

April 12, 2017

Ms. Kathryn Olson  
Chairwoman  
Illinois Health Facilities and Services Review Board  
525 W. Jefferson, 2<sup>nd</sup> Floor  
Springfield, IL 62716

Re: Opposition to #16-058, Dialysis Care Center McHenry

Dear Ms. Olson:

I am writing on behalf of Fresenius Kidney Care (FKC) in opposition to project #16-058, Dialysis Care Center McHenry (DCCM) based on lack of Need, Unnecessary Duplication/Maldistribution of Services, concerns regarding the purpose of the project, project costs and timeline. We also believe this project would negatively impact the two current ESRD facilities in McHenry, both of which are operating at 43% utilization.

### Need

While there is currently a need for 6 stations in HSA 8, DCCM is proposing a 14-station facility, which is more than double the current need. The City of McHenry is located in a fairly rural area and has a population of 26,739. The two clinics currently operating in McHenry are at less than 50% of their capacity. There is no need for another clinic in McHenry.

### Unnecessary Duplication/Maldistribution

There is currently a duplication of services/maldistribution in the City of McHenry. Although, the two current facilities serve a larger rural area than McHenry proper, neither are close to target utilization after years of operation. In their application DCCM states that they have “seen tremendous growth in ESRD population”, “extreme growth of population and ESRD” and “a surplus of ESRD” in the area, however there is no documentation supporting this increase. In fact, the population in McHenry has actually declined since the 2010 census, and the ESRD population in the area has not seen “tremendous” growth.

| City of McHenry and McHenry County 2010 Census and Projections <sup>1</sup> |                                     |                                         |        |
|-----------------------------------------------------------------------------|-------------------------------------|-----------------------------------------|--------|
|                                                                             | US Census Bureau<br>2010 Population | US Census Bureau<br>2015 Est Population | Loss   |
| City of McHenry                                                             | 26,992                              | 26,657                                  | -335   |
| McHenry County                                                              | 308,760                             | 307,343                                 | -1,417 |

<sup>1</sup><https://www.census.gov/quickfacts/table/PST045216/17111,1745694,00>  
<https://www.census.gov/quickfacts/table/PST045216/1745694,00>

The Renal Network 10<sup>2</sup> zip code and county ESRD census below does **not** show significant growth of the ESRD population receiving dialysis treatment in the McHenry area or for McHenry County.

|                      | <b>ESRD Patients by Zip Code/County</b> |             |             |             |             |             |             |
|----------------------|-----------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
|                      | <b>2010</b>                             | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> | <b>2015</b> | <b>2016</b> |
| <b>McHenry 60050</b> | 22                                      | 22          | 25          | 30          | 24          | 40          | 35          |
| <b>McHenry 60051</b> | 11                                      | 12          | 9           | 10          | 15          | 13          | 19          |
| <b>Total McHenry</b> | <b>33</b>                               | <b>34</b>   | <b>34</b>   | <b>40</b>   | <b>39</b>   | <b>53</b>   | <b>54</b>   |

|                       |            |            |                    |            |            |            |            |
|-----------------------|------------|------------|--------------------|------------|------------|------------|------------|
| <b>McHenry County</b> | <b>193</b> | <b>192</b> | <b>Unavailable</b> | <b>229</b> | <b>240</b> | <b>258</b> | <b>268</b> |
|-----------------------|------------|------------|--------------------|------------|------------|------------|------------|

This lack of significant ESRD growth in McHenry is evident in the census of the two ESRD facilities serving the area. Over the past four years there has been a static growth in patient census in these two facilities. These clinics combined can take another 58 patients before reaching 80% utilization, and then they still would have capacity for another 31 before reaching 100% capacity (although FKC does not recommend operating a facility at capacity).

