



STATE OF ILLINOIS

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

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<b>DOCKET NO:</b> H-05	<b>BOARD MEETING:</b> October 30, 2018	<b>PROJECT NO:</b> 18-017	<b>PROJECT COST:</b>  Original: \$4,362,719
<b>FACILITY NAME:</b> DaVita Marshall Square Dialysis		<b>CITY:</b> Chicago	
<b>TYPE OF PROJECT:</b> Substantive			<b>HSA:</b> VI

**PROJECT DESCRIPTION:** The Applicants (DaVita Inc. and East Oaks Dialysis, LLC) propose to establish a 12-station dialysis facility located at 2950 - 3010 West 26<sup>th</sup> Street, Chicago, Illinois. The proposed facility will be 7,002 GSF in leased space at a cost of \$4,362,719. The expected completion date is October 31, 2020.

## **EXECUTIVE SUMMARY**

### **PROJECT DESCRIPTION:**

- The Applicants (DaVita Inc. and East Oaks Dialysis, LLC) propose to establish a 12-station dialysis facility located at 2950 - 3010 West 26<sup>th</sup> Street, Chicago, Illinois. The proposed facility will be 7,002 GSF in leased space at a cost of \$4,362,719. The expected completion date is October 31, 2020.

### **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. Letters of support were received from US Senator Durbin and Alderman Michael Scott Jr. No opposition letters were received by State Board Staff.

### **SUMMARY:**

- The State Board has estimated a calculated need of 21 ESRD stations in the HSA VI ESRD Planning Area, per the September 2018 ESRD Inventory Update.
- The applicants addressed a total of twenty one (21) criteria and have adequately address them all.

**STATE BOARD STAFF REPORT**  
**Project #18-017**  
**Marshall Square Dialysis**

<b>APPLICATION/CHRONOLOGY/SUMMARY</b>	
Applicants	DaVita Inc. and East Oaks Dialysis, LLC
Facility Name	Marshall Square Dialysis
Location	2950 - 3010 West 26th Street, Chicago, Illinois
Permit Holder	DaVita Inc. and East Oaks Dialysis, LLC
Operating Entity	East Oaks Dialysis, LLC
Owner of Site	GW Fidelity 26 <sup>th</sup> , LLC
Total GSF	7,002 GSF
Application Received	June 8, 2018
Application Deemed Complete	June 12, 2018
Review Period Ends	November 8, 2018
Financial Commitment Date	October 30, 2020
Project Completion Date	October 31, 2020
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 East Oaks Dialysis, LLC) propose to establish a 12-station dialysis facility located at 2950 - 3010 West 26<sup>th</sup> Street, Chicago, Illinois. The proposed facility will be 7,002 GSF in leased space at a cost of \$4,362,719. The expected completion date is October 31, 2020.

**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 East Oaks Dialysis, LLC. DaVita Inc, a Fortune 500 company, is the parent company of Total Renal Care, Inc. 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. East Oaks Dialysis, LLC is owned 80% by Total Renal Care, Inc., and 20% by ZOZ Enterprise LLC. Dr. Ogbonnaya Aneziokoro (the proposed Medical Director) owns 100% of ZOZ Enterprise LLC. Financial commitment will occur after permit approval. The operating entity will be East Oaks Dialysis, LLC and the owner of the site is GW Fidelity 26<sup>th</sup>, LLC.

#### IV. Health Planning Area

The proposed facility will be located in the HSA VI Health Service Area. This ESRD planning area includes the City of Chicago. The proposed facility will be located in a designated health professional shortage area and a medically underserved area. As of September 2018, the State Board is estimating a need for an additional 21 stations in this planning area. Additionally, the State Board is estimating that 6,498 patients will need dialysis by 2020 in this planning area.

The five-year need determination is a short-term assessment that applies to the planning area need requirements in the 77 Ill. Adm. Code 1110 category of service review criteria. The in-center hemodialysis or end stage renal disease (ESRD) station need is a five-year projection from the base year.

