



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-06	BOARD MEETING: June 20, 2017	PROJECT NO: 16-058	PROJECT COST: Original: \$1,215,000
FACILITY NAME: Dialysis Care Center McHenry		CITY: McHenry	
TYPE OF PROJECT: Substantive			HSA: VIII

PROJECT DESCRIPTION: The applicants (Dialysis Care Center McHenry, LLC and Dialysis Care Center Holdings LLC) are proposing to establish a fourteen (14) station in center hemodialysis (ESRD) facility to be located in McHenry, Illinois at a cost of approximately \$1,215,000 and a completion date of March 31, 2018 as stated in the application for permit.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The applicants (Dialysis Care Center McHenry, LLC, and Dialysis Care Center Holdings LLC) are proposing to establish a fourteen (14) station in center hemodialysis (ESRD) facility to be located in McHenry, Illinois at a cost of approximately \$1,215,000 and a completion date of March 31, 2018 as stated in the application for permit.
- This project was modified on April 14, 2017 increasing the cost to \$1,215,000 from \$1,122,000 or an increase of \$93,000.
- **Reviewer Note:** At the time the applicants submitted the application for permit the calculated station need was for ten (10) stations. The latest update to the ESRD Revised Need Determination show an excess of two (2) stations in the HSA VIII ESRD Planning Area. By State Board rule “ *applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations as adjusted by HFSRB decisions in effect prior to the date HFSRB takes action on the application. HFSRB action includes the approval, issuance of an intent to deny, or denial of an application.*” [77 IAC 1130.620 d) 3)]

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The applicants are proposing to establish a health care facility as defined by the Illinois Health Facilities Planning Act. (20 ILCS 3960/3)

PURPOSE OF PROJECT:

- The purpose of this project is to keep dialysis services accessible to the growing ESRD population in HSA 8. The proposed Dialysis Care Center McHenry will open up additional treatment options for patients in the McHenry area.

PUBLIC HEARING/COMMENT:

- A public hearing was offered in regard to the proposed project, but none was requested.
- **A letter of support was received from the Susan E. Low, Mayor City of McHenry** that stated “*It is my understanding that the new facility will help address the growing need for dialysis services in the area, easing the burden on staff at existing clinics that are currently operating at or above capacity and make it easier for area patients to get the appropriate treatment options. Studies have also shown that access and continuity of care are especially important for chronic care patients, and that having a medical "home" helps reduce health care costs as well as medical complications. There is an urgent need of the dialysis services to this area as most of the area's population lack proper health insurance. This center will accommodate all patients regardless of their insurance status. Access to care is an important issue for me and my constituents. I am very attuned to our area's health care issues and dedicated to providing our community with sufficient medical access and, when possible, a better quality of life.*”
- **Letters of opposition were received from the following:**
- **Lori Wright, Senior CON Specialist Fresenius Kidney Care** stated in part that “*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.*”
- **American Renal Associates and McHenry Dialysis Center, LLC.** Syed Kamal, President and Co-Founder American Renal Associates stated “*There are no barriers to easy access to ESRD services in the McHenry area. McHenry Dialysis Center, LLC is located 1 minute from the proposed Dialysis Care Center McHenry site (see page 90 of application). In fact, there are three*

ESRD facilities located within 5 minutes of the proposed Dialysis Care Center McHenry site, none of which are operating near the target utilization rate. The addition of yet another facility to this immediate area will result in an unnecessary duplication of services, and will be detrimental to existing area providers, without providing any benefit to the community.”

- **Gaurav Bhattacharyya Division Vice President DaVita, Inc** *“there is no need for a 14-station dialysis facility in McHenry and approval of the proposed facility will result in unnecessary duplication and mal distribution of dialysis services within HSA 8. Furthermore, only 3 of 15 existing dialysis facilities within 30 minutes of the proposed Dialysis Care Center McHenry are operating above the Illinois Health Facilities and Services Review Board (“State Board”) utilization standard. In fact, the two existing McHenry facilities are only operating at 43% utilization. Finally, the applicants have not provided evidence that they can generate sufficient referrals to meet the State Board’s standard by the second year of the proposed facility’s operation. Accordingly, approval of a third dialysis facility in McHenry is unwarranted and will result in yet another underutilized facility. For these reasons, DaVita respectfully requests the State Board deny Dialysis Care Center McHenry’s application for a 14 station dialysis facility.”*
- **The applicants in response to the opposition letters above stated in part:**
“The dialysis facilities in the McHenry service area are operated by two large multinational dialysis companies-DaVita Dialysis and Fresenius Medical Care. Both ESRD companies are Fortune 500 companies. The goals of both ESRD fortune 500 companies are profits, above all. Dialysis Care Center McHenry, being a solely physician-owned and managed clinic, places patient care above profitability. In turn, this allows our facility to provide exceptional patient care and helps us better serve the needs of ESRD patients. Being a solely physician-owned and managed clinic also optimizes the independence physicians have in making clinical decisions and, in turn, will maximize the quality of care provided to patients receiving dialysis at Dialysis Care Center McHenry. Fresenius and DaVita have created a duopoly-they currently own and operate over 90% of all the ESRD facilities in the state of Illinois. An additional dialysis facility, which is owned and operated by physicians, will create healthy competition and will offer more choices for dialysis patients.”

CONCLUSIONS:

- The State Board Staff reviewed the application for permit and the supplemental information submitted by the applicants and note the following:
- There is a calculated excess of two (2) stations in the HSA VIII ESRD Planning Area. It appears that the proposed project will serve the residents of the HSA VIII ESRD Planning Area as approximately eighty percent (80%) of the patients will come from within the HSA VIII ESRD Planning Area. The three (3) referring physicians have identified approximately three hundred eighty four (384) CKD Stage 3 and Stage 4 patients currently receiving care in their practice. However, the number of historical patient referrals (53 referrals) does not justify the number of projected patient referrals (77). By rule the projected referrals cannot exceed the historical referrals. Additionally there does not appear to be service access issues in the thirty (30) minute service area as there are sixteen (16) ESRD facilities within thirty (30) minutes of the proposed facility. Of the sixteen (16) facilities one (1) is not operational and the remaining fifteen (15) facilities are operating at an average utilization of 63.50%.
- The applicants have addressed a total of twenty-one (21) criteria and have not met the following:

Criteria	Reasons for Non-Compliance
77 IAC 1110.234(b) – Projected Utilization	The applicants are projecting seventy-seven patients (77) within two (2) years after project completion. However the number of historical referrals (53 patients) does not support the number of projected referrals.
77 IAC 1110.234(e) – Assurances 77 IAC 1110.1430(k) – Assurances	While the applicants provided assurance that they will be at target occupancy within two (2) years of project completion the historical referrals (53 patients x 156 treatments/14 stations x 936 treatments = 63.09%) do not justify this affirmation.
77 IAC 1110.1430(c)(1), (2), (3) and (5) – Planning Area Need	There is an excess of two (2) stations in the HSA VIII ESRD Planning Area. There does not appear to be service access issues in the thirty (30) minute service area as there are sixteen (16) ESRD facilities within thirty (30) minutes of the proposed facility. Of the sixteen (16) facilities, one (1) is not operational and the remaining fifteen (15) facilities are operating at an average utilization of 63.50%.
77 IAC 1110.1430(d)(1), (2) and (3) - Unnecessary Duplication of Service, Mal-distribution of Service, Impact on Other Providers	There are sixteen (16) ESRD facilities within thirty (30) minutes of the proposed facility. Of the sixteen (16) facilities, one (1) is not operational and the remaining fifteen (15) facilities are operating at an average utilization of 63.50%. It does appear that an unnecessary duplication of service will result with the approval of this facility.
77 IAC 1110. 1430(i) – Continuity of Care	The applicants failed to provide a copy of a signed, written affiliation agreement or arrangement that is in effect for the provision of inpatient care and other hospital services. Should the State Board approve this project at the time of the Medicare Survey the facility will have to have a signed written agreement on site.

