



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-07	BOARD MEETING: April 17, 2018	PROJECT NO: 17-064	PROJECT COST:
FACILITY NAME: Brickyard Dialysis		CITY: Chicago	Original: \$3,149,412
TYPE OF PROJECT: Substantive			HSA: VI

PROJECT DESCRIPTION: The Applicants (DaVita Inc. and Dunklinson Dialysis LLC) propose to establish a 12-station ESRD facility in 6,738 GSF of lease space at a cost of \$3,149,412. The expected completion date is October 31, 2019.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicants (DaVita Inc. and Dunklinson Dialysis LLC) propose to establish a 12-station ESRD facility in 6,738 GSF of lease space at a cost of \$3,149,412. The expected completion date is October 31, 2019.

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 for the proposed project, but none was requested. No letters of support or opposition were received by the State Board Staff.

SUMMARY:

- The State Board estimated a need for 49 stations in the HSA VI ESRD Planning Area by 2020. The proposed facility will be located in an economically disadvantaged area, whose residents are predominantly Hispanic. The service area contains 18 existing ESRD facilities, and based upon the physician referral letter there appears to be a sufficient number of pre-ESRD patients that will require dialysis within 12-24 months after project completion to justify the 12 stations being requested. All of the 136 pre-ESRD patients reside within the planning area as attested to by the Applicants.
- The Applicants addressed a total of 21 criteria and have successfully addressed them all.

STATE BOARD STAFF REPORT
Project 17-064
DaVita Brickyard Dialysis

APPLICATION/CHRONOLOGY/SUMMARY	
Applicants	DaVita Inc., Dunklinson Dialysis LLC
Facility Name	DaVita Brickyard Dialysis
Location	2640 North Narragansett Avenue, Chicago, Illinois
Permit Holder	DaVita Inc., Dunklinson Dialysis LLC
Operating Entity	Dunklinson Dialysis LLC
Owner of Site	RPAI Chicago Brickyard, LLC
Total GSF	6,738 GSF
Application Received	November 6, 2017
Application Deemed Complete	November 8, 2017
Review Period Ends	March 8, 2018
Financial Commitment Date	April 17, 2020
Project Completion Date	October 31, 2019
Review Period Extended by the State Board Staff?	No
Can the applicants request a deferral?	Yes
Expedited Review?	No

I. Project Description

The Applicants (DaVita Inc. and Dunklinson Dialysis LLC) propose to establish a 12-station ESRD facility in 6,738 GSF of lease space at a cost of \$3,149,412. The expected completion date is October 31, 2019.

II. Summary of Findings

- A.** State Board Staff finds the proposed project appears to be in conformance with the provisions of 77 ILAC 1110 (Part 1110).
- B.** State Board Staff finds the proposed project appears to be in conformance with the provisions of 77 ILAC 1120 (Part 1120).

III. General Information

The applicants are DaVita Inc. and Dunklinson Dialysis LLC. DaVita Inc, a Fortune 500 company, is the parent company of Dunklinson 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. The operating entity will be Dunklinson Dialysis LLC and the owner of the site is RPAI Chicago Brickyard, LLC. Financial commitment will occur after permit approval.

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

TABLE ONE Current DaVita Projects			
Project Number	Name	Project Type	Completion Date
15-025	South Holland Dialysis	Relocation	4/30/2018
15-054	Washington Heights Dialysis	Establishment	3/31/2018
16-015	Forest City Rockford	Establishment	6/30/2018
16-023	Irving Park Dialysis	Establishment	8/31/2018
16-033	Brighton Park Dialysis	Establishment	10/31/2018
16-037	Foxpoint Dialysis	Establishment	7/31/2018
16-040	Jerseyville Dialysis	Expansion	7/31/2018
16-041	Taylorville Dialysis	Expansion	7/31/2018
16-051	Whiteside Dialysis	Relocation	3/31/2019
17-032	Illini Renal	Relocation	5/31/2019
17-040	Edgemont Dialysis	Establishment	5/31/2019
17-053	Ford City Dialysis	Establishment	8/31/2019

IV. Health Planning Area

The proposed facility will be located at 2640 North Narragansett Avenue in Chicago, Illinois. This location is designated a health professional shortage area, and a medically underserved area. This planning area includes the city of Chicago. As of February 2018 the State Board is estimating a need for an additional 49 stations. Additionally, the State Board is estimating that a total of 6,498 patients will need dialysis by 2020 in this planning area. As December 31, 2017 there are 5,061 patients receiving dialysis in this planning area.