<b>TABLE ONE</b>	
<b>Need Methodology HSA VI ESRD Planning Area</b>	
Planning Area Population – 2015	2,713,100
In Station ESRD patients -2015	4,886
Area Use Rate 2015 <sup>(1)</sup>	1.907
Planning Area Population – 2020 (Est.)	2,562,700
Projected Patients – 2020 <sup>(2)</sup>	4,886
Adjustment	1.33
Patients Adjusted	6,498
Projected Treatments – 2020 <sup>(3)</sup>	1,013,747
Calculated Station Needed <sup>(4)</sup>	1,353
Existing Stations	1,332
<b>Stations Needed-2020</b>	<b>21</b>
<div><div>1.</div><div>Usage rate determined by dividing the number of in-station ESRD patients in the planning area by the 2015 – planning area population per thousand.</div></div>	
<div><div>2.</div><div>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.</div></div>	
<div><div>3.</div><div>Projected treatments are the number of patients adjusted x 156 treatments per year per patient</div></div>	
<div><div>4.</div><div><math>1,013,747/747 = 1,353</math></div></div>	
<div><div>5.</div><div><math>936 \times 80\% = 747</math> [Number of treatments per station operating at 80%]</div></div>	

#### V. Project Uses and Sources of Funds

This project is being funded with cash in the amount of \$2,361,513 and a lease with a FMV of \$2,001,206. The projected start-up and operating deficit is \$2,241,258.

**TABLE TWO**  
**Project Uses and Sources of Funds**

Uses of Funds	Reviewable	Non-Reviewable	Total	% of Total
Modernization Contracts	\$784,594	\$493,016	\$1,277,610	29.28%
Contingencies	\$78,458	\$49,301	\$127,759	2.93%
Architectural/Engineering Fees	\$92,000	\$25,000	\$117,000	2.68%
Consulting and Other Fees	\$80,000	\$10,000	\$90,000	2.06%
Movable or Other Equipment (not in construction)	\$651,722	\$97,422	\$749,144	17.17%
Fair Market Value of Leased Space or Equipment	\$1,228,961	\$772,245	\$2,001,206	45.87%
<b>TOTAL USES OF FUNDS</b>	<b>\$2,915,735</b>	<b>\$1,446,984</b>	<b>\$4,362,719</b>	<b>100.00%</b>
<b>SOURCE OF FUNDS</b>				
Cash and Securities	\$1,686,774	\$674,739	\$2,361,513	54.13%
Leases (fair market value)	\$1,228,961	\$772,245	\$2,001,206	45.87%
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$2,915,735</b>	<b>\$1,446,984</b>	<b>\$4,362,719</b>	<b>100.00%</b>

**VI. Background of the Applicant, Purpose of Project, Safety Net Impact Statement, and Alternatives – Information Requirements**

**A) Criterion 1110.110(a)(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 has been no *adverse action*<sup>1</sup> taken against the any facility owned or operated by the Applicants or a certified listing of adverse action taken.

1. The Applicants attested that there has been no adverse action taken against any of the facilities owned or operated by Davita Inc. and East Oak Dialysis LLC during the three (3) years prior to filing the application. [Application for Permit page 85]

<sup>1</sup> 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)

2. The Applicants 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 connections 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 pages 85]
3. The site is owned by GW Fidelity 26th, LLC and evidence of this can be found at page 30-35 of the Application for Permit in the Letter of Intent to lease the property at 2950-3010 W 26<sup>th</sup> St. Chicago, IL.
4. 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.*
5. 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).

#### **B) Criterion 1110.110(b) – 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.**

The purpose of the project is to meet the calculated need for 21 stations in the HSA VI Health Service Area and to improve access to dialysis services. The proposed facility will be located in a Health Professional Shortage Area (HPSA) and a Medically Underserved Population Area as designated by the Health Resources & Services Administration (HRSA). Residents of Marshall Square are predominantly African-American (32%) and Hispanic (65%). The ESRD incident rate among the Hispanic population is 1.5 times greater than the non-Hispanic population, and the ESRD incidence rate among African-Americans is 3.7 times greater than Caucasians. Further, thirty-seven percent (37%) of the population lives below the Federal Poverty Level and 56% of the population lives below 150% of the Federal Poverty Level (138% of the Federal Poverty Level is the income eligibility limit for the Medicaid program in Illinois). The proposed geographic service area (GSA) is 5 miles in all directions. [See Application for Permit for complete discussion of the purpose of the project pages 87-98]

**C) Criterion 1110.110(c) – Safety Net Impact Statement**

*All health care facilities, with the exception of skilled and intermediate long term care facilities licensed under the Nursing Home Care Act, shall provide a safety net impact statement, which shall be filed with an application for a substantive project (see Section 1110.40). 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.*

The establishment of an ESRD facility is considered a substantive project and the Applicants have provided a Safety Net Impact Statement as required. [See Application for Permit pages 155-157].