STATE BOARD STAFF REPORT
Project #16-058
Dialysis Care Center McHenry

APPLICATION/CHRONOLOGY/SUMMARY	
Applicants(s)	Dialysis Care Center McHenry, LLC., Dialysis Care Center Holdings LLC
Facility Name	Dialysis Care Center McHenry
Location	612 S. Illinois Rt.31 Suite A
Permit Holder	Dialysis Care Center McHenry, LLC
Operating Entity	Dialysis Care Center McHenry, LLC
Owner of Site	Pinnacle Investment Partners LLC
Description	Establish Fourteen (14) station ESRD facility
Total GSF	5,000 GSF
Application Received	December 29, 2016
Application Deemed Complete	January 17, 2017
Review Period Ends	September 14, 2017
Financial Commitment Date	March 31, 2018
Project Completion Date	March 31, 2018
Review Period Extended by the State Board Staff?	No
Can the applicants request a deferral?	Yes

I. Project Description

The applicants (Dialysis Care Center McHenry, LLC, and Dialysis Care Center Holdings LLC) are proposing to establish a fourteen (14) station in center hemodialysis (ESRD) facility to be located in McHenry, Illinois at a cost of approximately \$1,215,000 and a completion date of March 31, 2018.

II. Summary of Findings

- A. The State Board Staff finds the proposed project is **not** in conformance with the provisions of Part 1110.
- B. The State Board Staff finds the proposed project is in conformance with the provisions of Part 1120.

III. General Information

The applicants are Dialysis Care Center McHenry LLC, and Dialysis Care Center Holdings LLC. Dialysis Care Center McHenry LLC & Dialysis Care Center Holdings, LLC are both newly formed entities. Morufu Alausa M.D. and Sameer Mohammad Shafi M.D. own a 50% interest in each of the two (2) entities. The proposed facility is located in Health Service Area VIII ESRD planning area. HSA VIII includes the Illinois Counties of Kane, Lake, and McHenry. Target occupancy for the addition of ESRD stations is eighty percent (80%).

This is a substantive project subject to a Part 1110 and Part 1120 review. Financial Commitment will occur after permit issuance. Substantive projects include no more than the following:

1. *Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.*
2. *Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.*
3. *Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [77 IAC 1130.140]*

IV. **Payor Source ESRD Facility**

The applicants are projecting approximately 44% Medicare Revenue and 44% Medicaid Revenue for the new facility. See Table One below.

TABLE ONE		
Expected Payor Mix of the Proposed Facility		
Sources of Revenue Type of Payor	Number of Patients ⁽¹⁾	Percentage of Patients by Payor
Medicare	33	42.85%
Medicaid	33	42.85%
Private	9	11.68%
Self Pay	0	0.00%
Charity	2	2.59%
	77	100.00% ⁽¹⁾

Source: Information provided by the applicants in supplemental information date May 4, 2017.
1. Does not foot due to rounding.

State Board Staff Note:

Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. Under the new ESRD PPS payment system, Medicare pays dialysis facilities a bundled rate per treatment, that rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate. However, there are a number of adjustments both at the facility and at patient-specific level that affects the final reimbursement rate each facility will receive. What a dialysis facility receives from its commercial payors will also vary. Even if two different dialysis providers billed the same commercial payor the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payor from each individual provider. [Center for Medicare and Medicaid <https://www.cms.gov/Center/Special-Topic/End-Stage-Renal-Disease-ESRD-Center.html>]

V. Admission and Charity Care Policies

To determine whether all residents of the planning area would have access to an applicant's proposed services, the State Board Staff requested the applicants to provide a copy of its proposed admission and charity policies. The admission policy provides the principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

The State Board relies upon a facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access to the proposed services. A review of the proposed dialysis center's anticipated revenue sources indicates that the applicants expect to receive Medicaid reimbursements. State Board Staff uses the facility's Medicare certification to determine whether the elderly would have access or continue to have access to the proposed services. A review of applicants anticipated revenue sources indicates that the applicants expect to receive Medicare reimbursements. A facility's charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process a patient would use to access charity care at the facility.

The applicants stated the following regarding admission and charity care policies

"The policy of Dialysis Care Center McHenry is to provide services to all patients regardless of race, color, national origin. Dialysis Care Center McHenry will provide services to patients with or without insurance and as well as patients who may require assistance in determining source of payment. Dialysis Care Center will not refuse any patient. Medicaid patients wishing to be served will not be denied services. Through Medicare guidelines, patients who are prequalified for ESRD or for the few that are currently ESRD status and are left uninsured, Dialysis Care Center will be committed to providing continued care. Dialysis Care Center McHenry will be committed to work with any patient to try and find any sources and qualify for any programs for which they may qualify for. Dialysis Care Center will be an "open Dialysis unit" meaning through our policy, any nephrologist will be able to refer their patients and apply for privileges to round at the facility, if they desire. Dialysis Care Center will participate in American Kidney Fund (AKF) to assist patients with insurance premiums which will be at no cost to the patient. Currently as Dialysis Care Center McHenry will be a new entity there is no current Charity documentation that can be provided to the board, however the Charity policy is attached. Please find attached our admission policy and Charity policy." [Application for Permit page 131]

VI. Project Costs and Sources of Funds

The applicants are funding this project with cash in the amount of \$810,000 and the FMV of leased space and equipment of \$405,000. The initial start-up costs and operating deficit is projected to be \$25,000. The fair market value of the space was calculated using the lease terms and the discount rate of 8% over the term of the lease. The value of the dialysis machines are based on the expected purchase price of the equipment.

TABLE TWO		
Project Costs and Sources of Funds		
Reviewable Costs		
Total		
Project Costs		% of Total Costs
Modernization Contracts	\$420,000	34.5%
Contingencies	\$10,000	1.0%
Architectural and Engineering Fees	\$20,000	1.65%
Movable Equipment	\$360,000	29.6%
FMV of Leased Space and Equip.	\$405,000	33.3%
Space - \$240,000		
Equipment - \$165,000		
Total Project Costs	\$1,215,000	100% ⁽¹⁾
Sources of Funds		
Cash	\$810,000	66.6%
FMV of Leased Space and Equip.	\$405,000	33.3%
Total Sources of Funds	\$1,215,000	100%
1. Does not foot due to rounding.		

Reviewer Note: The average cost of the fifty-eight (58) dialysis facilities (including station additions) submitted to the State Board for approval for the period 2014-2016 was approximately \$3.5 million. The proposed project is approximately one-third (1/3) the average cost of the submitted applications for permit. The average cost includes the two (2) previously approved projects of the applicants. (See Table at the end of this report)

VII. Health Service Area VIII

There are twenty-six (26) ESRD facilities in the HSA VIII ESRD Planning Area. Of those twenty-six (26) facilities, three (3) are new facilities and are not yet operational. Of the remaining twenty-three (23) facilities average utilization is 69.12%. Growth in the number of ESRD patients in this planning area has been 7.43% compounded annually over the past four (4) years (as reported to the State Board). There is a **calculated excess of two (2) stations** in this ESRD Planning Area by CY 2018. See Planning Area Need Methodology below.

1.	2013 HSA VIII Patients	1410
2.	2013 Planning Area Population	1,537,300
3.	HSA VIII Area Use Rate	.917
4.	2018 Planning Area Population	1,658,600
5.	Projected Patients	1,521.3
6.	Adjustment Factor	1.33
7.	Adjusted Patients	2,023
8.	Projected Treatments	315,630
9.	2018 Stations Needed	421
10.	Current Number of Stations	423
11.	Stations Excess	2

VIII. Purpose of the Project, Safety Net Impact, Alternatives to the Project

These criteria are informational only and the State Board Staff does not make a determination if the criteria have been successfully addressed.

A) **Criterion 1110.230 –Purpose of the Project**

To demonstrate compliance with this criterion, the applicants must provide documentation that

1. Documents that the project will provide health services that improve the health care or well-being of the market area population to be served.
2. Defines the planning area or market area, or other, per the applicant's definition.
3. Identifies the existing problems or issues that need to be addressed, as applicable and appropriate for the project.
4. Details how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.
5. Provides goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.