TABLE TWO Need Methodology HSA VI ESRD Planning Area	
Planning Area Population – 2015	2,713,100
In Station ESRD patients -2015	4,886
Area Use Rate 2015 ⁽¹⁾	1.907
Planning Area Population – 2020 (Est.)	2,562,700
Projected Patients – 2020 ⁽²⁾	4,886
Adjustment	1.33
Patients Adjusted	6,498
Projected Treatments – 2020 ⁽³⁾	1,013,747
Calculated Station Needed ⁽⁴⁾	1,353
Existing Stations	1,304
Stations Needed-2020	49
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 4. $1,013,747 / 156 = 6,498$ 5. $6,498 \times 80\% = 5,198$ [Number of treatments per station operating at	

TABLE TWO
Need Methodology HSA VI ESRD Planning Area
80%]

V. Project Uses and Sources of Funds

The Applicants are funding the project with cash in the amount of \$2,255,596 and a FMV of a lease in the amount of \$893,816. The operating deficit start-up costs are \$2,558,783.

TABLE THREE Project Costs and Sources of Funds				
Project Cost	Reviewable	Non reviewable	Total	% of Total Cost
Modernization Contracts	\$773,280	\$420,387	\$1,193,667	37.9%
Contingencies	\$77,327	\$42,038	\$119,365	3.8%
Architectural/Engineering Fees	\$91,000	\$35,000	\$126,000	4%
Consulting and Other Fees	\$80,000	\$10,000	\$90,000	2.8%
Moveable and Other Equipment	\$636,782	\$89,782	\$726,564	23%
Fair Market Value of Leased Space	\$579,030	\$314,786	\$893,816	28.5%
Total Project Costs	\$2,237,419	\$911,993	\$3,149,412	100.00%
Cash	\$1,658,389	\$597,207	\$2,255,596	71.6%
FMV of Leased Space	\$579,030	\$314,786	\$893,816	29.4%
Total Sources of Funds	\$2,237,419	\$911,993	\$3,149,412	100.00%

VI. Background of the Applicants

A) Criterion 1110.1430(b)(1)-(3) – Background of the Applicants

An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character to adequately provide a proper standard of health care service for the community. To demonstrate compliance with this criterion the applicants must provide

- A) A listing of all health care facilities currently owned and/or operated by the applicant in Illinois or elsewhere, 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) Authorization permitting HFSRB and IDPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.**
- D) An attestation that the applicants have not had *adverse action*¹ taken against any facility they own or operate.**

1. The applicants have attested that there has been no adverse action taken against any of the facilities owned or operated by DaVita Inc. or Dunklinson Dialysis LLC, during the three (3) years prior to filing the application. [Application for Permit page 70]
2. The applicants have authorized the Illinois Health Services Review Board and the Illinois Department of Public Health to have access to any documents necessary to verify information submitted in connection to the applicants' certificate of need to establish a twelve-station ESRD facility. The authorization includes, but is not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. [Application for Permit page 70]
3. Dunklinson Dialysis LLC will be the operator of Brickyard Dialysis. Brickyard Dialysis is a subsidiary of DaVita Inc. and is not separately organized. As the person with final control over the operator, DaVita Inc. is named as an applicant for this CON application. DaVita Inc. does not do business in the State of Illinois. A Certificate of Good Standing for DaVita Inc from the state of its incorporation, Delaware, has been provided (Application, p. 27).
4. The site is owned by RPAI Chicago Brickyard, LLC and evidence of this can be found at pages 30-37 of the application for permit in the Letter of Intent to lease the property at 2640 North Narragansett Ave, Chicago, IL 60639.
5. The applicants provided evidence that they were in compliance with Executive Order #2006-05 that requires *all State Agencies responsible for regulating or permitting development within Special Flood Hazard Areas shall take all steps within their authority to ensure that such development meets the requirements of this Order. State Agencies engaged in planning programs or programs for the promotion of development shall inform participants in their programs of the existence and location of Special Flood Hazard Areas and of any State or local floodplain requirements in effect in such areas. Such State Agencies shall ensure that proposed development within Special Flood Hazard Areas would meet the requirements of this Order.*

¹ ¹ "Adverse action is defined as 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. These actions include, but are not limited to, all Type "A" and Type "AA" violations." (77 IAC 1130.140)

6. The proposed location of the ESRD facility is in compliance with the Illinois State Agency Historic Resources Preservation Act which requires *all State Agencies in consultation with the Director of Historic Preservation, institute procedures to ensure that State projects consider the preservation and enhancement of both State owned and non-State owned historic resources* (20 ILCS 3420/1).

