



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

525 WEST JEFFERSON ST. • SPRINGFIELD, ILLINOIS

DOCKET NO: I-03	BOARD MEETING: June 5, 2018	PROJECT NO: 17-043	PROJECT COST:
FACILITY NAME: Romeoville Dialysis		CITY: Romeoville	Original: \$4,115,927
TYPE OF PROJECT: Substantive			HSA: IX

PROJECT DESCRIPTION: The Applicants (DaVita Inc. and Tovell Dialysis, LLC d/b/a Romeoville Dialysis) propose to establish a twelve station (12) ESRD facility in 7,000 GSF of leased space located at 480-490 North Independence Boulevard, Romeoville, Illinois. The cost of the project is \$4,115,927 and the completion date is November 30, 2019.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicants (DaVita Inc. and Tovell Dialysis, LLC) propose to establish a twelve station (12) ESRD facility in 7,000 GSF of leased space located at 480-490 North Independence Boulevard, Romeoville, Illinois. The cost of the project is \$4,115,927 and the completion date is November 30, 2019.
- This project was deferred from the January 2018 State Board Meeting and received an Intent to Deny at the April 17, 2018 State Board Meeting. Transcripts from the April 17, 2018 State Board Meeting, Original State Board Staff Report as well as the additional information (received April 30, 2018) are attached as a separate document at the end of this report.
- The additional information updated the Safety Net Impact Table [See Page 8 and 9 of this report] and also revised the 30-minute population area. The Applicants provided revised zip code information that increased the size of the 30-minute service area provided in the Original Application for Permit. The zip code information that was provided with the Original Application did not adjust for the travel time as outlined in 77 ILAC 1100.510(d). That rule allows the Applicant to adjust the 30-minute radius by 15% for the Kendall, Grundy, Will, and Kankakee counties Planning Area [HSA IX –ESRD Planning Area]. Once that adjustment was made the population in the revised 30-minute service area increased and the finding related to a surplus of stations in the 30-minute service area identified in the Original State Board Staff Report was revised and corrected. The Board Staff had accepted the original 30-minute service area as correct when submitted. Our review of the revised 30-minute service area confirmed the Applicants contention that the original submittal was incorrect. The number of facilities within the 30-minute service area did not change as those travel times were appropriately adjusted.
- The Applicants stated as part of that submittal *“As noted in the April 2018 State Board Reports, the growth in the number of dialysis patients in HSA 9 for the period 2013 to 2017 has been 5.75% compounded annually. This is over 1.75 times the State growth rate (3.23%). Importantly, much of this growth is centered in the Proposed Clinic's geographic service area. From December 2013 to December 2017, the Proposed Clinic's geographic service area experienced a 31.6% growth in ESRD patients (or 323 net patients). This amounts to a compound annual growth rate of 7.10% in this area during that four year period. If the current trend continues, as we as health planners must assume it will in order to meet demand for care, the Applicants project there will be 1,654 in-center hemodialysis patients by CY 2020, and the 314 existing and approved stations will operate at 88% utilization. This projected utilization was a key finding in the April 17, 2018 State Board Report for Fresenius Kidney Care New Lenox. Based on the application of the four year CAGR to the New Lenox patient service area, that proposal received a fully positive State Board Report. This competitor is opposing the Proposed Clinic despite the fact that the Proposed Clinic has a distinct patient base. Importantly, 30 additional stations are needed in the Proposed Clinic's geographic service area by 2020.”*
- Only 77 ILAC 1430 (c) and 77 ILAC 1430 (d) will be discussed as part of this Supplemental Report. All other criterion had been successfully addressed in the Original State Board Staff Report. Based upon the information reviewed by the State Board Staff, the Applicants are financially viable and the project is economically feasible

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)
- One of the objectives of the Health Facilities Planning Act is *“to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding **capacity, quality, value and equity** in the delivery of health care services in Illinois. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process.”* [20 ILCS 3960/2]

PUBLIC HEARING/COMMENT:

- A public hearing was offered in regard to the proposed project, but none was requested. Letters of support and opposition were received by the State Board Staff and those comments are provided in Appendix I at the end of this report.

SUMMARY:

- The State Board is estimating **an excess of 7 stations in the HSA IX ESRD Planning Area by 2020.** This estimate is based upon a growth of 14.5% in the population in this ESRD Planning Area from 2015 to 2020 and a growth of 33% in the number of ESRD patients for this same period. It appears that the Applicants will be providing services to residents of the planning area, and based upon the number of physician referrals there appears to be sufficient demand for the number of stations requested. There are nineteen (19) facilities within thirty (30) minutes with an average utilization of approximately 66%. Four of the 19 facilities are not operational or are in “ramp-up” phases of operation. For the 15 remaining facilities, the average utilization is approximately 74%.
- Included as separate attachments is the Transcript from the April 17, 2018 State Board Meeting and the Original State Board Staff Report.
- The Applicants addressed a total of twenty one (21) criteria and have failed to adequately address the following:

Criteria	Reasons for Non-Compliance
77 ILAC 1430(c) - Planning Area Need	The State Board is estimating an <u>excess of 7 ESRD stations</u> in this planning area. <i>The Applicants stated that HSA IX ESRD Planning Area (Kendall, Grundy, Will, and Kankakee County) population has grown by 12.2% from 2013-2018 and the over 65-population has grown by 33.6% for this same time period. The Will County Population (the location of the proposed Romeoville facility) has grown by 12.9% over the same period (2013-2018) and the over age 65 populations by 34.3%. The patient count for the facilities within the patient service area has increased by 9 percent or from 395 patients to 431 since the September 30, 2017 through December 31, 2017. Annualized, this figure represents a 36% increase in patients.</i>
77 ILAC 1430(d)(1) – Unnecessary Duplication of Service	There are nineteen (19) facilities within thirty (30) minutes with an average utilization of approximately 66%. Four of the 19 facilities are not operational or are in “ramp-up” phases of operation. For the 15 remaining facilities, the average utilization is approximately 74%.

SUPPLEMENTAL
STATE BOARD STAFF REPORT
Project #17-043
Romeoville Dialysis

APPLICATION/CHRONOLOGY/SUMMARY	
Applicants	DaVita Inc. and Tovell Dialysis, LLC d/b/a Romeoville Dialysis
Facility Name	Romeoville Dialysis
Location	480-490 North Independence Boulevard, Romeoville, Illinois
Permit Holder	DaVita Inc. and Tovell Dialysis, LLC
Operating Entity	Tovell Dialysis, LLC
Owner of Site	TD Romeoville, LLC
Description	Establish a twelve (12) station ESRD facility
Total GSF	7,000 GSF
Application Received	August 23, 2017
Application Deemed Complete	August 25, 2017
Review Period Ends	December 23, 2017
Financial Commitment Date	November 30, 2019
Project Completion Date	November 30, 2019
Review Period Extended by the State Board Staff?	Yes
Can the Applicants request a deferral?	Yes
Intent to Deny	April 17, 2018
Expedited Review?	No

I. Project Description

The Applicants (DaVita Inc. and Tovell Dialysis, LLC) are proposing to establish a twelve station (12) ESRD facility in 7,000 GSF of leased space located at 480-490 North Independence Boulevard, Romeoville, Illinois. The cost of the project is \$4,115,927 and the completion date is November 30, 2019.

II. Summary of Findings

- A. State Board Staff finds the proposed project is **not** in conformance with the provisions of 77 ILAC 1110 (Part 1110).
- B. State Board Staff finds the proposed project in conformance with the provisions of 77 ILAC 1120 (Part 1120).

III. General Information

The Applicants are DaVita Inc. and Tovell Dialysis, LLC d/b/a Romeoville Dialysis. DaVita Inc, a Fortune 500 company, is the parent company of Total Renal Care, Inc. and Tovell Dialysis, LLC. DaVita Inc. is a leading provider of kidney care in the United States, delivering dialysis services to patients with chronic kidney failure and end stage renal disease. DaVita serves patients with low incomes, racial and ethnic minorities, women, handicapped persons, elderly, and other underserved persons in its facilities in the State of Illinois.

Tovell Dialysis, LLC d/b/a as Romeoville Dialysis is a Delaware limited liability corporation jointly owned by:

- DaVita, Inc. (51% Indirect)
- Total Renal Care, Inc. (51% Direct),
- DuPage Medical Group, Ltd. (24.5% Direct),
- Nephron Ventures LLC (24.5% Direct).

Financial commitment will occur after permit issuance. This project is a substantive project subject to a Part 1110 and 1120 review.

Table One below outlines the current DaVita projects approved by the State Board and not yet completed.

TABLE ONE DaVita ESRD Projects Approved by the State Board			
Project Number	Name	Project Type	Completion Date
15-048	Park Manor Dialysis	Establishment	08/31/2018
15-054	Washington Heights Dialysis	Establishment	09/30/2018
16-015	Forest City Rockford	Establishment	06/30/2018
16-023	Irving Park Dialysis	Establishment	08/31/2018
16-033	Brighton Park Dialysis	Establishment	10/31/2018
16-036	Springfield Central Dialysis	Relocation	03/31/2019
16-037	Foxpoint Dialysis	Establishment	07/31/2018
16-040	Jerseyville Dialysis	Expansion	07/31/2018
16-041	Taylorville Dialysis	Expansion	07/31/2018
16-051	Whiteside Dialysis	Relocation	03/31/2019
17-032	Illini Renal	Relocation/Expansion	05/31/2019
17-040	Edgemont Dialysis	Establishment	05/31/2019
17-053	Ford City Dialysis	Establishment	08/31/2019
17-049	DaVita Northgrove Dialysis	Establishment	07/31/2019
17-063	DaVita Hickory Creek Dialysis	Establishment	04/30/2020
17-064	DaVita Brickyard Dialysis	Establishment	10/31/2019

IV. State of Illinois Managed Care Contracts

The Applicants provided the following:

All patients who have worked the requisite number of quarters (equivalent to 10 years) are eligible for Medicare if they are diagnosed with end stage renal disease (ESRD). Consistent with that fact, the published HFSRB data for 2016 for DuPage County shows that the 10 Fresenius/NANI clinics operating in DuPage County treated a total of 15 Medicaid patients or an average of 1.5 patients per year per clinic compared with 862 Medicare patients in those 10 clinics for the same period.