The applicants provided the following discussion regarding the purpose of the project. *The purpose of this project is to keep dialysis services accessible to the growing ESRD population in HSA 8. This project will address the state board's current determined need for additional stations in the planning area of HSA 8. Based on data from December 16, 2016, an additional 10 stations are required to meet the needs of future ESRD patients. The proposed new ESRD facility, Dialysis Care Center McHenry, will open additional treatment options for patients in the market area, as well as patients in McHenry County and surrounding cities. The market area that the applicant will serve is primarily within a twenty mile radius around the proposed facility. The goal of the project is simple-address the current need and the growth of future dialysis patients. Dialysis Care Center McHenry will provide an additional 14 stations and will help in the planning for the future growth of ESRD. The proposed project is to build a 14 station dialysis facility (including 1 isolation station) which will be located at 612 S IL Route 31, Suite A, McHenry, IL. This clinic will serve the residents of HSA 8. As previously stated, the current need is for an additional 10 stations based on the state boards determination. The 4 additional stations are being requested for expected additional growth in the McHenry area and McHenry County.*

As of 2010, the total population of McHenry County is 308,760, and has steadily increased in the last 6 years. In recent years, the city of McHenry plus the surrounding areas have seen tremendous growth in the ESRD population, as objectively indicated in the 70% - 80% utilization of most ESRD facilities in the area. The new clinic, Dialysis Care Center McHenry, will have 100% physician ownership. This is the first time in nearly a decade that a mid-sized nephrology practice in the immediate area is developing a dialysis facility to better serve the needs of ESRD patients. As a physician owned and managed clinic, the care, comfort, and quality of the patient will be placed first and foremost before profitability. The physicians will also have total independence in making clinical decisions. In turn, this will allow physicians to focus on maximizing the quality of care provided to patients receiving dialysis at this clinic. The new clinic, Dialysis Care Center McHenry, will allow area patients access to dialysis services within a reasonable travel distance from home while avoiding significant highway travel. It is an established fact in medicine, that when a patient is requiring chronic dialysis, they have convenient and adequate access to services, as it tends to reduce overall healthcare costs and results in less complications. It is expected that Dialysis Care Center McHenry, once operational, will meet and possibly exceed the clinical outcomes set by the Renal Network, as well as Centers for Medicare and Medicaid services. [Application for Permit page 46-47]

B) Criterion 1110.230(b) – Safety Net Impact Statement

To demonstrate compliance with this criterion, the applicants must document

1. The project's material impact, if any, on essential safety net services in the community, and
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.

Please note the applicants are new entities there is no Medicare or Charity Care Information currently available. **The applicants stated the following:**

“The establishment of Dialysis Care Center McHenry will not have any impact on safety net services in the McHenry area. Outpatient dialysis facilities services are not typically considered or viewed as "safety net" services. As a result, the presence of Dialysis Care Center McHenry as a provider is not expected to alter the way any other healthcare providers function in the community. Dialysis Care Center McHenry has no reason to believe that this project would have any adverse impact on any provider or health care system to cross-subsidize safety net services. Dialysis Care Center McHenry will be committed to providing ESRD services to all patients with or without insurance or patients to no regards for source of payment. Dialysis Care Center McHenry will not refuse any patients. Medicaid patients wishing to be served at Dialysis Care Center McHenry will not be denied services. Because of the Medicare guidelines for qualification for ESRD, a few patients' with ESRD are left uninsured for their care.” [Source: Application for Permit page 130]

C) Criterion 1110.230(c) – Alternatives to the Proposed Project

To demonstrate compliance with this criterion, the applicants must

1. Identify all alternatives;
2. Provide 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;
3. For every alternative considered the total project costs and the reason for the rejection must be provided; and,
4. For the selected alternative the reasons for the selection must be provided

The applicants stated the following:

1. Do Nothing

The only option other than what was proposed in the application, would entail a lesser scope and cost than the project proposed in this application would be to do nothing, which was considered. **This option however does not address the need for 10 additional stations needed for the HSA 8 area.** Not planning for future ESRD patients will do nothing more than allow area facilities to reach capacity as access declines in the area HFSRB identified need. There is no cost to this alternative.

The proposed facility that is identified for Dialysis Care Center McHenry is a shell ready facility; by using this site the costs associated with this project are significantly lower compared to other ESRD projects brought to the board. This cost effective method will ensure the need for the additional stations are met with a reduced cost for the facility.

2. Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or portion of the projects intended purposes; developing alternative settings to meet all or a portion of the projects intended purposes.

This alternative is not applicable as this facility is 100% physician owned and operated directly by the physicians working in the area. Physician owned and managed compared to corporate owned facilities. There are currently no solely physician owned ESRD facilities in the area, the Medical Director and the physician partners identified that will refer their ESRD patients to Dialysis Care Center McHenry has no options where they can refer their patients to and have the independence they need to make improved clinical decisions and can focus on maximizing patient care.

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

Utilizing other health care ESRD facilities was considered but there is no alternative. As mentioned there are no Physician owned ESRD facilities in the area where the physicians have the independence they need to improve the quality indicators set by the Boards criteria on quality. It is expected that the facility will exceed the clinical outcomes that meet all network, Centers for Medicare and Medicaid services clinical goals established

Reasons why the alternative was chosen

The project utilizes space that will be leased, as oppose to building a new facility from ground up, the cost of the proposed project is a fraction of the cost of developing a new facility. We expect to spend less than \$430,000.00 in renovation cost on a space of 5000 sq. ft. Beyond that, the only additional cost would be to provide the equipment needed to provide dialysis services. We believe that this is a very substantial cost effective alternative that will meet the need. The total cost of the proposed project is \$1,122,000.00 including the value of the leased space. This we believe is the most efficient long term solution to maintaining access to dialysis services in the McHenry area, and to accommodate the need of the additional stations identified by the board in HSA 8. We believe that the proposed project meets the HFPB goals of providing health care services in the most cost effective manner. 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 this facility will exceed the quality expectations set by the Board. [Application for Permit page 59-60]

IX. Size of the Project, Projected Utilization, Assurances

A) Criterion 1110.234(a) – Size of the Project

To demonstrate compliance with this criterion, the applicants must document that the proposed gross square footage does not exceed the State Board Standards in Part 1110 Appendix B.

The applicants are proposing 5,000 gross square feet of leased space for fourteen (14) dialysis stations. The State Board standard is 520 DGSF per station or 5,720 DGSF for a fourteen (14) station ESRD facility.

Based upon the information provided in the application for permit the State Board Staff finds the proposed project to be in conformance with this criterion. [Application for Permit page 46]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SIZE OF THE PROJECT (77 IAC 1110.234(a))

B) Criterion 1110.234(b) - Projected Utilization

To demonstrate compliance with this criterion, the applicants must document that by the second year after project completion the applicants will be at target occupancy.

The applicants are projecting seventy-seven (77) patients by the second year after project completion.

1. Number of stations	14 stations
2. Number of treatments	13,104 treatments per year [14 stations x 936 treatments]
3. Seventy-seven (77) Patients	12,012 treatments [77 patients x 156 treatments]
4. Occupancy	12,012 treatments per year/13,104 capacity = <u>91.66%</u>

As shown above if the seventy-seven (77) patients materialize the applicants will be at the target occupancy of 80%. However the applicants could only justify fifty-three (53) of the proposed seventy-seven (77) patients based upon the referral letters submitted. By rule the projected referrals (77) cannot exceed the historical referrals (53). Based upon the information provided in the application the State Board Staff finds the proposed project not to be in conformance with this criterion. [Application for Permit page 47]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION PROJECTED UTILIZATION OF THE PROJECT (77 IAC 1110.234(b))

C) Criterion 1110.234(e) – Assurances

To demonstrate compliance with this criterion, the applicants must attest that the proposed project will be by the end of the second year of operation after the project completion, the applicant will meet or exceed the utilization standards specified in Part 1110 Appendix B.

