicare and Medicaid Services (CMS), The Renal Network is authorized under the Social Security Act to receive, investigate, and resolve complaints and grievances made by or on behalf of ESRD Medicare beneficiaries receiving dialysis or transplant services in Medicare certified facilities in its region.

In accordance with CMS regulation, all ESRD patients should have information about their facility complaint process as well as those of the Network and relevant State Agency. The Network encourages patients to talk to their staff about complaints and to use the facility complaint process whenever possible. However, if patients are not satisfied with the facility process or prefer to bring their concerns directly to the Network, the Network staff investigates their concerns. Patients cannot be retaliated against for filing a complaint with either the facility or the Network. You can download our grievance poster and handouts for patients regarding quality of care concerns at http://www.therenalnetwork.org/services/index.php.

In 2010, Network 10 received 42 complaints and no grievances. The majority of the complaints/grievances were about staff and quality of care issues. Frequently, patients cited unprofessionalism, communication problems, and the perceived competency of the staff as their main complaints. Quality of care concerns often involved access issues, health and safety of patients and the facility's policies and procedures. You can view the data trends for Network complaints and grievances at **http://www.therenalnetwork.org/data/grievance.php**. The 2010 Trend information includes how the Network assisted patients and staff with concerns as well as provides resources for staff to assist them in handling challenging situations.

The Network assisted patients with their complaints and, with permission from the patients, contacted facilities to resolve the issues. Some patients did not want the Network to contact the facility and these patients were coached on ways to resolve the issues on their own or were given resources to address their concern. Below is information related to your facility for 2010:

The Network received 0 complaints from patients or family members

The Network continues to be a resource for patients and staff. We encourage you to contact the Network with your concerns. The Network Web site (http://www.therenalnetwork.org/) provides links to resources and training programs. In addition, the Network is available to provide regional training programs and individual consultations with providers regarding patient complaints and challenging situations.

Sincerely,

Kathi

Kathi Niccum, Ed.D
Director of Patient Services
Cc: Facility Administrator

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

ABBIE MORRISON, RN
FMC - WILLOWBROOK
6300 S KINGERY HWY STE 408
WILLOWBROOK, IL 60527

Dear ABBIE MORRISON:

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Sincerely,

Kathi

Kathi Niccum, Ed.D
Director of Patient Services
Cc: Medical Director

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

DAVID SCHLIEBEN, MD
FMC - BOLINGBROOK DIALYSIS
329 REMINGTON BLVD, STE 110
BOLINGBROOK, IL 60440

Dear DAVID SCHLIEBEN:

As an End-Stage Renal Disease Network, contracted by the Centers for Medicare and Medicaid Services (CMS), The Renal Network is authorized under the Social Security Act to receive, investigate, and resolve complaints and grievances made by or on behalf of ESRD Medicare beneficiaries receiving dialysis or transplant services in Medicare certified facilities in its region.

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Kathi

Kathi Niecum, Ed.D
Director of Patient Services
Cc: Facility Administrator

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

TERI GURCHIEK, RN CNN
FMC - NAPERVILLE DIALYSIS CENTER
100 SPALDING DR STE 108
NAPERVILLE, IL 60566

Dear TERI GURCHIEK:

As an End-Stage Renal Disease Network, contracted by the Centers for Medicare and Medicaid Services (CMS), The Renal Network is authorized under the Social Security Act to receive, investigate, and resolve complaints and grievances made by or on behalf of ESRD Medicare beneficiaries receiving dialysis or transplant services in Medicare certified facilities in its region.

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Sincerely,

Kathi

Kathi Niceum, Ed.D
Director of Patient Services
Cc: Medical Director

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

MYRNA HUBILLA, RN
FMC - DOWNERS GROVE DIALYSIS CENTER
3825 HIGHLAND SUITE 102
DOWNERS GROVE, IL 60515

Dear MYRNA HUBILLA:

As an End-Stage Renal Disease Network, contracted by the Centers for Medicare and Medicaid Services (CMS), The Renal Network is authorized under the Social Security Act to receive, investigate, and resolve complaints and grievances made by or on behalf of ESRD Medicare beneficiaries receiving dialysis or transplant services in Medicare certified facilities in its region.