- DVA = DaVita Inc
- DMG = DuPage Medical Group

For Option A – Statewide

- Blue Cross Blue Shield of Illinois (Both DVA and DMG participate)
- Harmony Health Plan (DVA participates)
- IlliniCare Health Plan (DVA participates)
- Meridian Health (DVA participates)
- Molina Healthcare of IL (DVA in negotiations to participate)

For Option B – Cook County Only

- CountyCare Health Plan (DVA participates)
- NextLevel Health. (Neither DVA or DMG participates)

For DCFS Youth

- IlliniCare Health Plan (DVA participates)

Each of DaVita and DMG participate in a range of insurance plans, including Medicare and Medicaid plans (HealthChoice Illinois and Medicare-Medicaid Alignment Initiative Plans (MMAI)) as identified above. While DMG providers do not participate in all Medicaid managed care plans, the plan it does participate in reflects the population it serves and the plan that is most in demand in DuPage County. Just under half of the HealthChoice beneficiaries residing in DuPage County are enrolled in the Blue Cross Medicaid products that DMG is enrolled in. Further, in their provision of services at the various area hospitals, DMG physicians regularly treat Medicaid patients who are not routinely seen by them as assigned patients without expectation of reimbursement for providing that care.
[Source: Email dated 5/8/2018]

V. Project Costs and Sources of Funds

The Applicants are funding the project with cash of \$2,212,097 and the FMV of leased space of \$1,903,830. The operating deficit and start-up costs are \$2,511,640. All project costs are classified as clinical.

TABLE TWO Project Costs and Sources of Funds			
USE OF FUNDS	Reviewable	Total	% of Total
Modernization Contracts	\$1,354,426	\$1,354,426	32.91%
Contingencies	\$100,000	\$100,000	2.43%
Architectural/Engineering Fees	\$130,500	\$130,500	3.17%
Consulting & Other Fees	\$78,500	\$78,500	1.91%
Movable or Other Equipment (not in construction contracts)	\$548,671	\$548,671	13.33%
Fair Market Value of Leased Space & Equipment	\$1,903,830	\$1,903,830	46.26%
TOTAL USES OF FUNDS	\$4,115,927	\$4,115,927	100.00%
SOURCE OF FUNDS	Reviewable	Total	% of Total
Cash and Securities	\$2,212,097	\$2,212,097	53.74%
Leases (fair market value)	\$1,903,830	\$1,903,830	46.26%
TOTAL SOURCES	\$4,115,927	\$4,115,927	100.00%

VI. Health Planning Area

The proposed facility will be located in the HSA IX ESRD Planning Area. The HSA IX ESRD Planning Area includes Kendall, Grundy, Will, and Kankakee counties. As of April 2018 **there is a calculated excess of 7 ESRD stations in this planning area.** There are currently seventeen (17) dialysis facilities in this planning area with 284 ESRD stations. The State Board is estimating a growth of 14.5% in the population in this ESRD Planning Area from 2015 to 2020.¹ The State Board is estimating a growth of 33% in the number of ESRD patients for the period 2015 to 2020.

¹ Source: 2017 Inventory of Health Care Facilities and Services Need Determinations Other Health Services page A-19.

TABLE TWO	
Need Methodology HSA IX ESRD Planning Area	
Planning Area Population – 2015	970,600
In Station ESRD patients -2015	1,086
Area Use Rate 2015 ⁽¹⁾	.977
Planning Area Population – 2020 (Est.)	1,111,300
Projected Patients – 2020 ⁽²⁾	1,086
Adjustment	1.33x
Patients Adjusted	1,444
Projected Treatments – 2020 ⁽³⁾	225,323
Existing Stations	308
Stations Needed-2020	301
Number of Stations Needed	7
1. Usage rate determined by dividing the number of in-station ESRD patients in the planning area by the 2015 – planning area population per thousand. 2. Projected patients calculated by taking the 2020 projected population per thousand x the area use rate. Projected patients are increased by 1.33 for the total projected patients. 3. Projected treatments are the number of patients adjusted x 156 treatments per year per patient	

A) Criterion 1110.230 (b) - Safety Impact Statement

To demonstrate compliance with this criterion the Applicants must document the safety net impact if any of the proposed project. *Safety net services are the services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation.* [20 ILCS 3960/5.4]

DaVita stated the following:

DaVita Inc. and its affiliates are safety net providers of dialysis services to residents of the State of Illinois. DaVita is a leading provider of dialysis services in the United States and is committed to innovation, improving clinical outcomes, compassionate care, education and Kidney Smarting patients, and community outreach. DaVita led the industry in quality, with twice as many four and five-star centers than other major dialysis providers. DaVita also led the industry in Medicare's Quality Incentive Program, ranking number 1 in 3 out of 4 clinical measures and receiving the fewest penalties. DaVita has taken on many initiatives to improve the lives of patients suffering from CKD and ESRD. These programs include Kidney Smart, IMPACT, CathAway, and transplant assistance programs. Furthermore, DaVita is an industry leader in the rate of fistula use, and has the lowest 90-day catheter rates among large dialysis providers. During 2000-2014, DaVita improved its fistula adoption rate by 103%. Its commitment to improving clinical outcomes directly translated into 7% reduction in hospitalizations among DaVita patients. The proposed Romeoville Dialysis will not impact the ability of other health care providers or health care systems to cross-subsidize safety net services. The utilization of existing dialysis facilities within the Romeoville GSA that have been operational for at least 2 years is 72.8%. Further, patient census among the existing facilities within the Romeoville GSA has increased 6.9% since March 31, 2015. The growth is anticipated to increase for the foreseeable future due to demographics of the community and the U.S. Centers for Disease Control and Prevention that estimates that 15% of American adults

suffer from CKD. Further, a total of 65 patients (58 from NENC, 7 for DMG), will be expected to initiate in-center hemodialysis within 12-24 months following project completion. Accordingly, the proposed dialysis facility will not impact other general health care providers' ability to cross-subsidize safety net services.

Additional Information provided April 30, 2018:

"Note that for the DaVita metro Chicago applications approved by the State Board within the last five years, 70 percent of its newly approved stations are located in medically underserved areas. Medically underserved areas are areas designated by the Health Resources and Services Administration as having too few primary care providers, high infant mortality, high poverty or a high elderly population. DaVita's commitment to serving underserved communities is unparalleled in the State of Illinois."

TABLE THREE			
DaVita, Inc.			
	2014	2015	2016
Net Patient Revenue	\$266,319,949	\$311,351,089	\$353,226,322
Amt of Charity Care (charges) ⁽¹⁾	\$2,477,363	\$2,791,566	\$2,400,299
Cost of Charity Care	\$2,477,363	\$2,791,566	\$2,400,299
% of Charity Care/Net Patient Revenue	0.93%	0.90%	0.68%
Number of Charity Care Patients	146	109	110
Number of Medicaid Patients	708	422	297
Medicaid	\$8,603,971	\$7,381,390	\$4,692,716
% of Medicaid to Net Patient Revenue	3.23%	2.36%	1.33%

TABLE THREE			
DaVita, Inc.			
(Updated)			
	2015	2016	2017
Net Patient Revenue	\$311,351,089	\$353,226,322	\$357,821,315
Amt of Charity Care (charges)	\$2,791,566	\$2,400,299	\$2,818,603
Cost of Charity Care	\$2,791,566	\$2,400,299	\$2,818,603
% of Charity Care/Net Patient Revenue	0.90%	0.68%	.78%
Number of Charity Care Patients	109	110	98
Number of Medicaid Patients	422	297	407
Medicaid	\$7,381,390	\$4,692,716	\$9,493,634
% of Medicaid to Net Patient Revenue	2.36%	1.33%	2.65%

1. The charity care listed above does not meet the State Board's definition of Charity Care. Charity Care is defined by the State Board as *care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer.* [20 ILCS 3960/3].

IX. In-Center Hemodialysis Projects

A) Criterion 1110.1430(c) - Planning Area Need

To demonstrate compliance with this criterion the Applicants must document that the number of stations to be established or added is necessary to serve the planning area's population.

1) 77 Ill. Adm. Code 1100 (Formula Calculation)

To demonstrate compliance with this sub-criterion the Applicants must document that the number of stations to be established is in conformance with the projected station need.

There is a calculated need for 17 additional ESRD stations in the HSA IX ESRD Planning Area per the February, 2018 Revised Station Need Determination.

The Applicants provided additional information on February 8, 2018 stating that end-stage renal disease (ESRD) clinic utilization data demonstrates a growth trend in ESRD incidence and prevalence in Romeoville and the area immediately surrounding it and provides more detailed demographic data for the area which helps illustrate why the Romeoville location in Will County was selected for a new clinic site.

The Applicants stated that HSA IX ESRD Planning Area (Kendall, Grundy, Will, and Kankakee County) population has grown by 12.2% from 2013-2018 and the over 65-population has grown by 33.6% for this same time period. The Will County Population (the location of the proposed Romeoville facility) has grown by 12.9% over the same period (2013-2018) and the over age 65 populations by 34.3%. The patient count for the facilities within the patient service area has increased by 9 percent or from 395 patients to 431 since the September 30, 2017 through December 31, 2017. Annualized, this figure represents a 36% increase in patients.

2) Service to Planning Area Residents

To demonstrate compliance with this sub-criterion the Applicants must document that the primary purpose is to serve the residents of the planning area.

The primary purpose of the proposed project is to maintain access to life-sustaining dialysis services to the residents of Romeoville, Illinois and the surrounding communities. As evidenced in the physician referral letters, a combined total of one hundred-eight (108) late-stage pre-ESRD patients reside within 30 minutes of the proposed facility. The Applicants are projecting sixty-five (65) patients by the second year after project completion. The sixty-five patients will come from the zip codes identified below. It would appear that the proposed facility will provide dialysis services to the residents of the planning area.