**D) Criterion 1110.110(d) – 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 the following alternatives to the proposed project.**

1. Maintain the Status Quo/Do Nothing
2. Utilize Existing Clinics
3. Clinic of Greater Scope

The Applicants rejected the first alternative because it would not address the calculated need for stations in the Health Service Area and would not improve access in the Health Professional Shortage Area and Medically Underserved Population Area. Furthermore, the African American, Hispanic, and low socio-economic populations in the Marshall Square community have a higher incidence of ESRD. Utilizing existing clinics was rejected because the 26 approved ESRD facilities have seen an increase in the number of patients of approximately 2% annually and is anticipated to increase for the foreseeable future due to the demographics of the community and disease incidence and prevalence trends. A clinic of greater scope was rejected because the facilities approved within the last 2-3 years serve a distinct population base and are projected to be at target occupancy within 2-years after project completion. Establishing a facility of greater scope would create an unnecessary duplication of service within the proposed GSA.

## **VII. Project Scope and Size, Utilization and Unfinished/Shell Space**

### **A) Criterion 1110.120(a) - Size of Project**

To demonstrate compliance with this criterion the Applicants must document that the physical space proposed for the project is necessary and appropriate.

The Applicants are proposing a total of 7,002 GSF for the 12-station facility. Of that 7,002 GSF; 4,300 GSF is reviewable gross square footage. The State Board Standard per station is 360-520 GSF or a total of 6,240 GSF. The Applicants have met the requirements of this criterion.

### **B) Criterion 1110.120(b) - Project Services Utilization**

To demonstrate compliance with this criterion the Applicants must document that the proposed number of stations will be at target occupancy within 2-years after project completion.

The Applicants identified a total of 151 pre-ESRD patients that reside in zip code 60623. The Applicants are predicting approximately 63 patients will require dialysis within one to two years after project completion. As shown by the table below the Applicants have sufficient historical referrals. Should these 63 patients require dialysis the Applicants can justify the 12 stations being requested. The Applicants have met the requirements of this criterion.

$$\begin{aligned} 63 \text{ patients} \times 156 \text{ treatments per year} &= 9,828 \text{ treatments} \\ 12 \text{ stations} \times 936 \text{ treatment per station per year} &= 11,232 \text{ treatments} \\ 9,828 \text{ treatments} \div 11,232 \text{ treatments} &= 87.5\% \end{aligned}$$

**TABLE THREE**  
**Historical Referrals & New Patients**

Dialysis Facility	2014	2015	2016	2017	New Patients	Total
Little Village Dialysis	86	86	90	89	43	394
Lawndale Dialysis	37	64	72	69	48	290
Garfield Dialysis	8	29	43	36	58	174
Logan Square Dialysis	23	31	38	31	14	137
Schaumburg Dialysis	10	17	20	19	9	75
Emerald Dialysis	8	16	13	26	7	70
Lincoln Park Dialysis	15	12	8	14	14	63
Montclare Dialysis	2	3	12	9	12	38
West Side Dialysis		2	3	9	6	20
Big Oaks Dialysis	3	2	2	1	1	9
Loop Dialysis	1	1	1	1	1	5
Total	193	263	302	304	213	1,275

### **C. Criterion 1110.120(e) - Assurances**

To demonstrate compliance with this criterion the Applicants must attest that by the second year after project completion the proposed facility will be at target occupancy.



The Applicants provided the necessary attestation at pages 137-138 of the Application for Permit. The Applicants have met the requirements of this criterion.