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Sincerely,

Kathi

Kathi Niccum, Ed.D
Director of Patient Services
Cc: Medical Director

ESRD Network 4
40 24th Street, Suite 410 * Pittsburgh, PA 15222
Phone: 412.325.2250 * FAX 412.325.1811
Toll-Free Patient Line: 1.800.548.9205
info@nw4.esrd.net
www.esrdnetwork4.org

ESRD Networks 9 & 10
911 E. 86th Street, Suite 202 * Indianapolis, IN 46240
Phone: 317.257.8265 * FAX: 317.257.8291
Toll-Free Patient Line: 1.800.456.6919
info@nw10.esrd.net
www.therenalnetwork.org

Renal Network Complaint Report
ATTACHMENT 4

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

TERI GURCHIEK, RN CNN
FMC - PLAINFIELD
2320 MICHAS DRIVE
PLAINFIELD, IL 60586

Dear TERI GURCHIEK:

As an End-Stage Renal Disease Network, contracted by the Centers for Medicare and Medicaid Services (CMS), The Renal Network is authorized under the Social Security Act to receive, investigate, and resolve complaints and grievances made by or on behalf of ESRD Medicare beneficiaries receiving dialysis or transplant services in Medicare certified facilities in its region.

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Director of Patient Services
Cc: Medical Director

The Renal Network, Inc.
ESRD Networks 4, 9 & 10

April 15, 2011

TERI GURCHIEK, RN CNN
FMC - NAPERVILLE NORTH DIALYSIS CENTER
516 W 5TH AVE.
NAPERVILLE, IL 60563

Dear TERI GURCHIEK:

As an End-Stage Renal Disease Network, contracted by the Centers for Medicare and Medicaid Services (CMS), The Renal Network is authorized under the Social Security Act to receive, investigate, and resolve complaints and grievances made by or on behalf of ESRD Medicare beneficiaries receiving dialysis or transplant services in Medicare certified facilities in its region.

In accordance with CMS regulation, all ESRD patients should have information about their facility complaint process as well as those of the Network and relevant State Agency. The Network encourages patients to talk to their staff about complaints and to use the facility complaint process whenever possible. However, if patients are not satisfied with the facility process or prefer to bring their concerns directly to the Network, the Network staff investigates their concerns. Patients cannot be retaliated against for filing a complaint with either the facility or the Network. You can download our grievance poster and handouts for patients regarding quality of care concerns at http://www.therenalnetwork.org/services/index.php.

In 2010, Network 10 received 42 complaints and no grievances. The majority of the complaints/grievances were about staff and quality of care issues. Frequently, patients cited unprofessionalism, communication problems, and the perceived competency of the staff as their main complaints. Quality of care concerns often involved access issues, health and safety of patients and the facility's policies and procedures. You can view the data trends for Network complaints and grievances at http://www.therenalnetwork.org/data/grievance.php. The 2010 Trend information includes how the Network assisted patients and staff with concerns as well as provides resources for staff to assist them in handling challenging situations.

The Network assisted patients with their complaints and, with permission from the patients, contacted facilities to resolve the issues. Some patients did not want the Network to contact the facility and these patients were coached on ways to resolve the issues on their own or were given resources to address their concern. Below is information related to your facility for 2010:

The Network received 0 complaints from patients or family members

The Network continues to be a resource for patients and staff. We encourage you to contact the Network with your concerns. The Network Web site (http://www.therenalnetwork.org/) provides links to resources and training programs. In addition, the Network is available to provide regional training programs and individual consultations with providers regarding patient complaints and challenging situations.

Sincerely,

Kathi

Kathi Niccum, Ed.D
Director of Patient Services
Cc: Medical Director

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	119	62	52%	47%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	112	57	51%	47%
Home	7	1	14%	0%
This Year	119	62	52%	N/A
Last Year	97	46	N/A	47%

Surveys were received from a total of 62 patients at the BOLINGBROOK DIALYSIS facility. The response rate this year for your facility (52%) was higher than the overall response rate for the division (48%).

At your facility, the response rate was higher for In-Center patients (51%) vs. Home patients (14%).

At your facility, the response rate was higher this year (52%) vs. last year (47%).