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION BACKGROUND OF THE APPLICANTS (77 IAC 1110.1430(b)(1) & (3))

VII. Purpose of the Project, Safety Net Impact, Alternatives

A) Criterion 1110.230 – Purpose of the Project

To demonstrate compliance with this criterion the applicants must document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other area, per the applicant's definition.

The applicants stated:

“There is a need for 87 dialysis stations in the City of Chicago, the highest demand for additional dialysis stations in the state. In fact, over half of the stations needed according to the most recent need determinations are in the city of Chicago. The purpose of this project is to meet this need and improve access to life sustaining dialysis services to the residents of the northwest side of Chicago. The patient service area of the proposed Brickyard Dialysis is predominately Hispanic. The community surrounding the proposed site is 50% Hispanic. This minority population has a higher incidence and prevalence of kidney disease than the general population. Further, the patient service area is an area with many low income residents. People with low socioeconomic status experience higher rates of death across the spectrum of causes. They experience premature chronic morbidity and disability, including the onset of hypertension at an earlier age, diabetes, cardiovascular disease, obesity, osteoarthritis, depression, many cancers, and cardiovascular disease. Given these factors, readily accessible dialysis services are imperative for the health of the residents living on the northwest side of Chicago. There are 18 dialysis facilities within 30 minutes of the proposed Brickyard Dialysis (Brickyard GSA). Excluding the two recently approved dialysis facilities which are being developed to serve distinct groups of patients, as well as one non-reporting facility (Resurrection Medical Center), average utilization of area dialysis facilities is 83%, as of September 30, 2017, which exceeds the State Board standard of 80%..” [Application for Permit page 72]

B) 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]

A Safety Net Impact Statement has been provided as required, and the applicants state:
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. A copy of DaVita's 2016 Community Care report, which details DaVita's commitment to quality, patient centric focus and community outreach, is included as part of the Applicants application (Application, pgs. 59-64). As referenced in the report, 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 No. 1 in three out of four 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 day-90 catheter rates among large dialysis providers. During 2000 - 2014, DaVita improved its fistula adoption rate by 103 percent. Its commitment to improving clinical outcomes directly translated into 7% reduction in hospitalizations among DaVita patients.

TABLE FOUR
DaVita Inc.

	2014	2015	2016
Net Patient Revenue	\$266,319,949	\$311,351,089	\$353,226,322
Amt of Charity Care (charges)	\$2,477,363	\$2,791,566	\$2,400,299
Cost of Charity Care ⁽¹⁾	\$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%

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].

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

To demonstrate compliance with this criterion the applicants must document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

The applicants considered three (3) alternatives

1. Maintain Status Quo/Do Nothing
2. Utilize Existing Facilities
3. Establish New Facility

1. The purpose of the proposed project is to meet the need of the community by providing access to life sustaining dialysis services to the residents of the northwest side of Chicago, a population identified as having a higher incidence of ESRD based on various socioeconomic factors and a high Hispanic population. The applicants note that to do nothing would not address the over-utilization occurring at existing facilities, nor would it address access issues currently encountered in the service area. Based on the findings, this alternative was rejected. No cost was identified with this alternative.
2. The applicants identified 18 ESRD facilities within the Brickyard GSA. Excluding two recently approved ESRD facilities that serve a distinct patient population, and one that failed to report its utilization, the average operational capacity of the remaining 15 facilities is 83%. **The option of utilizing existing facilities was rejected**, due to the current excess utilization of area facilities, the steady increase (3% annually) of ESRD utilization in the service area, and the ensuing access issues that would result from not introducing additional stations to the service area. The applicants identified no project costs with this alternative.

3. The Applicants decision to establish a new facility was deemed most feasible, based on the current utilization at area facilities, the projected growth in the ESRD population in the Brickyard Dialysis GSA, and the need to increase access for a population considered most in need. **Cost of Chosen Alternative: \$3,149,412.**

VIII. Size of the Project, Projected Utilization, and Assurances

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

To demonstrate compliance with this criterion the applicants must document that the size of the project is in conformance with State Board Standards published in Part 1110 Appendix B.