## **VIII. In-Center Hemodialysis Projects**

### **A) Criterion 1110.230(b) Planning Area Need**

#### **1) 77 Ill. Adm. Code 1100 – Station Need**

**To demonstrate compliance with this sub-criterion the number of stations requested cannot exceed the calculated need.**

There is a calculated need for 21-stations in the HSA VI ESRD Planning Area. The Applicants are requesting 12 stations. The Applicants have met the requirements of this sub-criterion.

#### **2) Service to Planning Area Residents**

- A) To demonstrate compliance with this sub-criterion the Applicants must document that the primary purpose of the proposed project is to necessary health care to the residents of the area in the proposed project will be located.**

All of the proposed referrals as documented by the physician referral letter will come from the 60623 zip code all within the HSA VI ESRD Planning Area – City of Chicago. [Physician referral letter pages 159-183 of the Application for Permit]

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

**To demonstrate compliance with this sub-criterion the Applicants must document that the number of stations proposed to establish a new in-center hemodialysis service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest 2-year period, as evidenced by projected referrals.**

The Applicants are projecting 63 pre-ESRD patients will require dialysis within two years after project completion. The referral submitted by Dr. Aneziokoro meets all of the requirements of the State Board. Dr. Aneziokoro has sufficient historical referrals as documented at 77 ILAC 1110.120 (b) –Projected Utilization above. The Applicants have successfully addressed this sub-criterion.

#### **4) 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 proposed facility will be located in a Health Professional Shortage Area and a Medically Underserved Area/Population. The proposed facility will be located in Marshall Square whose residents are predominantly African-American (32%) and Hispanic (65%). The incidence of ESRD in African-Americans and Hispanics is higher than in the general population. Further, thirty-seven percent (37%) of the population lives below the Federal Poverty Level and 56% of the population in the GSA lives below 150% of the Federal Poverty Level (138% of the Federal Poverty Level is the income eligibility limit for the Medicaid program in Illinois). The Applicants have successfully

addressed this sub-criterion as it will improve access in a Health Professional Shortage Area and a Medically Underserved Area.

There is a calculated need for 21 stations in the HSA VI ESRD Planning Area, and there appears to be sufficient demand as the Applicants have identified 63 pre-ESRD patients that will require dialysis within two years after project completion. All 63 patients live within the Health Service Area and the proposed facility will be located in a Health Professional Shortage Area and a Medically Underserved Population/Area. The Applicants have successfully addressed this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PLANNING AREA NEED (77 ILAC 1110.230(b)(1), (2), (3) and (5))**

**B) Criterion 1110.230(c) - Unnecessary Duplication/Mal-distribution**

1) To demonstrate compliance with this sub-criterion the Applicants must document that the project will not result in an unnecessary duplication.

**1. Unnecessary Duplication**

There are 21 facilities within the 5-mile GSA with 432 ESRD stations. Four of the facilities are in ramp-up; for the remaining 17 facilities, the average utilization is approximately 69%. Five of the 17 facilities are at target occupancy or above and the 12 remaining facilities attested at the time of permit approval that the facility will be at target occupancy of 80% within 2 years after project completion and that they will remain at that occupancy standard. There are two facilities (SAH Dialysis (57%) and DaVita Little Village (97%) in the 60623 zip code (the location of the proposed facility and the zip code of residence of all of the 63 pre-ESRD patients identified by the Applicants for this project). Based upon the above the proposed facility will not result in an unnecessary duplication of service in this 5-mile GSA

**2. Mal-distribution of Service**

1. There are 26 zip codes within the 5-mile geographic service area with a population of 1,056,765. There are a total of 22 ESRD facilities within the 5-mile radii with a total of 432 stations. The ratio of station to population in the 5-mile radii is one station per 2,446 residents.
2. The population in the State of Illinois is 12,978,800 (2015 projection) and the number of ESRD Stations in the State of Illinois is 4,850 stations (September 2018). The ratio of stations to population in the State of Illinois one station per 2,676 residents.
3. To have a surplus of stations in this 5-mile GSA the ratio of stations to population would need to be 1 station per every 1,784 residents. Since the ration of stations to population is 1 station per 2,446 residents, there is not a surplus (mal-distribution) of stations in this 5-mile GSA.