| <b>Facility</b>    | <b>ESRD Patient Census at McHenry Facilities<sup>3</sup></b> |             |             |             |             |             |             |
|--------------------|--------------------------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
|                    | <b>2010</b>                                                  | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> | <b>2015</b> | <b>2016</b> |
| <b>ARA McHenry</b> | N/A                                                          | 0           | 13          | 17          | 28          | 29          | 31          |
| <b>FKC McHenry</b> | 47                                                           | 43          | 53          | 46          | 39          | 35          | 36          |
| <b>Totals</b>      | <b>47</b>                                                    | <b>43</b>   | <b>66</b>   | <b>63</b>   | <b>67</b>   | <b>64</b>   | <b>67</b>   |

It is highly questionable that DCCM's proposed facility could actually meet 80% utilization, considering the static historic growth of the clinics already there and the fact that the physicians have only referred 23 total new ESRD patients for treatment in the past twelve months (5 were not counted because they were sub-acute nursing home patients not in-center hemodialysis patients). Of the 23 new ESRD referrals only 8 patients reside in the McHenry market area. The remainder are from further away in Kane and Cook Counties.

Although they state they have 110 stage 4 pre-ESRD patients in the area, and would conservatively refer 77, only 57 Stage 4 pre-ESRD patients were identified in the application. It seems highly unlikely that the census of patients dialyzing in McHenry will more than double in the next two years. (As an aside, many patients identified for the facility live in excess of 20 miles and over 30 minutes away, based on their zip code origin.)

<sup>2</sup> The Renal Network is a not-for-profit organization which monitors quality of dialysis care in the state of Illinois (Network 10). The Renal Network is the contractor with the Centers for Medicare and Medicaid Services (CMS) for End-stage Renal Disease (ESRD) Network 10. The Renal Network complies with all governmental regulations applicable for a not-for-profit corporation. Tax filings, policies and procedures, and meeting minutes for all committees of TRN are available upon request.

<sup>3</sup>ESRD Patient Census for McHenry facilities obtained from HFSRB Quarterly Utilization Report.

## **Adverse Impact on Existing McHenry Facilities**

### **Facilities Within 30-Minutes Travel Time of DCCM McHenry - Per #16-058** **(Further Adjusted by Minutes x 1.15 per Board Rules)**

| Facility                                       | Address                | City            | Zip Code | MapQuest |         | Adjusted Min. x 1.15 | Stations | Dec-16 Patients | Dec-16 Utilization |
|------------------------------------------------|------------------------|-----------------|----------|----------|---------|----------------------|----------|-----------------|--------------------|
|                                                |                        |                 |          | Miles    | Minutes |                      |          |                 |                    |
| ARA McHenry                                    | 4209 W. Shamrock Lane  | McHenry         | 60050    | 0.77     | 1       | 1.15                 | 12       | 31              | 43.06%             |
| Fresenius McHenry                              | 4312 W. Elm St.        | McHenry         | 60050    | 2.18     | 3       | 3.45                 | 14       | 36              | 42.86%             |
| DaVita Crystal Springs                         | 4900 S. Route 31       | Crystal Lake    | 60012    | 4.45     | 5       | 5.75                 | 14       | 63              | 75.00%             |
| ARA Crystal Lake                               | 6220 Northwest Hwy.    | Crystal Lake    | 60014    | 9.32     | 14      | 16.1                 | 16       | 29              | 30.21%             |
| Fresenius Round Lake                           | 401 W. Nippersink      | Round Lake      | 60073    | 11.93    | 17      | 19.55                | 16       | 74              | 77.08%             |
| DaVita Lake Villa                              | 37809 N. Rt. 59        | Lake Villa      | 60046    | 12.64    | 19      | 21.85                | 12       | 51              | 70.83%             |
| DaVita Barrington Creek                        | 28214 W. Northwest Hwy | Lake Barrington | 60010    | 13.54    | 19      | 21.85                | 12       | 24              | 33.33%             |
| DaVita Huntley                                 | 10350 Haligus Road     | Huntley         | 60142    | 16.32    | 21      | 24.15                | 12       | 0               | 0.00%              |
| DaVita Carpentersville                         | 2203 Randall Road      | Carpentersville | 60110    | 16.84    | 22      | 25.3                 | 13       | 77              | 98.72%             |
| Fresenius Elgin                                | 2130 Point Boulevard   | Elgin           | 60123    | 19.49    | 26      | 29.9                 | 20       | 85              | 70.83%             |
| Average Utilization of All Clinics             |                        |                 |          |          |         |                      |          |                 | <b>54.19%</b>      |
| Average Utilization of Clinics w/in 30 Minutes |                        |                 |          |          |         |                      |          |                 | <b>60.12%</b>      |