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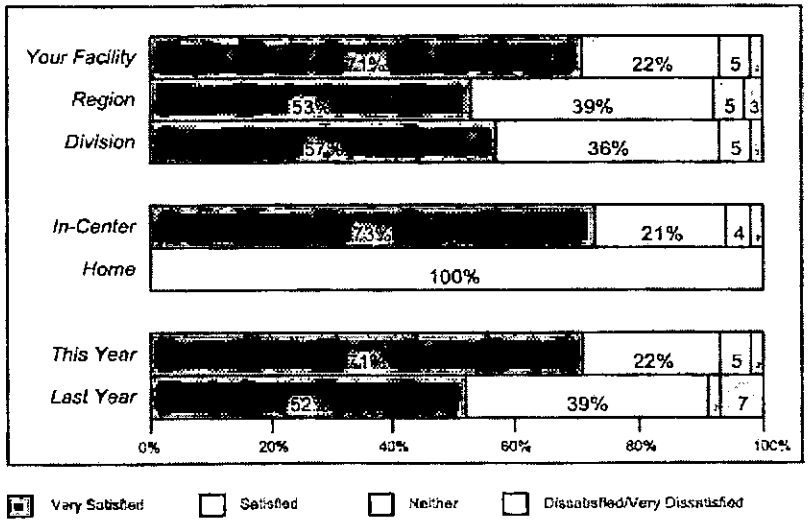
Overall Satisfaction

Overall, how satisfied are you with your care?

Your facility is performing well compared to the division. The proportion of patients who were "very satisfied" with this area was 14% higher compared to the overall division and 18% higher than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 19% more likely to be "very satisfied."



Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	32	15	47%	0%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	30	12	40%	0%
Home	2	1	50%	0%
This Year	32	15	47%	N/A
Last Year	0	0	N/A	0%

Surveys were received from a total of 15 patients at the PLAINFIELD - JV facility. The response rate this year for your facility (47%) was lower than the overall response rate for the division (48%).

At your facility, the response rate was lower for In-Center patients (40%) vs. Home patients (50%).

At your facility, the response rate was higher this year (47%) vs. last year (0%).

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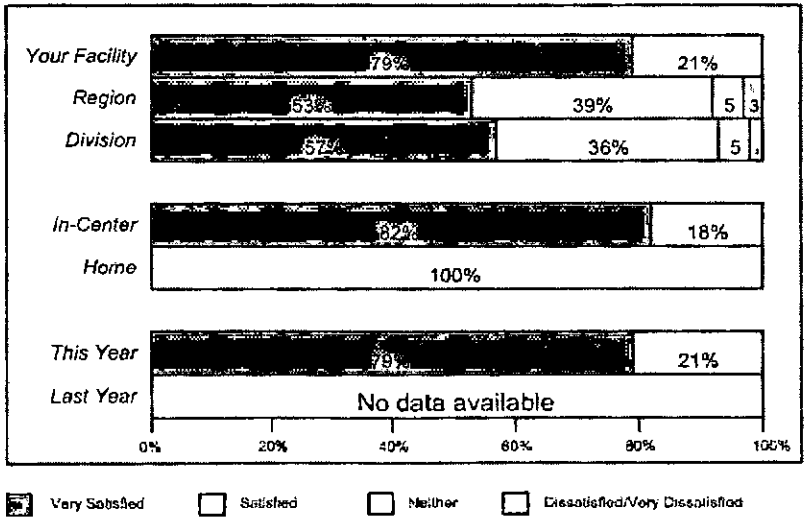
Overall Satisfaction

Overall, how satisfied are you with your care?

Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 22% higher compared to the overall division and 26% higher than the overall region.

No comparison data available

No comparison data available



Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	89	38	43%	48%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	80	31	39%	47%
Home	9	3	33%	38%
This Year	89	38	43%	N/A
Last Year	83	40	N/A	48%

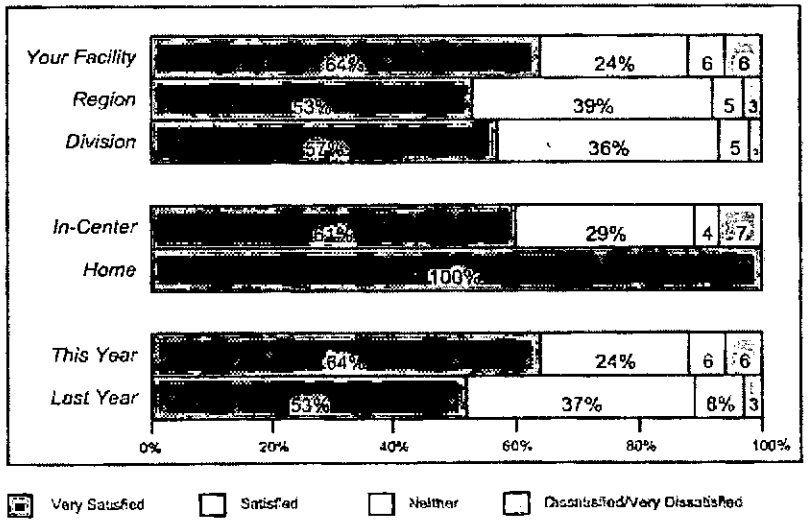
Surveys were received from a total of 38 patients at the WILLOWBROOK facility. The response rate this year for your facility (43%) was lower than the overall response rate for the division (48%).

