

January 2, 2018

RECEIVED
JAN 2, 2018
ILLINOIS HEALTH
FACILITIES AND SERVICES
REVIEW BOARD

VIA HAND DELIVERY

Courtney Avery
Board Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson, 2nd Floor
Springfield, Illinois 62716

Re: Written Comment on State Board Staff Reports for Projects #17-03, Geneva Dialysis, #17-014 Rutgers Park Dialysis, #17-15 Stone Quarry, #17-06 Salt Creek Dialysis, #17-029 Melrose Village Dialysis, 17-043 DaVita Romeoville Dialysis; Applicants: DaVita, Inc. and DuPage Medical Group, LTD.

Dear Courtney:

The State Board Staff Reports (SBSR) confirm what we have known since these applications were initially filed. The projects themselves are unnecessary, poorly planned, and will cannibalize patients from existing facilities. Moreover, applicants have inexplicably decided that the concerns of Board Members raised at the September Meeting warrant no consideration at all, thus submitted no new information since receiving an intent-to-deny.

I am writing on behalf of several clients in opposition to and in response to the recently released SBSRs on Projects #17-03, Geneva Dialysis, #17-014 Rutgers Park Dialysis, #17-15 Stone Quarry, #17-06 Salt Creek Dialysis, #17-029 Melrose Village Dialysis, #17-043 DaVita Romeoville Dialysis. Approval of these projects will result in three notably negative impacts upon healthcare delivery in Health Service Area (HSA) 7:

1. They will undermine the single largest innovation in dialysis care, the newly established End Stage Renal Disease (ESRD) Seamless Care Organization (ESCO);
2. It will increase costs to the federally funded Medicare and Medicaid programs;
and
3. It will reflect an irresponsible rush to meet a projected future 5-year need in one year's time to suit the needs of one market participant, and to the detriment of existing

facilities.

The SBSRs for each of these applications suffer from the same deficiencies that forced this Board to deny the initial four applications that are now presented for reconsideration at the January Meeting. A review of the applications and SBSRs clearly show that these facilities bring nothing new to the table, despite the applicant's claims (under oath) to the contrary. If an applicant is asking this Board to set a precedent approving a record setting number of dialysis stations at one time, then the services or model of care should be something truly innovative that does not currently exist in our state. But not one of the proposed applications list any innovations in care, and the only innovation one could point to is the introduction of electronic medical records. That is not innovation, it has become the standard. And the fact that **DMG places restrictions** on sharing its patient's electronic medical records with other physicians who are involved in the treatment of those same patients should not be rewarded with a single new facility, let alone six facilities.

During the September meeting the applicants were also unable to distinguish why each individual application warranted approval in the community in which it was proposed. The applicants have had 3 months to provide this Board with information addressing the very real concerns of Members Sewell and Johnson regarding under-utilization in existing facilities. But do not bother looking for that information in the application materials because it does not exist, the applicants have submitted **NO** additional information to support the approval of projects #17-03, Geneva Dialysis, #17-014 Rutgers Park Dialysis, #17-15 Stone Quarry, #17-06 Salt Creek Dialysis.

Projects #17-029 Melrose Village Dialysis and #17-043 DaVita Romeoville Dialysis will be considered for the first time at the January Meeting, but they suffer from the same problems as the four previously denied applications. The Physicians who will purportedly refer to these facilities simply do not have enough patients to fill the number of requested stations. This is why the applicant's "referral" letters are unable to identify patients and fail to mention that some of the individuals they identify as "DMG patients" are actually patients already being seen by other area nephrologists in facilities with excess capacity. In the case of project #17-029 Melrose Village Dialysis, the applicants make clear that two of the referring physicians will move their patients out of the facilities where they are currently being treated (within 3 miles of the proposed site) *not because it is in the patient's best interest*, but because it is in the best interest of the company's bottom line. That is not what the Certificate of Need Board stands for.

These applications reflect of one of the most ill-conceived expansion plans ever presented to this Board. If the SBSR doesn't contain enough information to warrant the denial of these applications there are plenty reasons for you to consider including: the veracity of statements made in response to a question from the Board Chair on access to patient records, the utter lack of innovation in their model of care or services to be provided, the undermining of the Chicago area ESCO that saved millions of dollars for federal health plans in the last year, referral letters that do not meet your rule requirements, the applicant's gaming of this Board's rules by using of patients from existing facilities to justify their proposal to build a new facility, and finally the excessive under-utilization that occur following the approval of this deluge of applications.

January 2, 2018

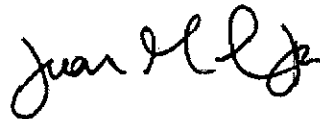
Page 3

Several people will appear to testify at as part of the public hearing as to the actual practical negative impact these projects will have – we implore you to consider that testimony when considering this application.

For these reasons, we pray the Board continue to deny these application and allow for a more organized development of ESRD services in HSA 7.

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

A handwritten signature in black ink, appearing to read "Juan Morado, Jr.", with a stylized flourish at the end.

Juan Morado, Jr.

JMJ