3) Service Demand – Establishment of In-Center Hemodialysis Service

To demonstrate compliance with this sub-criterion the Applicants must document that there is sufficient demand to justify the twelve stations being proposed.

The Applicants have submitted two (2) referral letters, predicting that 108 patients from the service area will require dialysis services within 2 years of project completion (application for permit, pg. 82). Conservative estimates (based on attrition) has the number of referrals at sixty-five (65) patients requiring dialysis by the second year after project completion.

The Applicants provided the necessary information at page 82 of the application for permit and additional information provided February and April 2018. From the referral letter it appears that there is sufficient demand (patient population) to justify the proposed number of stations (12) being requested by this application for permit.

5) Service Accessibility

To demonstrate compliance with this sub-criterion the Applicants must document that the number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant must document one of the following:

- i) The absence of the proposed service within the planning area;
 - ii) 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;
 - iii) Restrictive admission policies of existing providers;
 - iv) 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;
 - iv) For purposes of this subsection (c)(5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.
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- 1. There are a total of seventeen (17) dialysis facilities in the HSA IX ESRD Planning Area.
 - 2. There has been no evidence of the access limitations due to payor status of patients.
 - 3. There has been no evidence of restrictive admission policies of existing providers.
 - 4. There are nineteen (19) facilities within thirty (30) minutes with an average utilization of approximately 66%. Four of the nineteen (19) facilities are not operational or are in “ramp-up” stage. For the 15 remaining facilities the average utilization is approximately 74%. Five of the 19 facilities (32%), are operating in excess of the State Board standard (80%). [See Table Below]

The State Board is estimating an excess of 7 ESRD stations in the planning area by CY 2020 based upon the estimated population and the historical usage rate in the planning area. Based upon the excess of stations in this planning area the Applicants have not successfully addressed this criterion.

TABLE FOUR
Facilities within 30 minutes of the Proposed Project

Name	City	HSA	Stations	Adjusted Time ⁽¹⁾	Utilization ⁽²⁾	Star Rating ⁽³⁾	Meets Standard?
USRC Bolingbrook Dialysis	Bolingbrook	9	13	8.05	80.77%	2	Yes
FMC Bolingbrook Dialysis	Bolingbrook	9	24	11.5	82.64%	4	Yes
FMC Naperville	Naperville	9	18	18.4	70.83%	5	No
FMC Joliet	Joliet	9	16	19.5	62.96%	3	No
FMC Willowbrook	Willowbrook	7	20	19.5	60.00%	3	No
DaVita Renal Center New Lenox	New Lenox	9	19	20.7	96.49%	3	Yes
DaVita Renal Center West Joliet	Joliet	9	29	20.7	68.39%	4	No
FMC Plainfield	Plainfield	9	10	21.8	77.08%	5	Yes
USRC Oak Brook	Downers Grove	7	13	23	80.77%	2	Yes
FMC Downers Grove	Downers Grove	7	16	25.3	66.67%	3	No
FMC Dialysis Center Orland Park	Orland Park	7	18	26.4	60.19%	4	No
Davita Sun Health Joliet	Joliet	9	17	26.4	61.76%	5	No
Fox Valley Dialysis Center	Aurora	8	29	28.7	83.91%	5	Yes
DaVita Palos Park Dialysis	Orland Park	7	12	28.7	73.61%	2	No
FMC Mokena	Mokena	9	14	29.9	69.05%	3	No
Total Stations/Average Utilization			268		73.01%		
FMC Lemont (Completion 05/2016)	Lemont	7	12	11.5	34.72%	N/A	N/A
FMC Woodridge (Completion 03/2019)	Woodridge	7	12	16.1	0.00%	N/A	N/A
FMC Plainfield North (Completion 11/2016)	Plainfield	9	10	20.7	58.33%	3	N/A
FMC Summit (Completion 11/2016)	Summit	7	12	28.75	47.22%	NA	N/A
Total Stations/Average Utilization			314		65.02%		

1. Adjusted time taken from Map Quest and adjusted per 77 ILAC 1100.510 (d)

2. Information as of March 31, 2018

3. Star Rating taken from Medicare Compare Website. An explanation of the Star Rating can be found at Appendix I at the end of this report.