At your facility, the response rate was higher for In-Center patients (39%) vs. Home patients (33%).

At your facility, the response rate was lower this year (43%) vs. last year (48%).

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 7% higher compared to the overall division and 11% higher than the overall region.

Within your facility, In-Center patients were 39% less likely to be "very satisfied" than Home patients.

Compared to last year's results, patients at your facility this year were 11% more likely to be "very satisfied."

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	91	44	48%	36%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	91	44	48%	36%
Home	0	0	0%	0%
This Year	91	44	48%	N/A
Last Year	92	33	N/A	36%

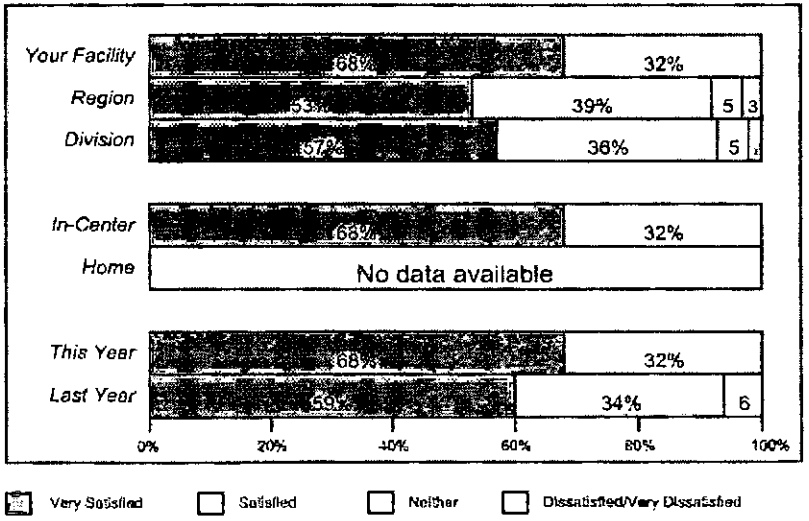
Surveys were received from a total of 44 patients at the WESTCHESTER facility. The response rate this year for your facility (48%) was the same as the overall response rate for the division (48%).

No comparison data available

At your facility, the response rate was higher this year (48%) vs. last year (36%).

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 11% higher compared to the overall division and 15% higher than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 9% more likely to be "very satisfied."

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	55	25	45%	34%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	55	25	45%	34%
Home	0	0	0%	0%
This Year	55	25	45%	N/A
Last Year	47	16	N/A	34%

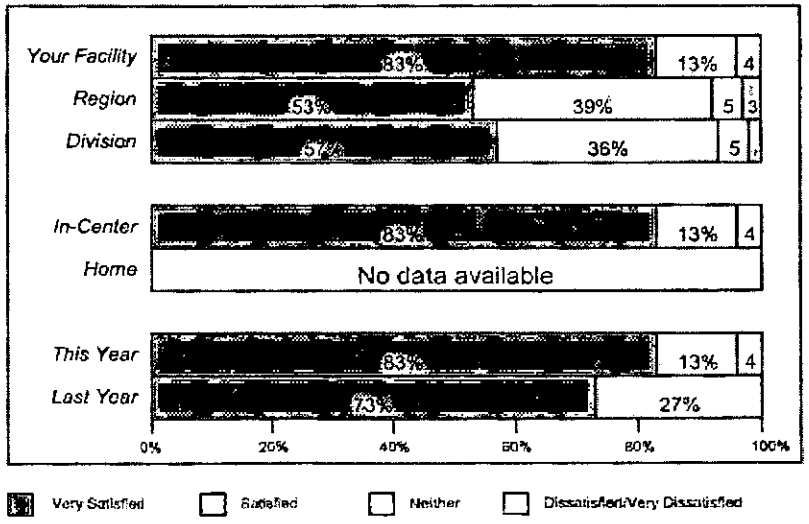
Surveys were received from a total of 25 patients at the NAPERVILLE NORTH facility. The response rate this year for your facility (45%) was lower than the overall response rate for the division (48%).