<b>TABLE FOUR</b>					
Zip Codes and Population within the 5 mile radii					
Zip Code	City	Population	Zip Code	City	Population
60304	Oak Park	17,402	60612	Chicago	35,559
60402	Berwyn	63,448	60616	Chicago	52,580
60601	Oak Park	13,695	60622	Chicago	54,467
60602	Chicago	1,252	60623	Chicago	88,137
60603	Chicago	1,029	60624	Chicago	38,134
60604	Chicago	619	60632	Chicago	91,688
60605	Chicago	26,623	60642	Chicago	19,508
60606	Chicago	3,011	60644	Chicago	49,645
60607	Chicago	28,377	60647	Chicago	88,866
60608	Chicago	78,072	60651	Chicago	61,759
60609	Chicago	62,250	60654	Chicago	17,328
60610	Chicago	38,438	60661	Chicago	9,343
60611	Chicago	31,563	60804	Cicero	83,972

### 3) Impact on Other Facilities

All of the pre-ESRD patients identified by the Applicants will be referrals of Dr. Aneziokoro's CKD patients. No patients will be transferred from other existing dialysis clinics. There are 21 existing facilities within the 5-mile GSA. With the expected growth in the number of patients in this 5-mile GSA, the Applicants believe by the time the proposed facility is online (2022) the existing facilities will be at the target occupancy of 80%.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION, MADISTRIBUTION, IMPACT ON OTHER FACILTIES (77 ILAC 1110.230 (C) (1) (2) (3))**

#### **C) Criterion 1110.230(e) - Staffing**

To demonstrate with compliance with this requirement the Applicants must document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and The Joint Commission staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.

Disclosure information was submitted and reviewed for the proposed Medical Director. Ogbonnaya Aneziokoro, M.D, is an Illinois licensed physician. Dr. Aneziokoro is the medical director at DaVita Little Village, Davita Garfield Dialysis Center and DaVita Lawndale Dialysis Center. The initial staffing of the proposed clinic was provided and reviewed as well a summary of the training that will be provided by the Applicants. [Application for Permit pages 114-127]. The Applicants state that the proposed facility will maintain an open medical staff.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION STAFFING (77 ILAC 1110.230(e))**

**D) Criterion 1110.230(f) - Support Services**

To demonstrate compliance the Applicants proposing to establish an in-center hemodialysis facility 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 at pages 129-130 of the Application for Permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SUPPORT SERVICES (77 ILAC 1110.230(f))**

**E) Criterion 1110.230(g) - Minimum Number of Stations**

To demonstrate compliance with this criterion the Applicants must document that the proposed facility is within an MSA and the number of stations proposed. 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 zip code 60623-Chicago in the Chicago-Naperville-Elgin, IL-IN-WI MSA. The Applicants have successfully addressed this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION MINIMUM NUMBER OF STATIONS (77 ILAC 1110.230(g))**

**F) Criterion 1110.230(g) - Continuity of Care**

To demonstrate compliance with this criterion the Applicants must 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 provided a signed written affiliation agreement with AMITA Presence St. Mary and Elizabeth Hospital approximately 6 miles and 30 minutes from the proposed location of the facility.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION CONTINUITY OF CARE (77 ILAC 1110.230(g))**

**G) Criterion 1110.230(h) - Relocation of Facilities**

The proposed application is for the establishment of a new facility and not the relocation of an existing facility.

**H) Criterion 1110.230(i) - Assurances**

The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that by the second year after project completion the Applicants will be at target occupancy and will maintain that occupancy 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 Applicants have submitted the required attestation at pages 137-138.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.230 (i))**

## IX. Financial Viability

Purpose of the Act *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.*

### 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 with cash in the amount of \$2,361,513 and a lease with a FMV of \$2,001,206. The applicants attested that the total estimated project costs and related costs will be funded in total with cash and cash equivalents. A summary of the financial statements of the Applicants are provided below. The Applicants have sufficient resources to fund this project.

TABLE FIVE		
DaVita Inc.		
Audited Financial Statements		
December 31 <sup>st</sup>		
(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 IAC 1120.120)**

### B) Criterion 1120.130 - Financial Viability

To document 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 with cash in the amount of \$2,361,513 and a lease with a FMV of \$2,001,206. 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 IAC 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 operating lease<sup>2</sup> is for fifteen years. The table below shows the calculation of the FMV of the lease space of 4,300 GSF using an eight percent (8%) discount factor. It appears the lease is reasonable.