The applicants are proposing a twelve (12) station ESRD facility in 4,365 GSF of clinical space or 364 GSF per station. This is within the State Board Standard of 650 GSF per station or a total of 7,800 GSF.

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

B) Criterion 1110.234(b) – Projected Utilization

To demonstrate compliance with this criterion the applicants must document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Part 1110 Appendix B. The number of years projected shall not exceed the number of historical years documented.

The applicants are projecting sixty-five (65) patients by the second year after project completion.

$$\begin{aligned} 65 \text{ patients} \times 156 \text{ treatments per year} &= 10,140 \text{ treatments} \\ \text{Twelve (12) stations} \times 936 \text{ treatments available} &= 11,232 \text{ treatments} \\ 10,140 \text{ treatments} / 11,232 \text{ treatments} &= 90.2\% \text{ }^3 \end{aligned}$$

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PROJECTED UTILIZATION (77 ILAC 1110.234(b))

C) Criterion 1110.234 (e) - Assurances

To demonstrate compliance with this criterion the applicants submit a signed and dated statement attesting to the applicant's understanding that, by the end of the second year of operation after the project completion, the applicant will meet or exceed the utilization standards specified in Appendix B.

The Applicants have provided the necessary attestation at pages 175 of the Application for Permit.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.234(e))

³ Assumes the proposed facility will operate six (6) days a week fifty-two (52) weeks a year three (3) shifts a day.

IX. In-Center Hemodialysis Projects

A) Criterion 1110.1430 (b)(1) & (3)

This criterion has been addressed earlier in this report.

B) 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.

The State Board is estimating a need for 49 ESRD stations in the HSA VI ESRD Planning Area per the February 2018 Revised Station Need Determinations.

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 referring physician (Anna Beata Gopaniuk-Folga, M.D. with J. R. Nephrology & Associates, S.C.) is currently treating 136 CKD patients, who reside within either the ZIP code of the proposed Brickyard Dialysis (60639) or 6 other nearby ZIP codes, all within 6 miles of the proposed Brickyard Dialysis. Based upon attrition due to patient death, transplant, stable disease, or relocation away from the area and in consideration of other treatment modalities (HHD and peritoneal dialysis), Dr. Gopaniuk-Folga anticipates that at least 65 of these 136 patients will initiate in-center hemodialysis within 12 to 24 months following project completion.

Zip Codes of Pre-ESRD Patients	
60639	12
60641	14
60707	9
60647	2
60618	5
60634	57
60630	37
Total	136

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 a referral letter, estimating that 65 of the 136 pre-ESRD patients from the 30-minute service area will require dialysis services within 12-24 months of project completion (application, p. 199).

5) Service Accessibility

To demonstrated 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.

1. There are 64 ESRD facilities with 1,304 stations in the HSA VI ESRD Planning Area as of February 2018.
2. There has been no documentation provided that there are access limitations due to payor status of patients in the HSA VI ESRD Planning Area because all ESRD facilities approved by the State Board accept Medicare and Medicaid patients.
3. No documentation of restrictive admission policies of existing providers has been provided by the Applicants.
4. The service area is federally designated as a health professional shortage area, and a medically underserved area, resulting in access issues to services.
5. There are a total of 18 facilities within 30 minutes of the proposed facility. Of these eighteen facilities, two (2) are in ramp up/not fully operational, and one failed to submit its utilization data for the reporting quarter (Resurrection Medical Center). The average utilization at the fifteen (15) remaining facilities is approximately 90%. (See Table Five).