The applicants provided the necessary attestation at page 83 of the application for permit that the proposed facility will be at the target occupancy of eighty percent (80%) by the end of the second year of operation after project completion. However the number of projected referrals (77 patients) does not agree with number of historical referrals (53 patients). The applicants have not met the requirements of this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION ASSURANCES (77 IAC 1110.234(e))

X. In-Center Hemodialysis

A) Criterion 1110.1430(b)(1) to (3) - Background of Applicant

To demonstrate compliance with this criterion, the applicants must document the following:

- A) A listing of all health care facilities currently owned and/or operated by the applicant in Illinois including licensing, certification and accreditation identification numbers, as applicable;
- B) A listing of all health care facilities currently owned and/or operated in Illinois, by any corporate officers or directors, LLC members, partners, or owners of at least 5% of the proposed health care facility;
- C) A certified listing from the applicant 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;
- D) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility, identifying those individuals that have been cited, arrested, taken into custody, charged with, indicted, convicted or tried for, or pled guilty to;
- E) Authorization permitting HFSRB and IDPH access to any documents necessary to verify the information submitted.
- F) *Adverse Action means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. [77 IAC 1130.140]*

1. Dialysis Care Center McHenry, LLC & Dialysis Care Center Holdings, LLC are newly formed entities and as such they do not own or operate any other health care facilities in the State of Illinois. Dialysis Care Center Holdings, LLC is a new entity and was a co-applicant on two (2) previously approved dialysis projects Permit #16-020 and Permit #16-022

Reviewer Note: Dr. Morufu Alausa and Dr. Sameer Mohammed Shafi are members of the two dialysis facilities approved by the State Board in October of 2016:

- #16-020 Dialysis Care Center of Oak Lawn
- #16-022 Dialysis Care Center of Olympia Fields

These facilities are currently under construction and the expected completion date is February of 2018. Permit renewals for these two (2) projects were approved May 26, 2017 by Board Chair.

2. The members of the two LLCs (Dialysis Care Center McHenry, LLC & and Dialysis Care Center Holdings, LLC) are Dr. Morufu Alausa and Dr. Sameer Mohammed Shafi. Each

physician has a 50% percent interest. Both physicians are in good standing with the Illinois Department of Financial and Professional Regulation. <https://www.idfpr.com/>

3. The location of the proposed facility is in compliance with the Section 4 of the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/1 et. seq.) and Executive Order #2006-5.
4. The applicants provided authorization permitting the State Board and the State Agency access to any documents necessary to verify information in the application for permit.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION BACKGROUND OF THE APPLICANT (77 IAC 1110.1430 (b) (1) to (3))

B) Criterion 1110.1430(c)(1), (2), (3) and (5) - Planning Area Need

To demonstrate compliance with this criterion, the applicants must document that

1. there is a calculated need in the planning area;
2. the proposed facility will serve the residents of the planning area;
3. there is demand for the service based upon historical and projected referrals; and,
5. the proposed service is necessary to improve service access in the planning area.

1. Calculated Excess

To demonstrate compliance with this sub-criterion, the applicants must document that there is calculated need for the number of ESRD stations being proposed.

There is a calculated excess of two (2) ESRD stations in the HSA VIII ESRD planning area by CY 2018.

2. Residents of the Planning Area

To demonstrate compliance with this sub-criterion, the applicants must document that the proposed fourteen (14) ESRD stations will provide dialysis to fifty percent (50%) or more of the residents of the HSA VIII ESRD Planning Area.

The applicants identified one hundred ten (110) pre-ESRD (Stage 4) patients. According to the applicants, approximately eighty percent (80%) will come from the HSA VIII ESRD Planning Area. [Application for Permit page 66] If the applicants' estimate of 80% is correct, it would appear that the proposed project will serve the residents of the planning area. [See Table Ten at the end of this report for the zip code information.]

3. Demand for the Service

To demonstrate compliance with this sub-criterion, the applicants must document that there is demand for the proposed number of stations.

The applicants provided three (3) referral letters from Dr Bangash, Dr. Sood and Dr. Mohammadi. The referral letters must provide the following information:

1. 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, for the most recent three years and the end of the most recent quarter;
2. The number of new patients (by facility and zip code of residence) located in the area, that the physician referred for in-center hemodialysis for the most recent year;
3. An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience.

4. The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;
5. Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services; and
6. Each referral letter shall contain a statement attesting that the information submitted is true and correct, to the best of the physician's belief.

The application for permit contained three (3) referral letters that were unsigned. The applicants provided signed referral letters on January 18, 2017. Dr. Bangash's letter stated in part "*along with my partners, there are currently one hundred ten (110) Stage 4 pre-ESRD patients in our practice.*" According to Dr. Bangash's letter approximately seventy-seven (77) patients of the one hundred ten (110) pre-ESRD patients will be referred to the proposed facility. The applicants expect approximately thirty percent (30%) of the one hundred ten (110) pre-ESRD patients to expire, or regain function, move out of the area or choose home dialysis.

Dr. Bangash's letter documented a total of fifty-one (51) historical referrals. Of those fifty-one (51) historical referrals forty-two (42) referrals were accepted. Referrals to Crosswords' Woodstock, Lexington Streamwood, and The Springs at Crystal Lake were not accepted because they are nursing homes and not free-standing dialysis facilities. Dr. Sood's historic referrals were all accepted and two (2) of the three (3) historical referrals were accepted from Dr. Mohammadi. [Application for Permit page 66-85.]

By rule [77 IAC 1110.1430 (c) 3) B) iii)] the number of proposed referrals (i.e. seventy-seven (77)) cannot exceed the number of historical referrals fifty-three (53).

TABLE THREE						
Historical Referrals						
	Historical Referrals					Pre-ESRD Patients ⁽¹⁾
Physicians	2013	2014	2015	2016	Total	
Farhan Bangash, D.O. ⁽²⁾	5	11	11	15	42	269
Ruchi Sood, M.D.			6	3	9	28
Farnaz Mohammadi M.D.				2	2	87
Total	5	11	17	20	53	384

1. Pre-ESRD patients are CKD Stage 3 and Stage 4 patients identified by the applicants in their referral letters.
2. A doctor of osteopathic medicine (D.O.) is a fully trained and licensed doctor who has attended and graduated from a U.S. osteopathic medical school. A doctor of medicine (M.D.) has attended and graduated from a conventional (allopathic) medical school. The major difference between osteopathic and allopathic doctors is that some osteopathic doctors provide manual medicine therapies, such as spinal manipulation or massage therapy, as part of their treatment. After medical school, both M.D.s and D.O.s must complete residency training in their chosen specialties. They must also pass the same licensing examination before they can treat people and prescribe medications.

Source: Application for Permit pages 66-85.

5. Service Accessibility

To demonstrate compliance with this sub-criterion, the applicants must provide documentation that the proposed project will improve access to planning area residents. The applicant shall document that at least one of the following factors exists in the planning area:

1. The absence of the proposed service within the planning area;
2. Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;
3. Restrictive admission policies of existing providers;
4. The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health

and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;

1. There are twenty-six (26) ESRD facilities in the HSA VIII ESRD planning area with four hundred twenty-three (423) ESRD stations. There is no absence of ESRD service in this planning area. Of those twenty-six (26) facilities three (3) are new facilities and are not yet operational. Of the remaining twenty-three (23) facilities average utilization is 69.25% as of March 31, 2017. [See Table Eleven at the end of this report for a listing of the facilities within the planning area]
2. No access limitations have been identified by the applicants as all twenty-six (26) facilities are certified or will be certified by Medicare and Medicaid.
3. No restrictive admission policies have been identified by the applicants at existing ESRD providers in the planning area.
4. There has been no evidence that the area population and existing care system indicate medical care problems in the area or the population that has been identified by the applicants.
5. There are sixteen (16) ESRD facilities within thirty (30) minutes of the proposed facility. Of the sixteen (16) facilities one (1) is not operational and the remaining fifteen (15) facilities are operating at an average utilization of 63.50%.