4. NA – Not Available

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN
CONFORMANCE WITH CRITERION PLANNING AREA NEEDS
(77 ILAC 1110.1430(c) (1), (2), (3) and (5)).**

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

To demonstrate compliance with this criterion the Applicants must document that the proposed project will not result in

1. An unnecessary duplication of service
 2. A mal-distribution of service
 3. An impact on other area providers
1. To determine if there is an unnecessary duplication of service the State Board identifies all facilities within thirty (30) minutes and ascertains if there is existing capacity to accommodate the demand identified in the application for permit. There are nineteen (19) facilities within thirty (30) minutes with an average utilization of approximately 66%. Four of the nineteen (19) facilities are not fully operational and are in ramp-up phase. The fifteen remaining facilities the average utilization is approximately 74%. [See Table Above]

The Applicants stated:

“There are 19 dialysis facilities within the Romeoville GSA. Excluding recently approved dialysis facilities which are being developed to serve distinct groups of patients, average utilization of area dialysis facilities is 72.8%, or just below the State Board's utilization standard of 80%. Furthermore, patient census among the existing facilities within the Romeoville GSA has increased 6.9% since March 31, 2015. This growth is anticipated to continue to increase for the foreseeable future due to the demographics of the community and U.S. Centers for Disease Control and Prevention estimates that 15% of American adults suffer from CKD. Unfortunately, kidney disease is often undetectable by the patient until the late stages when it is often too late to stop or slow the disease progression. As more working families obtain health insurance through the Affordable Care Act and 1.5 million Medicaid beneficiaries transition from traditional fee for service Medicaid to Medicaid managed care more individuals in high risk groups now have better access to primary care and kidney screening. As a result of these health care reform initiatives, DaVita anticipates continued increases in newly diagnosed cases of CKD in the years ahead. However, once diagnosed, many of these patients will be further along in the progression of CKD due to the lack of nephrologist care prior to diagnosis. It is imperative that enough dialysis stations are available to treat this new influx of ESRD patients who will require dialysis in the next two years.”
[Application for Permit page 85]

2. To determine a mal-distribution (i.e. surplus) of stations in the thirty (30) minute service area the State Board compares the ratio of the number of stations per population in the thirty (30) minute service area to the ratio of the number of stations in the State of Illinois to the population in the State of Illinois. To determine a surplus of stations the number of stations per resident in the thirty (30) minute service area must be 1.5 times the number of stations per resident in the State of Illinois.

	Population	Stations	Ratio
30 Minute Service Area	1,142,723	314	1 Station per every 3,640, residents
State of Illinois (2015 est.)	12,978,800	4,745	1 Station per every 2,736 residents

The population in the thirty (30) minute service area is 1,142,723 residents. The number of stations in the (30) minute service area is 314 stations. The ratio of stations to population is one (1) station per every 3,640 residents.

The number of stations in the State of Illinois is 4,745 stations (*as of April 2018*). The 2015 estimated population in the State of Illinois is 12,978,800 residents (*Illinois Department of Public Health Office of Health Informatics Illinois Center for Health Statistics -2014 Edition*). The ratio of stations to population in the State of Illinois is one (1) station per every 2,736 residents. To have a surplus of stations in this thirty (30) minute service area the number of stations per population would need to be one (1) station per every 1,824 residents. Based upon this methodology there is not a surplus of stations in this service area.

3. The Applicants stated the following regarding the impact on other facilities.

The proposed dialysis facility will not have an adverse impact on existing facilities in the Romeoville GSA. Based on March 2017 data from the Renal Network, 672 ESRD patients live within 30 minutes of the proposed facility. Excluding recently approved dialysis facilities which are being developed to serve distinct groups of patients, average utilization of area dialysis facilities is 72.8%, or just below the State standard of 80%. The proposed facility is necessary to allow the existing facilities to operate at an optimum capacity, while at the same time accommodating the growing demand for dialysis services. As a result, the Romeoville Dialysis facility will not lower the utilization of area providers below the occupancy standards. Further, the three in-center hemodialysis facilities approved by the State Board within the last few years are either in development (FMC Woodridge), or operational less than two years (FMC Plainfield North, FMC Summit). Each facility will serve a distinct patient base within the greater southwest suburban area. As stated in the physician referral letters for these facilities, each physician projects to refer a sufficient number of patients to achieve 80% utilization by the second year after project completion.

Summary

There is no surplus of stations in the 30-minute area as defined by the State Board. There are existing facilities not operating at target occupancy and it appears that these facilities will be able to accommodate the patients identified by the project. Additionally the State Board is estimating an excess of 7-stations in the HSA IX ESRD Planning Area by 2020.

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

Appendix I

Northeast Nephrology Consultants stated in support

"I am writing to express support of the Certificate of Need request for the development of new In-Center Hemodialysis facility located at 480 - 490 North Independence Boulevard, Romeoville, Illinois 60446 to provide life-sustaining dialysis treatment, education, and support for patients with kidney disease. I am a physician that is board certified in Nephrology and currently practicing within the market area for this facility. As related within the application, there is an identified need for additional dialysis stations to serve an identified patient population. In-center hemodialysis care is a burdensome and time intensive process for patients. Through this facility, we can transform the lives of patients and their families by having more options in their dialysis care providers, locations, and treatment times. As you know, it is not a simple matter of having one time slot available for a patient, as patients often cannot receive dialysis at the times dictated by limited facility openings. The utilization rate of area facilities is over 72% and it is projected to continue increasing on an annual basis. This will lead to even more competition for dialysis stations by patients and complicate their already difficult lives. Ensuring patients have practical access to dialysis care is a mission we all have a responsibility to support within the community. In partnership with DaVita, DuPage Medical Group, and other minority investors, we can bring high- quality, integrated, and necessary care to the Romeoville and surrounding community. By leveraging the latest technology and care platforms, we will be offering patient-centered care on the forefront of dialysis care. With well-resourced partners, a local focus, and a care model seeking coordination across the metropolitan area, the proposed facility will be a positive step for patients suffering from renal disease and the providers that care for them. For these reasons, I ask that the Illinois Health Facilities & Services Review Board approve the dialysis facility application for the proposed Romeoville Dialysis facility."