Conclusion:

The State Board has estimated a need for 49 stations in the HSA VI ESRD Planning Area by 2020. Based upon the physician referral letter there appears to be a sufficient number of pre-ESRD patients that will require dialysis within 12-24 months after project completion to justify the number of stations being requested. All of the 165 pre-ESRD patient reside within the planning area as attested to by the Applicants.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION (77 ILAC 1110.1430(c)(1), (2), (3) & (5))

TABLE FIVE

ESRD Facilities within 30 minutes of the Proposed Facility						
Facility	Ownership	City	Time ⁽¹⁾	Stations ⁽²⁾	Utilization ⁽³⁾	Star Rating ⁽⁴⁾
Montclare Dialysis	DaVita	Chicago	9	16	98.90%	4
FMC West Belmont	Fresenius	Chicago	14	17	91.20%	3
FMC North Avenue	Fresenius	Melrose Park	19	24	77%	5
FMC West Suburban Hospital	Fresenius	Oak Park	21	46	84.70%	3
Maple Avenue Kidney Ctr.	Renal Therapies	Oak Park	23	18	84.20%	3
FMC Northwest	Fresenius	Norridge	23	16	83.30%	5
FMC Melrose Park	Fresenius	Melrose Park	23	18	72.20%	3
FMC River Forest	Fresenius	River Forest	24	22	71.20%	3
FMC Oak Park Dialysis	Fresenius	Oak Park	25	12	87.50%	3
FMC Logan Square	Fresenius	Chicago	26	12	88.80%	5
Logan Square Dialysis	DaVita	Chicago	26	28	90.40%	4
FMC West Metro **	Fresenius	Chicago	30	12	177%	3
FMC North Kilpatrick	Fresenius	Chicago	30	28	81.50%	5
FMC Northcenter	Fresenius	Chicago	30	16	59.30%	3
Nephron Dialysis		Chicago	30	16	94.70%	5
Total Stations/Ave. Utilization				301	89.46%	
Resurrection Med. Ctr. ^		Chicago	23	14	0.00%	3
FMC Humboldt Park**	Fresenius	Chicago	25	34	42.60%	N/A
Irving Park Dialysis*	DaVita	Chicago	29	12	0.00%	N/A
Total Stations Ave Utilization				361	76.92%	
1. Time from MapQuest and adjusted per 77 IAC 1100.510 (d)						
2. Stations as of February 2018						
3. Utilization as of December 31, 2017						
4. Star Rating taken from Medicare ESRD Compare Website						
5. ^Failed to submit current data						
6. *Newly Established facility in ramp-up						
** FMC West Metro Dialysis utilization reflects utilization of a 32 station facility. Project #14-047 approved the establishment of a 34 station facility as FMC Humboldt Park and the discontinuation of 20 stations at FMC West Metro location.						

C) 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 determines if there is existing capacity to accommodate the demand identified in the application for permit. There are 18 facilities within 30 minutes of the proposed facility. Two of the facilities are in ramp-up and not yet fully operational, and one facility (Resurrection Medical Center) failed to submit utilization data for the reporting quarter (December 2017). The remaining 15 facilities the average utilization is approximately 90%.
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 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	1,069,900	361	1 Station per every 2,964 residents
State of Illinois (2015 est.)	12,978,800	4,704	1 Station per every 2,760 residents

The population in the 30 minute service area is 1,069,900 residents. The number of stations in the 30 minute service area is 341. The ratio of stations to population is one (1) station per every 2,964 residents. The number of stations in the State of Illinois is 4,704 stations (*as of February, 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 2,760 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 1,840 resident. 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**.
 - a. *The proposed dialysis facility will not have an adverse impact on existing facilities in the Brickyard GSA. Excluding recently approved dialysis facilities which are being developed to serve distinct groups of patients, average utilization of area dialysis facilities is 83%, which exceeds the HFSRB's utilization standard of 80%. For the three year period ending September 30, 2017, patient census in the Brickyard GSA has increased 3% annually or 8% over the three year period. This growth is anticipated to continue to increase for the foreseeable future due to the demographics of the community and the U.S. Centers for Disease Control and Prevention estimates that 15% of American adults suffer from CKD. Further, the in-center hemodialysis facilities approved by the State Board within the last three years are either in development or operational less than two years. Each facility will serve a distinct patient base within the greater Chicago 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. Accordingly, the proposed Brickyard Dialysis will not adversely impact existing facilities in the Brickyard GSA.

Although there are underperforming facilities in the service area, a need for additional stations in the service area, combined with the areas designation of being medically underserved, warrants the need for a positive finding for this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION OF SERVICE, MALDISTRIBUTION OF SERVICE IMPACT ON OTHER FACILITIES (77 ILAC 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.

The Applicants stated the following:

“The proposed facility will be staffed in accordance with all State and Medicare staffing requirements.