Summary

There is a calculated excess of two (2) stations in the HSA VIII ESRD Planning Area. It appears that the proposed project will serve the residents of the HSA VIII ESRD Planning Area as approximately eighty percent (80%) of the patients will come from within the HSA VIII ESRD Planning Area. The three (3) physicians have identified approximately three hundred eighty four (384) CKD Stage 3 and Stage 4 patients currently receiving care in their practice. However, the number of historical patient referrals (53 referrals) does not justify the number of projected patient referrals of seventy-seven (77). Additionally, there does not appear to be service access issues in the thirty (30) minute service area as there are sixteen (16) ESRD facilities within thirty minutes of the proposed facility. Of the sixteen (16) facilities one (1) is not operational and the remaining fifteen (15) facilities are operating at an average utilization of 63.5%. The applicants have not successfully addressed this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT CONFORMANCE WITH CRITERION PLANNING AREA NEED (77 IAC 1110.1430(c) (1), (2), (3) and (5))

C) Criterion 1110.1430 (d) - Unnecessary Duplication/Mal-distribution

To document compliance with this criterion, the applicants must document that the proposed project will not result in an unnecessary duplication of service, not result in a mal-distribution of services; and will not lower the utilization of any other provider within the area.

1. Unnecessary Duplication of Service

To demonstrate compliance with this sub-criterion, the applicants must document that the proposed facility will not result in an unnecessary duplication of service.

It appears that the proposed project will result in an unnecessary duplication of services as there are sixteen (16) ESRD facilities within thirty (30) minutes of the proposed facility. Of the sixteen (16) facilities one (1) is not operational and the remaining fifteen (15) facilities are operating at an average utilization of 63.50%.

TABLE FOUR
Facilities within thirty (30) minutes of the proposed location

Facility	City	HSA	Stations	Time (1)	Utilization (2)	Star Rating (3)	Met State Board Standard?
ARA- McHenry County	McHenry	8	12	1	37.50%	4	No
Fresenius Medical Care of McHenry	McHenry	8	14	3	42.86%	5	No
Crystal Spring Dialysis	Crystal Lake	8	14	5	72.62%	3	No
ARA- Crystal Lake Dialysis	Crystal Lake	8	16	14	30.25%	2	No
Neomedica Dialysis Ctrs - Round Lake	Round Lake	8	16	17	77.80%	4	No
Lake Villa Dialysis	Lake Villa	8	12	19	70.83%	5	No
Barrington Creek	Lake Barrington	8	12	19	37.50%	3	No
Davita Carpentersville	Carpentersville	8	13	22	101.28%	3	Yes
Fresenius Medical Care Elgin	Elgin	8	20	26	70.83%	4	No
Fresenius Medical Care of Antioch	Antioch	8	12	28	51.39%	4	No
Fresenius Medical Care Mundelein	Mundelein	8	14	28	67.86%	5	No
ARA-South Barrington Dialysis	S. Barrington	7	14	29	58.33%	3	No
Davita Marengo	Marengo	8	10	29	48.33%	5	No
Fresenius Medical Care Palatine	Palatine	7	14	30	94.05%	4	Yes
Fresenius Medical Care Hoffman Estates	Hoffman Estates	7	20	30	91.67%	4	Yes
Average Utilization					63.50%	NA	
Davita Huntley	Huntley	8	12	21	0.00%	NA	

1. Time determined by MapQuest provided by the applicants.

2. Utilization as of March 31, 2017 reported by the facility.

Star Rating from <https://www.medicare.gov/>

2. Mal-distribution of Service

To demonstrate compliance with this sub-criterion, the applicants must document that the ratio of stations to population within the thirty (30) minute service area is not 1.5X the ratio of stations to population in the State of Illinois.

The applicants stated the following:

The establishment of Dialysis Care Center McHenry will not result in an unnecessary duplication of services or a service misdistribution. A misdistribution exists when an identified area has an excess supply of facilities, stations, and services characterized by such factors as, but not limited to: (1) ratio of stations to population exceeds one and one-half times the state average; (2) historical utilization for existing facilities and

services is below the State Boards utilization standard; or (3) insufficient population to provide the volume of caseload necessary to utilize the services proposed by the project at or above utilization standards. As discussed more fully below, the ratio of stations to population in the geographic area is above of the state average, and the average utilization of existing facilities within the geographic service area is more than 70%. Importantly, average utilization of facilities within 35 minutes of the proposed site is about 80%. Sufficient population exists to achieve target utilization. Dialysis care Center McHenry will also be located in HSA 8 GSA where there is a documented need for additional chairs. [Application, p. 91]

The ratio of stations to the population in the State of Illinois is one station per every 2,873 residents and the thirty (30) minute ratio is one (1) station per every 4,148 resident. Based upon this information the number of stations to population in the thirty (30) minute service area is not 1.5X times the number of stations per population in the State of Illinois. Reviewer Note: To have a surplus of stations in this thirty (30) minute service area; the ratio of stations to population in the thirty (30) minute service area would have to be one (1) station per every 1,915 resident.

TABLE FIVE			
Mal-distribution of Service			
	Stations	Population	# of residents per station
State of Illinois (2015 Est.)	4,519	12,978,800	2,873
30 minute service area	225	933,234	4,148

3. Impact on Area Providers

To demonstrate compliance with this sub-criterion, the applicants must document that the proposed project will not impact other providers in the service area.

The applicants have referred a total of fifty-three (53) patients to the facilities listed below over the past four (4) years [2013, 2014, 2015, & 2016] and have stated that “No patients will be transferred from other existing dialysis facilities”.

TABLE SIX				
Historic Referrals				
Facility	City	HSA ESRD Planning Area	# of Referrals	Current Utilization (3/31/2017)
ARA Crystal Lake	Crystal Lake	8	4	31.25%
ARA McHenry	McHenry	8	18	37.50%
DaVita Barrington Creek	Lake Barrington	8	4	37.50%
DaVita Buffalo Grove	Buffalo Grove	7	1	57.29%
DaVita Cobblestone	Elgin	8	5	95.83%
DaVita Crystal Lake	Crystal Lake	8	3	72.62%
DaVita Marengo	Marengo	8	2	48.33%
FMC Elgin	Elgin	8	9	71.67%
FMC Elk Grove	Elk Grove	7	1	83.33%
FMC McHenry	McHenry	8	5	42.86%

TABLE SIX Historic Referrals				
Facility	City	HSA ESRD Planning Area	# of Referrals	Current Utilization (3/31/2017)
Lake Villa DaVita	Lake Villa	8	1	70.83%
Total			53	

The applicants stated the following *“The proposed dialysis facility will not have an adverse impact on existing facilities in the proposed geographic service area. All of the identified patients will be referrals from identified physicians and are on pre-ESRD list. No patients will be transferred from other existing dialysis facilities. The proposed dialysis facility will not lower utilization of other area providers that are operating below the occupancy standard. Also as mentioned throughout this application the facility will be located in HSA 8 where there is an additional need of 10 stations based on the Monthly updates to the inventory of health care facilities and services as of December, 31, 2016”* [Application for Permit page 91]

Summary

There does not appear to be a surplus of stations in the thirty (30) minute service area. Additionally, it does not appear that the proposed project will impact other providers of dialysis service in this thirty (30) service area if the applicants do not transfer existing dialysis patients from existing facilities as stated in the application. The three (3) physicians who will be referring patients to the proposed facility have their own unique population of patients. However, there are existing facilities in the thirty (30) minute service area that are currently underutilized and it would appear the proposed project would result in a unnecessary duplication of service at this time.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH CRITERION UNNECESSRY DUPLICATION OF SERVICE, MALDISTRIBUTION OF SERVICE, IMPACT ON OTHER FACILITIES (77 IAC 1110.1430(d)(1), (2) and (3))

D) Criterion 1110.1430(f) - Staffing

To demonstrate compliance with this criterion, the applicants must document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and Joint Commission staffing requirements can be met.

According to the applicants Dialysis Care Center McHenry will be staffed in accordance with all state and Medicare staffing guidelines and requirements. The staffing plan will be

“A. *Medical Director:*

Dr. Farhan Bangesh will serve as the Medical Director for Dialysis Care Center McHenry.

Additional staffed physicians: Dr. Ruchi Sood and Dr. Femaz Mohammadi.