No comparison data available

At your facility, the response rate was higher this year (45%) vs. last year (34%).

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is performing well compared to the division. The proportion of patients who were "very satisfied" with this area was 26% higher compared to the overall division and 30% higher than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 10% more likely to be "very satisfied."

Response Rate Summary

Surveys were received from a total of 55 patients at the NAPERVILLE facility. The response rate this year for your facility (54%) was higher than the overall response rate for the division (48%).

At your facility, the response rate was higher for In-Center patients (55%) vs. Home patients (31%).

At your facility, the response rate was higher this year (54%) vs. last year (36%).

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	102	55	54%	36%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	86	47	55%	39%
Home	16	5	31%	22%
This Year	102	55	54%	N/A
Last Year	100	36	N/A	36%

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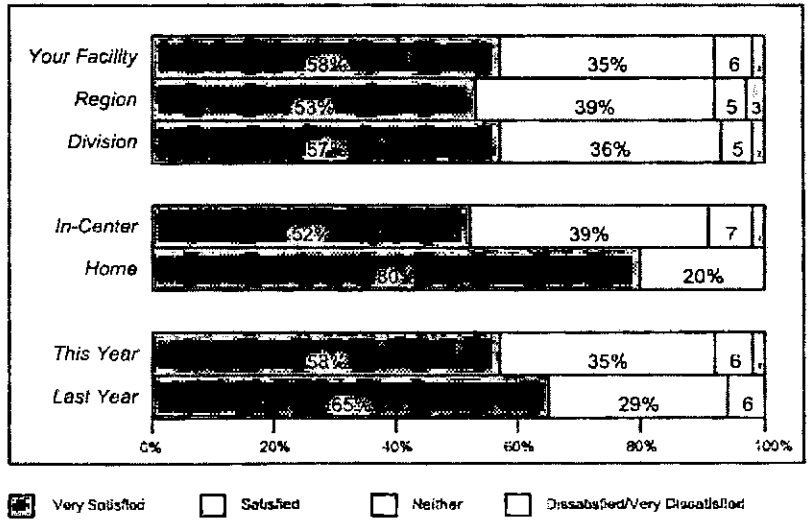
Overall Satisfaction

Overall, how satisfied are you with your care?

Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 1% higher compared to the overall division and 5% higher than the overall region.

Within your facility, In-Center patients were 28% less likely to be "very satisfied" than Home patients.

Compared to last year's results, patients at your facility this year were 7% less likely to be "very satisfied."



Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	113	46	41%	34%
Region	4336	1827	42%	42%
Division	43964	21062	48%	48%
In-Center	113	46	41%	33%
Home	0	0	0%	19%
This Year	113	46	41%	N/A
Last Year	125	42	N/A	34%

Surveys were received from a total of 46 patients at the DOWNERS GROVE facility. The response rate this year for your facility (41%) was lower than the overall response rate for the division (48%).

No comparison data available

At your facility, the response rate was higher this year (41%) vs. last year (34%).

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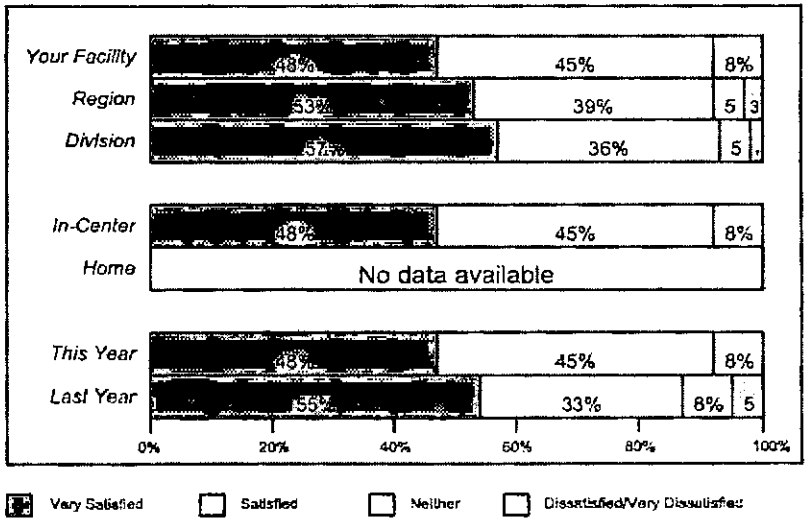
Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 9% lower compared to the overall division and 5% lower than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 7% less likely to be "very satisfied."