- a. *Medical Director: Anna Beata Gopaniuk-Folga, M.D. will serve as the Medical Director for the propose facility. A copy of Dr. Gopaniuk-Folga’s curriculum vitae is attached at Attachment - 24C Application, p. 147).*
- b. *Other Clinical Staff: Initial staffing for the proposed facility will be as follows:*
 - Administrator (1.02 FTE)*
 - Registered Nurse (4.24 FTE)*
 - Patient Care Technician (4.0 FTE)*
 - Biomedical Technician (0.34 FTE)*
 - Social Worker (0.55 FTE)*
 - Registered Dietitian (0.56 FTE)*
 - Administrative Assistant (0.80 FTE)*

As patient volume increases, nursing and patient care technician staffing will increase accordingly to maintain a ratio of at least one direct patient care provider for every 4 ESRD patients. At least one registered nurse will be on duty while the facility is in operation.

- c. *All staff will be training under the direction of the proposed facility's Governing Body, utilizing DaVita's comprehensive training program. DaVita's training program meets all State and Medicare requirements. The training program includes introduction to the dialysis machine, components of the hemodialysis system, infection control, anticoagulation, patient assessment/data collection, vascular access, kidney failure documentation, complications of dialysis, laboratory draws, and miscellaneous testing devices used. In addition, it includes in-depth theory on the structure and function of the kidneys: including, homeostasis, renal failure, ARF/CRF, uremia, osteodystrophy and anemia, principles of dialysis: components of hemodialysis system: water treatment: dialyzer reprocessing: hemodialysis treatment: fluid management: nutrition; laboratory: adequacy: pharmacology; patient education, and service excellence. A summary of the training program has been provided. Brickyard Dialysis will maintain an open medical staff.” [Application for Permit pages 146-157]*

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

E) Criterion 1110.1430(g) - Support Services

To demonstrate compliance with this criterion the applicants must submit a certification from an authorized representative that attests to each of 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.

The applicants have provided the necessary attestation as required at pages 157-158 of the application for permit.

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

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

To demonstrate compliance with this criterion the applicants must document that the minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:

- 1) Four dialysis stations for facilities outside an MSA;
- 2) Eight dialysis stations for a facility within an MSA.

The proposed 12-station facility will be located in the Chicago-Joliet-Naperville metropolitan statistical area ("MSA"). The applicants have met the requirements of this criterion.

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

G) Criterion 1110.1430(i) - Continuity of Care

To demonstrate compliance with this criterion the applicants document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.

The applicants have provided the necessary signed transfer agreement with Community First Medical Center And DaVita, Inc. D/B/A Brickyard Dialysis required. [See pages 162-172 of the Application for Permit.]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION CONTINUITY OF CARE (77 ILAC 1110.1430(i))

H) Criterion 1110.1430(k) - Assurances

To demonstrate compliance with this criterion the representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that:

- 1) By the second year of operation after the 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; and
- 2) An applicant proposing to expand or relocate in-center hemodialysis stations will achieve and maintain compliance with the following adequacy of hemodialysis outcome measures for the latest 12-month period for which data are available:
≥ 85% of hemodialysis patient population achieves urea reduction ratio (URR) ≥ 65% and
≥ 85% of hemodialysis patient population achieves Kt/V Daugirdas II 1.2.

The necessary attestation has been provided at pages 175-176 of the application for permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE
WITH CRITERION ASSURANCES (77 ILAC 1110.1430 (k))**

IX. Financial Viability

*This 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. (20 ILCS 3960)*

A) **Criterion 1120.120 – Availability of Funds**

To demonstrate compliance with this criterion the Applicants must document that the resources are available to fund the project.

The Applicants are funding the project with cash in the amount of \$2,255,596 and a FMV of a lease in the amount of \$893,816. A summary of the financial statements of the Applicants is provided below. The Applicants have sufficient cash to fund this project.

TABLE SIX		
DaVita Inc.		
Audited Financial Statements		
December 31st		
(in thousands)		
	2017	2016
Cash	\$508,234	\$674,776
Current Assets	\$8,744,358	\$3,994,748
Total Assets	\$18,948,193	\$18,755,776
Current Liabilities	\$3,041,177	\$2,710,964
LTD	\$9,158,018	\$8,944,676
Patient Service Revenue	\$9,608,272	\$9,269,052
Total Net Revenues	\$10,876,634	\$10,707,467
Total Operating Expenses	\$9,063,879	\$8,677,757
Operating Income	\$1,812,755	\$2,029,710
Net Income	\$830,555	\$1,033,082

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

B) **Criterion 1120.130 - Financial Viability**

To demonstrate compliance with this criterion the Applicants must document that they have a Bond Rating of “A” or better, they meet the State Board’s financial ratio standards for the past three (3) fiscal years or the project will be funded from internal resources.