The average utilization within 30 minutes travel time is not 70% per the application for DCCM. If MapQuest Travel times are adjusted per Board rules, the average utilization for all clinics is 54.19%, and 60.12% for those clinics operating more than two years. Approving yet another clinic in the rural City of McHenry only .4 miles from ARA McHenry and 2 miles from FKC McHenry will have negative impact on these two facilities while providing no additional benefits to area patients.

## **Concerns - Purpose**

The stated purpose of this project is to address current need and future growth (there is no need and growth is minimal) and to give patients additional treatment options by establishing a clinic that would be physician owned. No evidence was provided to support that a wholly owned physician center has any advantages over a corporate owned facility, or is preferred by patients. FKC partners with many physicians on Joint Venture clinics with physician investment, and the physician/owners of Dialysis Care Center Holdings, LLC, a co-applicant, partner with FKC in many facilities and serve as Medical Directors of FKC facilities in Illinois.

The Centers for Medicare and Medicaid (CMS) have strict regulations in place for standards of care of dialysis patients that all providers must adhere to. There is little room for variation from those regulations that give physicians "independence". Fresenius Kidney Care's policies are written to conform to these regulations and/or exceed them.

### **Concern – Project Costs**

FKC questions the unrealistically low project costs of DCCM as compared to major provider applications over the past year. The cost of modernization per GSF of the DCCM clinic is \$86 per GSF as compared to an average of \$187 per GSF for modernization based on four recent applications approved/submitted by three other major providers of dialysis. The applicant states that their costs are “a fraction of the cost” of others because they are utilizing space that is leased, as opposed to a new building. However, all four of the other providers’ modernization costs are also based on utilizing existing leased space. It is unclear to FKC how DCCM is able to cut costs in half compared to the three major providers in the State if the space build out was included in the modernization cost.

We believe the applicants and landlords of the leased space are related parties and thus have the advantage of setting its own lease terms. The three major providers of dialysis in Illinois tend to have lease terms that cover either a 10 or 15 year period. DCCM’s lease term is only 5 years. Also, when one calculates the FMV of the space based on the lease terms, it appears to be higher than what is stated under project costs.

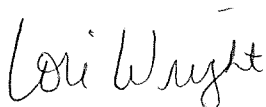
The stated cost of “leased equipment” for dialysis machines appears unreasonably low according to market standards. Fresenius Medical Care provides 93% of all dialysis machines utilized by providers in the United States. FKC does not know where DCCM will get its machines, but the cost appears low for a 14-station clinic that will also require additional machines as back up.

### **Concern – Project Timeline**

Lastly, the applicant claims to be able to bring this project to fruition in less than a year’s time. Unless the space is already built out, this is unlikely. One of the biggest hold-ups in bringing a project to completion, per Board rules, is the receipt of the CMS certification letter. It takes 6-9 months after notifying IDPH that the facility is ready for inspection for it to be surveyed and to receive the letter.

We respectfully ask the Board to take our comments/concerns into consideration when reviewing the Dialysis Care Center McHenry project.

Sincerely,

A handwritten signature in cursive script that reads "Lori Wright".

Lori Wright  
Senior CON Specialist

cc: Clare Ranalli