Patient Satisfaction Survey
ATTACHMENT 5

Report Generated by DataStar, Inc., Waltham, MA

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	86	45	52%	76%
Region	1967	1106	56%	45%
Division	43964	21062	48%	48%
In-Center	86	45	52%	76%
Home	0	0	0%	0%
This Year	86	45	52%	N/A
Last Year	82	62	N/A	76%

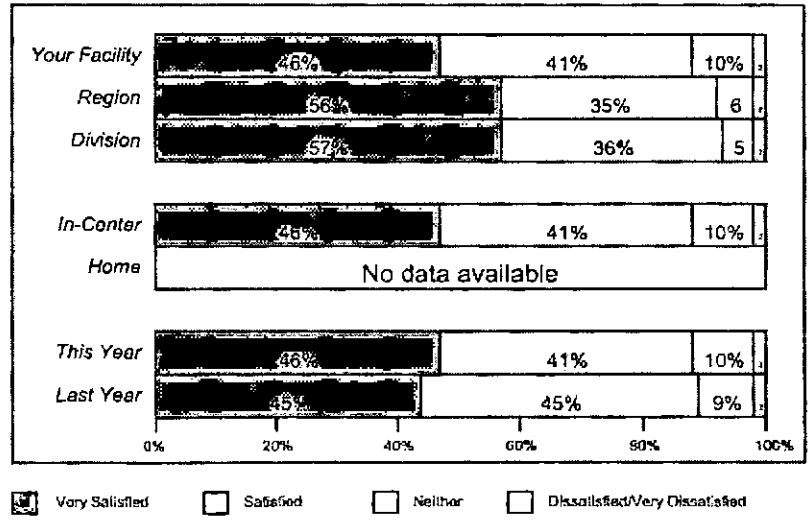
Surveys were received from a total of 45 patients at the GLENDALE HEIGHTS facility. The response rate this year for your facility (52%) was higher than the overall response rate for the division (48%).

No comparison data available

At your facility, the response rate was lower this year (52%) vs. last year (76%).

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 11% lower compared to the overall division and 10% lower than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 1% more likely to be "very satisfied."

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	104	81	78%	44%
Region	2065	1273	62%	60%
Division	43964	21062	48%	48%
In-Center	104	81	78%	44%
Home	0	0	0%	0%
This Year	104	81	78%	N/A
Last Year	98	43	N/A	44%

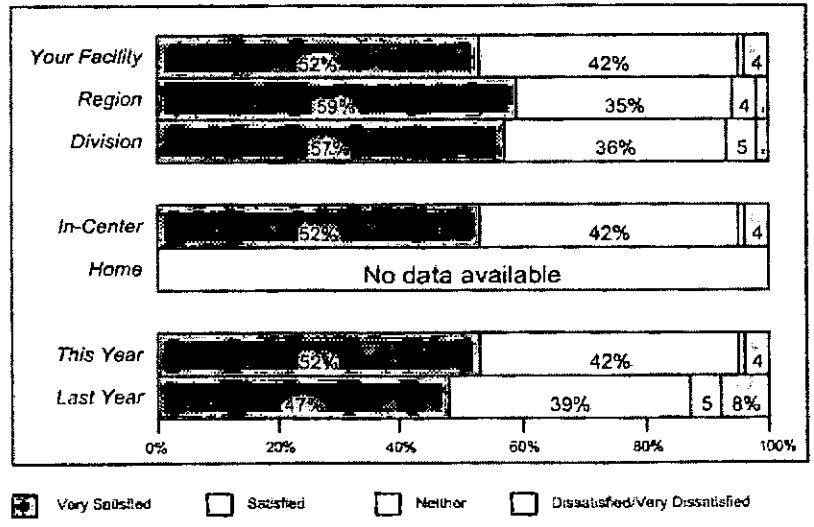
Surveys were received from a total of 81 patients at the NEOMEDICA ROLLING MEADOWS facility. The response rate this year for your facility (78%) was higher than the overall response rate for the division (48%).

No comparison data available

At your facility, the response rate was higher this year (78%) vs. last year (44%).

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 5% lower compared to the overall division and 7% lower than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 5% more likely to be "very satisfied."