Troutman & Dams LLC stated in support

"We offer our enthusiastic support for the DaVita Dialysis Project. Our firm, Troutman & Dams, has been working closely with the Village of Romeoville in the development of the Village's "Uptown" area. We have similarly worked with DaVita in finding a location for its facility that will be accessible and convenient for its patients. In working with DaVita we have come to understand that most dialysis patients receive treatment three times each week. This means traveling to the facility over 150 times per year. Obviously, access to transportation becomes very important to DaVita and its patients. What is particularly attractive about this site is the abundant availability of multiple modes of convenient transportation. The proposed facility is located on Illinois Route 53. For patients who drive, this major highway is the primary north/south route serving this area. The route links Joliet with Downers Grove, and communities in between such as Lockport, Romeoville and Bolingbrook. The proposed site will have ample free parking for patients. For those patients using mass transit, there is a Pace bus stop located only 900 feet from the DaVita site and accessed with a new 8 foot wide sidewalk. Metra has also recently opened a new station within one mile that can similarly serve this area. The site is also easily accessible through the Village's very affordable "Ride Around Town" program for residents. For those patients who desire, the facility is also located directly on a wide bike path that would go right past the DaVita door."

Presence Saint Joseph Medical Center stated in support

“Presence Saint Joseph Medical Center has proudly served Romeoville and the southern suburbs area for over 100 years. The Romeoville community has grown significantly in recent years. Unfortunately, the percentage of people with chronic kidney disease is also rising. The population growth combined with the increased incident in kidney disease is creating greater need for dialysis services in the area. We are seeing an increased number of patients with kidney disease in our hospital as almost 15% of American adults suffer chronic kidney disease (CKD). We are fortunate to collaborate with many excellent nephrologists on our staff in caring for our patients with kidney disease. We are pleased that Dr. Teresa Kravets, the medical director of the proposed DaVita Romeoville facility, and many of the other nephrologists involved are members of our medical staff. We would value continuing to work with them in this new facility. An optimal care plan for patients with CKD includes strategies to slow the loss of kidney function, manage comorbidities, and prevent or treat cardiovascular disease and other complications of CKD, as well as ease the transition to kidney replacement therapy. Early identification of CKD and deliberate treatment of end-stage renal disease (ESRD) by multidisciplinary teams leads to improved disease management and care, mitigating the risk of disease advancement and patient mortality. We believe we can work well with Dr. Kravets and DaVita in caring for their patients with kidney disease, and we support the Review Board's approval of DaVita Romeoville ESRD facility.”

Additional support letters were submitted on May 15, 2018 from residents of the community urging the State Board to approve the proposed project:

- Barbara Kiel
- Tina Smith
- Jim Kiel
- Annette Gean

Nephrology Associates of Northern Illinois, LTD stated in opposition

“Never in this history of the planning board have so many unnecessary dialysis stations been approved for a single operator in a defined geographic at one time. At the January Board meeting the Board will consider two applications by the Applicants for the first time, and will consider four other applications which already received an Intent to Deny. However, all of the applications have three things in common: (1) the lack of referral letters to justify the patient population for the facilities; (2) overlapping service areas; and (3) emphasis on market share instead of patient care. It is inexplicable that the Applicants would provide no new information to the Board regarding projects: #17-014 Rutgers Park Dialysis, #17-15 Stone Quarry, and #17-06 Salt Creek Dialysis. There are still substantial deficiencies that remain as evidenced by this letter and the staff report released for the November Board meeting and that justified the indent-to-deny that the applications received. Further, applications for project #17-029 Melrose Village Dialysis and 17-043 DaVita Romeoville Dialysis have identical deficiencies and introduce even more new problems that Board members cannot overlook. As simply as can be put - approving these projects would adversely alter the healthcare delivery system in this HSA in a way that is entirely inconsistent with the HFSRB at its rules. In an effort to help Board members visualize the issue with the applicant's proposal for 72 stations, we have created a map (Attachment A) which plots out each of the proposed facilities and creates a circle around a 10-mile service area per the Board's rule (77 Ill. Admin. 1110.1430.).

This picture certainly is worth 1,000 words. You can clearly see how each of the proposed facility service areas completely overlaps with one another. There is only one way an applicant could explain this sort of unnecessary duplication of services. An applicant would have to be able to identify patients to fill these stations. But the Applicants cannot do that and have refused to comply with the Board's rules.