B. All Other personal

Upon opening, the facility will hire a Clinic Manager who is a Registered Nurse (RN), this nurse will have at least a minimum of twelve months experience in a Hemo-Dialysis center additionally we will hire one Patient Care Technician (PCT). After we have more than one patient, we will hire another RN and another PCT. All personnel will undergo an orientation process, led by the Medical Director and experienced members of the nursing staff prior to participating in any patient care activities.

Upon opening we will also employ:

- *Part-Time Registered Dietician*
- *Part-Time Registered Master Level Social Worker (MSW)*
- *Part-Time Equipment Technician*
- *Part-Time Secretary*

These positions will go 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*

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 an orientation training program. Annually all clinical staff must complete OSHA training, Compliance training, CPR certification, Skills competency, CVC competency, Water quality training and pass the competency exam. Dialysis Care Center McHenry will maintain at least a 4 to 1 patient-staff ratio at all times on the treatment floor. A RN will be at the facility at all times when the facility is operational.”

Based upon the above narrative and the Medicare Certification requirements the applicants have met the requirements of this criterion. [Application for Permit page 92-93]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION STAFFING (77 IAC 1110.1430(f))

E) Criterion 1110.1430(g) - Support Services

To demonstrate compliance with this criterion, the applicants must attest to the following:

- 1) **Participation in a dialysis data system;**
- 2) **Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and**
- 3) **Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed facility; or the existence of a signed, written agreement for provision of these services with another facility.**

1. Dialysis Care Center McHenry will utilize a dialysis electronic patient data tracking system.
2. Dialysis Care Center McHenry will have available all needed support services required by CMS which may consist of nutritional counseling, clinical laboratory services, blood bank, rehabilitation, psychiatric services, and social services; and
3. Patients will have access to training for self-care dialysis, self-care instruction, and home hemodialysis and peritoneal dialysis

The applicants provided the required attestation at pages 106-107 of the Application for Permit

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION SUPPORT SERVICES (77 IAC 1110.1430(g))

F) Criterion 1110.1430(h) - Minimum Number of Stations

To demonstrate compliance with this criterion, the applicants must document that the proposed facility will have at a minimum eight (8) stations in an MSA.

The applicants are proposing a facility with fourteen (14) stations. The applicants have met the minimum requirement of the eight (8) stations in an MSA.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION MINIMUM NUMBER OF STATIONS (77 IAC 1110.1430(h))

G) Criterion 1110.1430-(i) - Continuity of Care

To demonstrate compliance with this criterion, the applicants must document that a signed written affiliation agreement is in effect for the provision of inpatient care and other hospital services.

The applicants provided an unsigned written affiliation agreement with Centegra Health System.

Reviewer Note: Medicare Conditions of Coverage requires the facility to maintain a signed written agreement on site. (See State Operations Manual Conditions of Coverage §405.2160 Condition: Affiliation Agreement or Arrangement)

“requires that each facility have an agreement with an inpatient hospital that provides inpatient care, routine and emergency dialysis, and other hospital services with emergency services available 24/7. The agreement must ensure that hospital services are available promptly to dialysis patients when needed and include reasonable assurances that patients from the dialysis facility are accepted and treated in emergencies.”

The applicants have not met the requirements of this criterion. [See Application for Permit page 110-114]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT TO BE IN CONFORMANCE WITH CRITERION CONTINUITY OF CARE (77 IAC 1110.1430(i))

H) Criterion 1110.1430(k) - Assurances

To demonstrate compliance with this criterion, the applicants must document that by the second year of operation after project completion the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal.

The applicants provided the necessary attestation at page 115-116 of the application for permit. However the number of projected referrals is in excess of the number of historical referrals and by rule the applicants cannot exceed the projected referrals. The applicants have not met the requirements of this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT TO BE IN CONFORMANCE WITH CRITERION ASSURANCES (77 IAC 1110.1430(k))

The Health Facility Planning Act shall establish a procedure (1) which requires a person establishing, constructing or modifying a health care facility, as herein defined, to have the qualifications, background, character and financial resources to adequately provide a proper service for the community; (2) that promotes the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of such facilities; and (3) that promotes planning for and development of health care facilities needed for comprehensive health care especially in areas where the health planning process has identified unmet needs.

Financial Viability

A) Criterion 1120.120 – Availability of Funds

To demonstrate compliance with this criterion the applicants must provide evidence of the availability of funding for the proposed project.

The proposed project will be funded with cash in the amount of \$810,000 and the Fair Market Value of the Leased Space and Equipment of \$312,000. The State Board Staff is required to determine if \$810,000 in cash is available to fund this project. The applicants are new entities with no historical financial information. The applicants stated:

“As previously stated, the initial build out costs will be met by current cash on hand. There will be no need to finance the project with debt. We expect the facility to achieve 80% utilization by the end of year two. The facility would grow to 42 patients over the course of one year, then grow to 71 patients by end of year two, and ultimately achieve full capacity during end of year three. The utilization rate is lower than the year end numbers due to the gradual increase over the course of the year. Net revenue is based on the payor mix listed below and operating expenses are based on company averages for comparable areas. The facility runs a net deficit in year one due to the ramp up from zero patients and achieves profitability in year two. Equipment will be either purchased or funded through operating leases. For asset management, we expect to maintain 30 days of operating cash at the facility level. We also expect to manage accounts receivable within our corporate targets, staying below 60 days receivable outstanding (DRO). Dialysis Care Center Holdings is a legal entity which has no external debt and will earn management fee once the clinic is operational. The management fee is 7% on total collections and has been accounted for on the projections.” [Additional Information Submitted on January 8, 2017, p. 2]

From the information that has been provided by the applicants, State Board Staff finds that there are sufficient funds to fund this project.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS (77 IAC 1120.120)

B) Criterion 1120.130 – Financial Viability

To demonstrate compliance with this criterion, the applicants must provide documentation of the financial ratios for all applicants and co-applicants.

TABLE SEVEN			
Projected Ratio Information			
Dialysis Care Centers McHenry, LLC			
	Year 1	Year 2	Year 3
Current Ratio	2	2	2
Net Margin Percentage	-13.8%	18.3%	21.3%
Percent Debt to Total Capitalization	0	0	0
Percent Debt Service Coverage	0	0	0
Days Cash on Hand	30	30	30
Cushion Ratio	N/A	N/A	N/A

TABLE EIGHT			
Dialysis Care Centers McHenry, LLC			
Projected Income Statement			
	Year 1	Year 2	Year 3
Number of Stations	14	14	14
Patients	42	71	84
Total Treatments	4,200	7,100	8,400
Gross Revenue	\$525,502	\$2,354,826	\$2,558,324
Net Rev./Treatment	\$125.11	\$331.66	\$304.56
Expenses			
Total Expenses	\$998,000	\$1,923,254	\$2,558,324
Net Income	-\$72,498	\$431,572	\$545,999
Margin	-13.79%	18.32%	21.34%

TABLE NINE			
Dialysis Care Center Holdings, LLC			
Projected Income Statement and Projected Ratio Information			
	Year 1	Year 2	Year 3
Revenues			
Management fee revenue	\$50,544	\$129,256	\$172,812
Expenses			
Management Fee expense	\$16,848	\$43,085	\$57,604
Net Income(Loss)	\$33,696	\$86,171	\$115,208
Current Ratio	0	0	0
Net Margin	66.67%	66.67%	66.67%
Percent Debt to Total Capitalization	0	0	0
Percent Debt Service Coverage	0	0	0
Days Cash on Hand	733	755	730
Cushion Ratio	NA	NA	NA
Note: Applicants are projecting no debt or current liabilities			

As shown above, the proposed facility would be operating at a profit beginning at year two (2) through the proposed project third (3) full year of operation. The management company (Dialysis Care Center Holdings, LLC) will be profitable beginning in year one (1).

