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**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Ms. Kathryn Olson
Chairwoman
Illinois Health Facilities and Services Review Board
525 W. Jefferson, 2nd floor
Springfield, IL 62716

**Re: Opposition to #17-013, Geneva Crossing Dialysis, #17-014 Rutgers Park
Dialysis, #17-015 Stone Quarry, #17-016 Salt Creek Dialysis; Applicants:
DaVita, Inc. and DuPage Medical Group, LTD**

Dear Ms. Olson and members of the Board,

It is inexplicable the applicants would provide no new information in response to their Intent to Deny yet expect the Board to now approve this project. It should, once again, be denied.

The staff report fails to address three core deficiencies with these applications:

- The referral letters violate the Board's rules.

The "referrals" supporting applicant's four projects overlap – citing unidentified patients from the same zip code multiple times – thus violating Board rules prohibiting using the same referral to support multiple projects;

- The "future" patient population applicants will build involves diverting existing patients of other existing providers.

The patients who testified at the HFSRB meeting are already receiving their ESRD care from NAN1 and other providers. They already have access to quality ESRD services from dedicated providers who will be harmed by the approval of these projects.

- It would be reckless to address a projected 5 year future need for ESRD services by granting one provider 4 facilities with overlapping service areas in an area that all other indicators show there are no issues with access to quality of care.

Just because there is a projected need in 5 years, it should not be handed over to the first applicant. This is not a mechanical process. Multiple facilities exist and have capacity to

provide additional care and approving too many facilities in the same area will only result in multiple facilities, all of whom are less stable and, thus, less viable.

This correspondence is submitted on behalf of our clients in opposition to project 17-013, Crossing Dialysis (a proposed 50/50 Joint Venture between DaVita, Inc. and DuPage Medical Group, LTD) and provides comment on the recently released State Board Staff Reports (SBSR) for the aforementioned project.

The same deficiencies that justified denying this application at their initial consideration still exist today. Applicants have provided no new information nor modified their applicant in any way. These applications are about meeting the needs of the of the applicants, not about meeting the ESRD needs of the patients in the HSA as those needs are already being met.'

The Board will be considering FOUR out of a total SIX applications submitted to the Health Facilities and Services Review Board ("HFSRB"). These proposed facilities all share the same flagrant problems:

- The four facilities proposed by the applicant irresponsibly plot to meet a future 5 year need projection in one year's time, to the detriment of existing facilities and the quality of care of patients in Health Service Area (HSA) 7. All four projects all proposing to serve patients in an overlapping geographic area, thus undermining the need for the project.
- The applicant's referral letters included in this application and referenced in the SBSR by the applicant's own admission **do not** meet HFSRB standards and serve as an indictment of the application's inability to verify a patient population as required by the planning process.
- The applicants fail to mention that the patients mentioned in the SBSR and those who gave testimony at the September Board meeting are already being served by NANI doctors in some cases in dialysis facilities owned by one of the co-applicants.

The Illinois Health Facilities Planning Act (20 ILCS 3960/12.5) requires the HFSRB to publish an updated inventory and need projection for the state of Illinois. As reflected in the SBSR the most recent HFSRB inventory shows a need for 51 ESRD stations in the HSA 7 planning area. However, all of the applications filed by the applicants taken together with for HSA 7 reflect at total 60 new stations that would be active within 12 months. This is the type of over-duplication of services that the HFSRB is designed to protect both patients and taxpayers from. Table Eight in each of the applications shows that today there is excess capacity in HSA 7, under-utilization of existing facilities, and plethora of different providers for patients to choose from. Unlike other HSAs in the State, HSA 7 currently has a wide range of both large and independent facility operators. Approval of this projects would ultimately decimate patient options in HSA 7, increase costs, and negatively impact quality care of patients.

The applicant referral letters referenced in the SBSR do not meet the HFSRB administrative rules found in 1110.1430 (c). This fact was admitted by applicants while

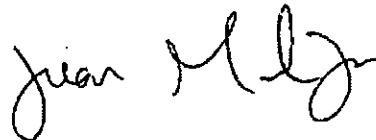
appearing before the HFSRB. Quite frankly, when last before the Board, the applicants were unable to tell this board where their patients will come from. The HFSRB requires specific information because it's imperative to the successful health planning of the state of Illinois for health care facility to know where their patients will come from. None of this information has been provided. Applicants have admittedly taken a "build it and they will come approach" to their applications, and that was not enough for members in September and certainly should not be enough in November.

Finally, the SBSRs reference testimony given at the September Meeting from individuals in favor of these applications. The applicants suggest this testimony is evidence that they have patients to fill the stations in their new facilities. The applicants do not mention that the patients who gave testimony in September are existing patients of NANI physicians. This is the clearest sign that the applicants are plotting to fill their facilities with patients who are already receiving service in existing facilities. This will undoubtedly exacerbate the under-utilization of the facilities in HSA 7.

For these reasons, we pray the HFSRB continue to deny this application and allow for a more organized development of ESRD services within this community.

Respectfully submitted,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

A handwritten signature in black ink, appearing to read "Juan Morado, Jr.", with a stylized, cursive script.

Juan Morado, Jr.