The Applicants are funding the project with cash in the amount of \$2,255,596 and a FMV of a lease in the amount of \$893,816. The Applicants have qualified for the financial waiver.

To qualify for the financial waiver an applicant must document one of the following:

- 1) all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or

HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.

- 2) the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA) or its equivalent; or

HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.

- 3) the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.

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

X. Economic Feasibility

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

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

To demonstrate compliance with these criteria the Applicants must document that leasing of the space is reasonable. The State Board considers the leasing of space as debt financing.

The Applicants are funding the project with cash in the amount of \$2,255,596 and a FMV of a lease in the amount of \$893,816. The lease is for ten years at a base rent of \$19.00/psf⁴ for years 1 through 5, and \$20.90/psf for years 6-10. It would appear the lease is reasonable when compared to previously approved projects.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERIA REASONABLENESS OF FINANCING ARRANGEMENTS AND TERMS OF DEBT FINANCING (77 ILAC 1120.140(a) & (b))

⁴ Price per square foot

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

To demonstrate compliance with this criterion the Applicants must document that the project costs are reasonable by the meeting the State Board Standards in Part 1120 Appendix A.

As shown below, the Applicants have met all of the State Board Standards published in Part 1120, Appendix A.

Only Clinical Costs are reviewed in this criterion.

Modernization and Contingencies Costs are \$850,607 or \$194.86 per GSF for 4,365 GSF of clinical space. This appears reasonable when compared to the State Board Standard of \$200.71 per GSF, with 2019 listed as mid-point of construction.

Contingencies – These costs total \$77,327, and are 9.9% of the modernization costs identified for this project. This is in compliance with the State standard of 10%-15%.

Architectural Fees are \$91,000 and are 10.6% of modernization and contingencies. This appears reasonable when compared to the State Board Standard of 7.18% to 10.78%.

Consulting and Other Fees are \$80,000. The State Board does not have a standard for these costs.

Movable or Other Equipment – These costs are \$636,782 or \$53,065 per station (12 stations). This appears reasonable when compared to the State Board Standard of \$55,293 per station.

Fair Market Value of Leased Space and Equipment – These costs are \$579,030. The State Board does not have a standard for these costs.

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

D) Criterion 1120.140(d) – Projected Operating Costs

To demonstrate compliance with this criterion the Applicants must document that the projected direct annual operating costs for the first full fiscal year at target utilization but no more than two years following project completion. Direct costs mean the fully allocated costs of salaries, benefits and supplies for the service.

The Applicants are projecting \$252.35 operating expense per treatment.

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

E) Criterion 1120.140(e) – Total Effect of the Project on Capital Costs

To demonstrate compliance with this criterion the Applicants must provide the total projected annual capital costs for the first full fiscal year at target utilization but no more than two years following project completion. Capital costs are defined as depreciation, amortization and interest expense.

The Applicants are projecting capital costs of \$21.39 per treatment.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE
WITH CRITERION TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS
(77 ILAC 1120.140(e))**

Star Rating System
Centers for Medicare & Medicaid Services (CMS) Star Ratings

“The star ratings are part of Medicare's efforts to make data on dialysis centers easier to understand and use. The star ratings show whether your dialysis center provides quality dialysis care - that is, care known to get the best results for most dialysis patients. The rating ranges from 1 to 5 stars. A facility with a 5-star rating has quality of care that is considered 'much above average' compared to other dialysis facilities. A 1- or 2- star rating does not mean that you will receive poor care from a facility. It only indicates that measured outcomes were below average compared to those for other facilities. Star ratings on Dialysis Facility Compare are updated annually to align with the annual updates of the standardized measures.”

CMS assigns a one to five ‘star rating’ in two separate categories: best treatment practices and 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-morbidities.

The Dialysis Facility Compare website currently reports on 9 measures of quality of care for facilities. These measures are used to develop the star rating. Based on the star rating in each of the two categories, CMS then compiles an ‘overall rating’ for the facility. As with the separate categories: the more stars, the better the rating.

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