While the State Board Staff recognizes that the operating entity (Dialysis Care Centers McHenry, LLC) has not met the net margin percentage for the first year of operations, it appears to the Board Staff from all of the documentation provided that that the applicants have the ability to generate sufficient income to meet operating payments, debt commitments and maintain service levels.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION FINANCIAL VIABILITY (77 IAC 1120.130)

Economic Feasibility

A) Criterion 1120.140(a) – Reasonableness of Financing Arrangements

B) Criterion 1120.140(b) – Terms of Debt Financing

To demonstrate compliance with this criterion, the applicants must provide documentation that the debt financing is reasonable.

The State Board considers leasing a form of debt financing. The applicants provided a copy of a lease between Dialysis Care Center McHenry, LLC and Pinnacle Investment Partner, LLC with an initial lease term of five (5) years for the building located at 612 S. Rt. 31 Suite A, McHenry, Illinois. The lease is a triple net lease (tenant agrees to pay all real estate taxes, building insurance, and maintenance) at \$12.00 per square foot with an increase of 3% compounded annually. It appears that the lease is reasonable. [Source Application for Permit pages 28-33]

Landlord:	Pinnacle Investment Partner, LLC
Tenant:	Dialysis Care Center McHenry, LLC
Premises:	Approximately 5,000 rentable square feet located at 612 S. Rt. 31, Suite A, McHenry
Primary Lease Term:	An initial lease term of Five (5) years
Possession Date:	May 1, 2017 or sooner
CON Contingency:	Lease is contingent upon tenant receiving a CON (Certificate of Need)
Base Rental Rate:	\$12.00 PSF/ NNN
Rent Commencement Date:	Tenant shall have ninety (90) days from possession to complete the tenant improvements, rent to commence thereafter
Escalation:	3% increases compounded annually.
Option Periods:	Two (2), three (3) year options to renew.
CAM:	Tenant shall be responsible for their proportionate share of CAM.
RE Taxes:	Tenant shall be responsible for their proportionate share of real estate taxes.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION REASONABLENESS OF FINANCING ARRANGEMENTS, TERMS OF DEBT FINANCING (77 IAC 1120.140(a) and (b))

C) Criterion 1120.140 (c) - Reasonableness of Project Costs

To demonstrate compliance with this criterion, the applicants must meet the State Board requirements in Part 1120 Appendix A.

The applicants' modernization and contingency costs and movable equipment costs are in compliance with the State Board Standards in Part 1120 Appendix A. The applicants successfully addressed this criterion.

Reviewer Note: Modernization includes the build out of leased space and shall include the cost of all capital improvements contained in the terms of the lease.

TABLE NINE				
Reasonableness of Project Costs				
	Project Costs	State Board Standard	Project Costs	Met Standard
Modernization and Contingencies Costs	\$430,000	\$183.68/GSF ⁽¹⁾	\$86.00/GSF	Yes
Contingencies	\$10,000	10-15%	2.38%	Yes
A & E Fees	\$20,000	8.19-12.29%	4.65%	Yes
Movable Equipment	\$360,000	\$52,119 ⁽²⁾	\$25,714	Yes
FMV of Leased Space and Equip.	\$405,000 ⁽³⁾		NA	
1. The State Board Standard for modernization and contingencies costs are based on historical data as of 2017 and inflated by 3% per annum to the midpoint of construction. The 2017 modernization and contingency costs standard is \$178.33. 2. The State Board Standard for Movable Equipment is based on historical data as of 2008 and inflated by 3% to the midpoint of construction. The 2008 movable equipment standard is \$39,945. 3. The FMV of the leased space is \$240,000 and the FMV of the equipment is \$165,000.				

Itemization of Movable Equipment	
Dialysis Chairs	\$14,000
Misc. Clinical Equipment	\$17,000
Clinical Furniture and equipment	\$25,000
Office equipment and other furniture	\$31,000
Cabinetry	\$48,500
Water treatment	\$110,000
TV's & Accessories	\$26,000
Telephones	\$11,000
Computers, Fax, Copier	\$15,000
Generator	\$40,000
Facility Automation	\$12,500
Other Miscellaneous	\$10,000
Total	\$360,000

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 IAC 1120.140(c))

D) Criterion 1120.140 (d)- Projected Operating Costs

To demonstrate compliance with this criterion, the applicants must document the projected operating costs per treatment.

The applicants are projecting \$115 per treatment in operating costs. This amount includes Salaries, Benefits, & Medical Supplies of \$598,000. This projection is based upon 5,200 treatments per year. The applicants have addressed this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PROJECTED OPERATING COSTS (77 IAC 1120.140(d))

E) Criterion 1120.140(e)- Projected Capital Costs

To demonstrate compliance with this criterion the applicants must document the capital costs per treatment.

The applicants are projecting \$13.94 in capital costs per treatment based on depreciation, amortization and interest of \$72,498. This projection is based upon 5,200 treatments per year. The applicants have addressed this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PROJECTED CAPITAL COSTS (77 IAC 1120.140(e))

TABLE TEN			
Zip Codes within thirty minutes of proposed site			
Zip Code	City	County	Population
60002	Antioch	Lake	24,299
60008	Rolling Meadows	Cook	22,717
60010	Barrington	Lake	44,095
60012	Crystal Lake	McHenry	11,120
60014	Crystal Lake	McHenry	48,550
60031	Gurnee	Lake	37,947
60044	Lake Bluff	Lake	9,792
60046	Lake Villa	Lake	35,111
60050	McHenry	McHenry	31,620
60060	Mundelein	Lake	37,189
60061	Vernon Hills	Lake	25,748
60073	Round Lake	Lake	60,002
60074	Palatine	Cook	38,985
60085	Palatine	Cook	71,714
60110	Carpentersville	Kane	38,557
60120	Elgin	Kane	50,955
60123	Elgin	Kane	47,405
60142	Huntley	McHenry	26,447
60152	Marengo	McHenry	12,533
60169	Hoffman Estates	Cook	33,847
60020	Fox Lake	Lake	9,825
60084	Wauconda	Lake	16,771
60013	Cary	McHenry	26,872
60098	Woodstock	McHenry	32,228
60156	Lake in the Hills	McHenry	28,987
60030	Grayslake	Lake	36,056
60102	Algonquin	McHenry	32,193
60047	Lake Zurich	Lake	41,669
Total			933,234

State Board Staff Note: For Table Eleven below the Board Staff reviewed information on the Center for Medicare & Medicaid Services (CMS) website related to dialysis facilities star ratings for facilities within thirty (30) minutes. CMS assigns a one (1) to five (5) star rating in two separate categories: best treatment practices, hospitalizations, and deaths. The more stars, the better the rating.

Below is a summary of the data within the two categories.

- **Best Treatment Practices**

This is a measure of the facility's treatment practices in the areas of anemia management; dialysis adequacy, vascular access, and mineral & bone disorder. This category reviews both adult and child dialysis patients.

- **Hospitalization and Deaths**

This measure takes a facility's expected total number of hospital admissions and compares it to the actual total number of hospital admissions among its Medicare dialysis patients. It also takes a facility's expected patient death ratio and compares it to the actual patient death ratio taking into consideration the patient's age, race, sex, diabetes, years on dialysis, and any co morbidity.

Based on the star rating in each of the two categories, CMS then compiles an overall rating for the facility. The more stars, the better the rating. The data is as of June 2016.