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	116	97	84%	65%
Region	2065	1273	62%	60%
Division	43964	21062	48%	48%
In-Center	116	97	84%	65%
Home	0	0	0%	0%
This Year	116	97	84%	N/A
Last Year	97	63	N/A	65%

Surveys were received from a total of 97 patients at the NEOMEDICA HOFFMAN ESTATES facility. The response rate this year for your facility (84%) was higher than the overall response rate for the division (48%).

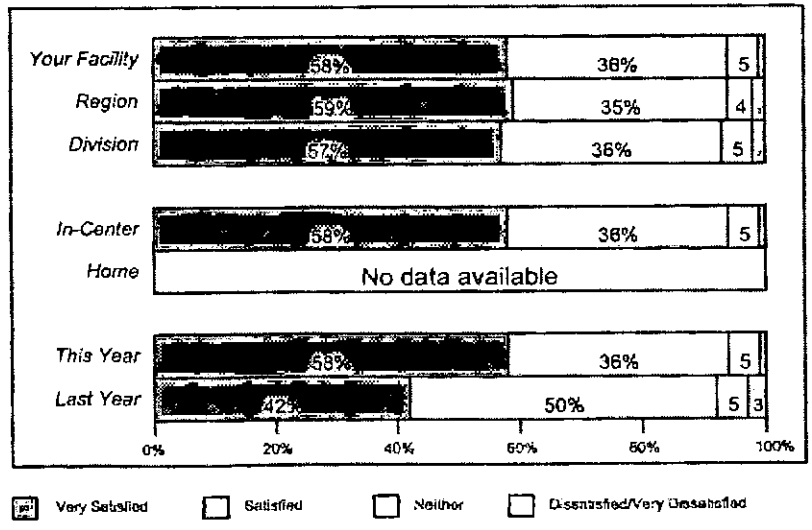
No comparison data available

At your facility, the response rate was higher this year (84%) vs. last year (65%).

38

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility is on the right track compared to the division. The proportion of patients who were "very satisfied" with this area was 1% higher compared to the overall division and 1% lower than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 16% more likely to be "very satisfied."

Patient Satisfaction Survey
ATTACHMENT 5

Response Rate Summary

	# Eligible	# Rec'd	Response Rate This Year	Response Rate Last Year
Your Facility	155	111	72%	77%
Region	2065	1273	62%	60%
Division	43964	21062	48%	48%
In-Center	155	111	72%	77%
Home	0	0	0%	0%
This Year	155	111	72%	N/A
Last Year	144	111	N/A	77%

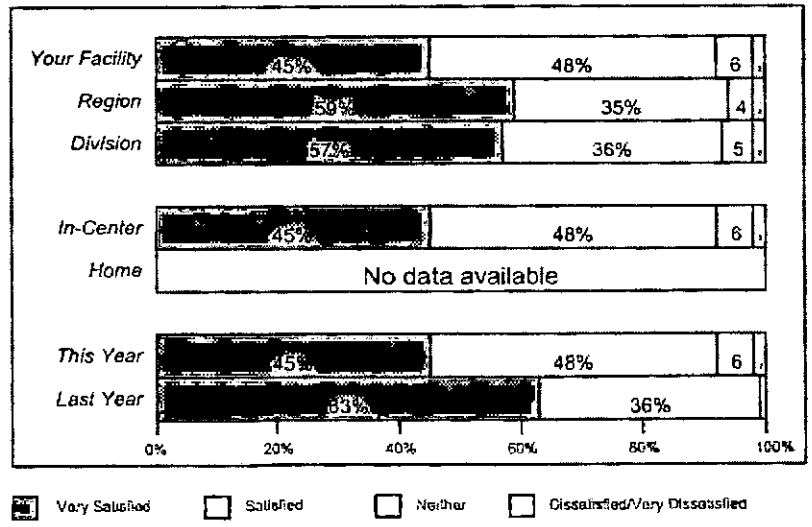
Surveys were received from a total of 111 patients at the ELK GROVE facility. The response rate this year for your facility (72%) was higher than the overall response rate for the division (48%).

No comparison data available

At your facility, the response rate was lower this year (72%) vs. last year (77%).

Overall Satisfaction

Overall, how satisfied are you with your care?



Your facility can improve compared to the division. The proportion of patients who were "very satisfied" with this area was 12% lower compared to the overall division and 14% lower than the overall region.

No comparison data available

Compared to last year's results, patients at your facility this year were 18% less likely to be "very satisfied."