The applicant's referral letter included in these applications and referenced in the SBSR by the applicant's own admission do **not** meet HFSRB standards and serve as an indictment of the applicant's disregard for the HFSRB planning process. The HFSRB has in its possession six copies of the exact same letter (with the date changed on each), that word for word regurgitates the same flawed understanding the HFSRB planning process. It would alter longstanding practice to require referrals sufficient to justify a project - and even more so the express prohibition of utilizing the same patients to justify multiple projects. It is not clear how these "referrals" were accepted by Board staff- but they certainly should not be accepted by this Board. There have been instances in the past when the HFSRB has approved applications for new dialysis facilities with negative findings in an application. In many of those instances the applicant provided context for why they received a negative finding. After several public commenters's noted this important issue for the Board at the September Meeting, the Applicants responded to the elephant in the room but in the process only obfuscated the truth. The applicant's only explanation was that they expected to fill the facilities with "DMG patients and they are not patients of other providers at this time." With this one statement the Applicants managed to not only admit their inability to identify patients for these facilities but they also neglected to mention that some of the "DMG patients" are already seen by other area nephrologists, and those same patients receive dialysis treatments at facilities with excess capacity. The applicant's "innovative" approach for these stations is to plant a flags and siphon patients from existing providers. If you approve it, we will build it, and they will come is not innovative and certainly is not responsible health planning. This will undoubtedly put great strain on other area providers who currently have excess capacity in HSA 7, and undermine the cost savings achieved through the area's End Stage Renal Disease (ESRD) Seamless Care Organization (ESCO). This planning process is designed to protect against the very ill-conceived market saturation that the Applicants propose. A more practicable approach would be for the Applicants to withdraw their applications and assess where there is a true need in the HSA and then submit only necessary applications to this Board. For these reasons, we pray the HFSRB continue to deny these applications and allow for more organized development of ESRD services within these communities."

Juan Morado, Jr. Benesch, Friedlander, Coplan & Aronoff, LLP stated in part

The applicant's project reflects the continuation of a poorly planned hostile take-over of dialysis care in Illinois. This duo of Applicants has filed eight applications proposing to establish ESRD services in a Health Service Area already served by an abundance of providers. This signifies an all-out assault which would undermine the Board's mission with regards to health planning in our state. The reason for this is that these applications do not reflect a desire to serve patients that are without access to care, but rather to manipulate the service of those patients from quality existing providers to serve the financial needs of the applicants. This is exactly what the Certificate of Need program was designed to prevent. This application will greatly undermine the cost savings achieved by the nation's first ESRD Seamless Care Organization ("ESCO"), and the quality of patient care by oversaturating a planning area where the average utilization rate is a meager 67%. This project was originally slated for consideration by the Board at your January 2018 meeting, but was deferred by the Applicants in an effort to delay what would have surely been an intent-to-deny by this Board. As you may recall during the January 2018 meeting, this Board was provided with a full and honest assessment of the applicant's quest to

increase their market share. We would ask that the abundance of public comment, both in written form and in oral testimony before the Board, be incorporated by reference into this application file. This application would contribute to the unnecessary duplication of service and have a severe impact on other providers in violation of ILL. Admin. Code 1110.1430(d) (1) (3). You have heard the testimony from several of them. The greatest indication of this imbalance is evidenced by reviewing the utilization rate of other area facilities.

- There are nineteen (19) facilities in the planning area and only 30% or six (6) of those facilities are at the state's target utilization rate.
- Four (4) of the nineteen (19) area facilities are still ramping up, and have only been in service for a couple of months.

When taking a comprehensive review of the planning area where this project is proposed, it is clear that there are simply not enough patients to fill the existing stations in the planning area. The only way this project will succeed is to syphon patients from existing providers to the benefit of the applicants. Nothing exhibits this better than the fact that these Applicants had patients testify to support related projects, and the only available patients were those already being provided with care by those existing providers who are opposing these projects. The applicant's also continue use the same stale "referral" letter for several projects that was submitted to support their other projects. This letter cites unidentified patients from the same zip code multiple times- in a clear violation of Board rules that prohibit the same referral to support multiple projects. This project proposes to serve patients in the same overlapping geographic area that the applicant's five (5) other projects propose to serve. The Applicants have already admitted before the Board that they do not know where their patients will come from and they are asking the Board to abandon rational health planning in favor of an "if you build it they will come" mentality. This was not enough for the Board members to approve the applicant's project in September, it wasn't enough in January, and it should certainly not be enough in February. As noted above, this application is part of a larger bundle of applications filed by the applicant, to have this Board approve the largest number of dialysis stations at one time to a single provider in Illinois CON history. There is something wrong with these proposals and the applicant knows it. The five (5) other applications were deferred again by the Applicants to the April 2018 agenda in a pointless attempt to delay their inevitable final denial by this Board. Nothing has changed since this application was last slated to be considered by the Board. The obvious is still true. There is **NO** need for these stations in HSA 9. It is not problematic for these Applicants to repeatedly come before this Board to propose ESRD facilities, because they do not have ESRD patients they are busy caring for. The providers opposing these projects do have to care for such patients. The fact that the dozens of people previously opposing these projects may not make every meeting to which these projects are strategically deferred should not undermine the opposition, its validity, and the prior denials of these projects. For these reasons, we pray that the Board continue to deny this application and allow for a more organized development of ESRD services within this community.

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