TABLE ELEVEN
ESRD Facilities in the HSA VIII ESRD Planning Area

Facility	Ownership	City	HSA	Stations	Utilization (4)	Met Standard?	Star Rating (5)
ARA- Crystal Lake Dialysis	ARA	Crystal Lake	8	16	31.25%	No	2
ARA- McHenry County	ARA	McHenry	8	12	37.50%	No	4
Lake County Dialysis Ctr	Davita	Vernon Hills	8	16	75.00%	No	3
Dialysis Center of America - NCDC	Davita	Waukegan	8	24	100.00%	Yes	3
Davita Carpentersville	Davita	Carpentersville	8	13	101.28%	Yes	3
Davita Marengo	Davita	Marengo	8	10	48.33%	No	5
Lake Villa Dialysis	Davita	Lake Villa	8	12	70.83%	No	5
Cobblestone Dialysis	Davita	Elgin	8	16	95.83%	Yes	3
Crystal Spring Dialysis	Davita	Crystal Lake	8	14	72.62%	No	3
Barrington Creek	Davita	Lake Barrington	8	12	37.50%	No	4
Aurora Dialysis Center	Fresenius	Aurora	8	24	102.78%	Yes	4
Neomedica - Gurnee	Fresenius	Gurnee	8	24	64.58%	No	5
Neomedica Dialysis Ctrs. - Round Lake	Fresenius	Round Lake	8	16	77.08%	No	4
Fresenius Medical Care of Lake Bluff	Fresenius	Lake Bluff	8	16	70.83%	No	4
Fresenius Medical Care of McHenry	Fresenius	McHenry	8	14	42.86%	No	5
Fresenius Medical Care of Antioch	Fresenius	Antioch	8	12	51.39%	No	4
Fresenius Medical Care-Elgin	Fresenius	Elgin	8	20	71.67%	No	4
Fresenius Medical Care Waukegan Harbor	Fresenius	Waukegan	8	21	92.06%	Yes	3
Fresenius Medical Care West Batavia	Fresenius	Batavia	8	12	70.83%	No	3
Fresenius Medical Care Mundelein	Fresenius	Mundelein	8	14	67.86%	No	5
Fresenius Medical Care Highland Park	Fresenius	Highland Park	8	20	47.50%	No	4
Fox Valley Dialysis Center	Renaissance	Aurora	8	29	77.01%	No	5
Delnor Community Hospital Tri Cities	Northwestern	Geneva	8	20	55.00%	No	4
Average					67.90%		
Davita Huntley ⁽¹⁾	Davita	Huntley	8	12	0.00%		
Fresenius Medical Care Zion ⁽²⁾	Fresenius	Zion	8	12	0.00%		
Fresenius Medical Care East Aurora ⁽³⁾	Fresenius	Aurora	8	12	0.00%		

1. DaVita Huntley approved February 2016 no data available.
2. FMC Zion approved November 2015 no data available.
3. FMC East Aurora approved Sept 2016 no data available.
4. Utilization as of March 31, 2017
5. Star Rating from Medicare ESRD Compare website

Average Utilization				69.25%	
Fresenius Medical Care Zion ⁽¹⁾	Fresenius	Zion	12	0.00%	NA
Fresenius Medical Care East Aurora ⁽²⁾	Fresenius	Aurora	12	0.00%	NA
Davita Huntley ⁽³⁾	Davita	Huntley	12	0.00%	NA

TABLE TWELVE
Applications for ESRD facilities received 2014-2016

	Project #	Facility	City	Amount
1	14-007	Concert Dialysis	Crestwood	\$25,000.00
2	14-010	Fresenius Medical Care Highland Park	Highland Park	\$14,398,153.00
3	14-012	Fresenius Medical Care Gurnee	Gurnee	\$5,475,700.00
4	14-019	Fresenius Medical Care Summit	Summit	\$5,331,247.00
5	14-020	Chicago Ridge Dialysis	Chicago Ridge	\$3,494,553.00
6	14-024	Stony Creek Dialysis f/k/a Diamond Dialysis-Oak Lawn	Oak Lawn	\$3,174,258.00
7	14-026	Fresenius Medical Care New City - Chicago	Chicago	\$5,375,998.00
8	14-029	Fresenius Medical Care Grayslake	Grayslake	\$4,159,450.00
9	14-041	Fresenius Medical Care Elgin	Elgin	\$1,542,110.00
10	14-042	Tinley Park Dialysis	Tinley Park	\$3,665,882.00
11	14-047	Fresenius Medical Care Humboldt Park	Chicago	\$10,705,750.00
12	14-058	Gambro Healthcare - Alton	Alton	\$2,793,928.00
13	14-059	Fresenius Medical Care Glendale Heights	Glendale Heights	\$291,610.00
14	14-065	Kidney Care, LLC - Morris	Plainfield	\$3,644,650.00
15	14-069	Stony Creek Dialysis f/k/a Diamond Dialysis-Oak Lawn	Oak Lawn	\$3,711,340.00
16	15-001	Fresenius Medical Care Steger	Steger	\$768,598.00
17	15-003	Danville Dialysis	Danville	\$3,058,862.00
18	15-004	Machesney Park Dialysis	Machesney Park	\$2,688,663.00
19	15-020	Calumet City Dialysis	Calumet City	\$4,118,967.00
20	15-022	Fresenius Medical Care Blue Island	Blue Island	\$601,631.00
21	15-025	DSI South Holland Renal Center	South Holland	\$4,517,588.00
22	15-028	Fresenius Medical Care Schaumburg	Schaumburg	\$4,883,415.00
23	15-032	Morris Dialysis f/k/a Silver Cross Hosp Renal Ctr. - Morris	Morris Morris	\$2,633,643.00
24	15-033	Lincoln Park Dialysis Services	Chicago	\$6,795,937.00
25	15-034	Neomedica South Holland	South Holland	\$173,625.00
26	15-035	Montgomery County Dialysis	Hillsboro	\$2,352,197.00
27	15-036	Fresenius Medical Care of Zion	Zion	\$4,132,650.00
28	15-042	Morris Community Dialysis	Morris	\$704,500.00
29	15-045	Nephron Dialysis Center, Ltd. (Chicago)	Chicago	\$30,000.00
30	15-046	Fresenius Medical Care Beverly Ridge	Chicago	\$5,367,653.00
31	15-048	Park Manor Dialysis	Chicago	\$4,111,234.00
32	15-049	Huntley Dialysis	Huntley	\$3,340,052.00
33	15-050	Fresenius Medical Care Chicago Heights	Chicago Heights	\$6,230,992.00
34	15-052	Sauget Dialysis	Sauget	\$1,448,658.00

35	15-054	Washington Heights Dialysis	Chicago	\$3,899,637.00
36	15-057	Fresenius Medical Care Spoon River f/k/a Renal Care Group	Canton	\$124,975.00
37	16-004	O'Fallon Dialysis	O'Fallon	\$2,709,300.00
38	16-009	Collinsville Dialysis	Collinsville	\$2,399,308.00
39	16-015	Forest City Rockford Dialysis	Rockford	\$3,140,963.00
40	16-016	Jerseyville Dialysis f/k/a JCH Dialysis Center	Jerseyville, Illinois	\$173,491.00
41	16-020	Dialysis Care Center of Oak Lawn	Oak Lawn	\$762,000.00
42	16-022	Dialysis Care Center Olympia Fields	Olympia Fields	\$992,000.00
43	16-023	Irving Park Dialysis	Chicago	\$4,237,705.00
44	16-024	Fresenius Kidney Care East Aurora	Aurora	\$5,283,883.00
45	16-026	U.S. Renal Care Hickory Hills Dialysis	Hickory Hills	\$2,458,365.00
46	16-027	U.S. Renal Care West Chicago Dialysis	Chicago	\$4,381,822.00
47	16-029	FMC Ross Dialysis -Englewood f/k/a Midwest Renal Care	Chicago	\$7,949,665.00
48	16-033	Brighton Park Dialysis	Chicago	\$4,929,937.00
49	16-034	Fresenius Kidney Care Woodridge	Woodridge	\$3,650,114.00
50	16-035	Fresenius Medical Care Evergreen Park	Evergreen Park	\$9,024,370.00
51	16-036	Springfield Central Dialysis	Springfield	\$5,124,260.00
52	16-039	Fresenius Kidney Care Wheaton	Wheaton	\$3,825,310.00
53	16-040	Jerseyville Dialysis f/k/a JCH Dialysis Center	Jerseyville	\$2,228,757.00
54	16-041	Taylorville Dialysis	Taylorville	\$499,295.00
55	16-042	Fresenius Kidney Care Paris Community	Paris	\$2,603,250.00
56	16-049	Fresenius Medical Care Macomb	Macomb	\$2,223,191.00
57	16-051	Whiteside Dialysis	Sterling	\$3,168,654.00
58	16-058	Dialysis Care Center McHenry	McHenry	\$1,122,000.00
Average				\$3,494,150.79

16-058 Dialysis Care Center McHenry - McHenry