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<sup>2</sup> An operating lease is a contract that allows for the use of an asset but does not convey rights of ownership of the asset. An operating lease represents an off-balance sheet financing of assets, where a leased asset and associated liabilities of future rent payments. Capital lease a lease that meets one or more of the following criteria, meaning it is classified as a purchase by the lessee: the lease term is greater than 75% of the property's estimated economic life; the lease contains an option to purchase the property for less than fair market value; ownership of the property is transferred to the lessee at the end of the lease term; or the present value of the lease payments exceeds 90% of the fair market value of the property.

TABLE SIX				
Year	PV	GSF	Rent per GSF	Total
1	0.925	4,300	\$31.00	\$123,303
2	0.857	4,300	\$31.00	\$114,238
3	0.793	4,300	\$31.00	\$105,707
4	0.735	4,300	\$31.00	\$97,976
5	0.68	4,300	\$31.00	\$90,644
6	0.63	4,300	\$34.10	\$92,377
7	0.583	4,300	\$34.10	\$85,485
8	0.54	4,300	\$34.10	\$79,180
9	0.5	4,300	\$34.10	\$73,315
10	0.463	4,300	\$34.10	\$67,890
11	0.429	4,300	\$37.51	\$69,195
12	0.397	4,300	\$37.51	\$64,033
13	0.368	4,300	\$37.51	\$59,356
14	0.34	4,300	\$37.51	\$54,840
15	0.315	4,300	\$37.51	\$50,807
				\$1,228,961

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

**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 in the table below the applicants have met all of the State Board Standards published in Part 1120, Appendix A.



**TABLE SEVEN**  
Reasonableness of Project Costs

Project Costs			State Standard		Difference	Met Standard
Modernization Contracts & Contingencies	\$863,052	\$200.71	\$863,052	\$200.71	\$0	Yes
Contingencies	\$78,458	10.00%	\$117,689	15.00%	-\$39,231	Yes
Architectural/Engineering Fees	\$92,000	10.66%	\$93,037	10.78%	-\$1,037	Yes
Consulting and Other Fees	\$80,000					
Movable or Other Equipment (not in construction)	\$651,722		Not Applicable			
Fair Market Value of Leased Space or Equipment	\$1,228,961					
1. Modernization and contingencies inflated by 3% to the midpoint of construction (2015 standard \$178.33).						
Calculation of Standard	2015	2016	2017	2018	2019	
	\$178.33	\$183.68	\$189.19	\$194.87	\$200.71	

Moveable and Other Equipment	
Communications	\$135,192
Water Treatment	\$192,753
Bio-Medical Equipment	\$22,137
Clinical Equipment	\$271,249
Clinical Furniture/Fixtures	\$30,392
Lounge Furniture/Fixtures	\$3,855
Storage Furniture/Fixtures	\$6,862
Business Office Fixtures	\$38,005
General Furniture/Fixtures	\$33,500
Signage	\$15,200
Total Moveable and Other Equipment	\$749,145

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

**D) Criterion 1120.140(d) – Projected Operating Costs**

To demonstrate compliance with this criterion the applicants must document 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 \$228.05 operating expense per treatment.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PROJECTED OPERATING COSTS (77 IAC 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 \$22.44 per treatment.

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

TABLE EIGHT  
Facilities within 5 miles of the proposed facility

Facilities	City	Zip Code	Distance (miles)	HSA VI	Patients <sup>(1)</sup>	Stations <sup>(2)</sup>	Completion Date <sup>(3)</sup>	Occ. <sup>(4)</sup>	Star Rating <sup>(5)</sup>
SAH Dialysis	Chicago	60623	1.2	6	51	15	8/29/2013	56.67%	5
Mt Sinai Hospital Med. Ctr.	Chicago	60608	1.4	6	81	16	NA	84.38%	4
DaVita Little Village	Chicago	60623	1.4	6	93	16	11/4/2005	96.88%	3
DaVita Lawndale	Chicago	60608	1.5	6	98	16	12/5/2016	102.08%	4
FMC Chicago West	Chicago	60624	2.4	6	31	31	7/5/2007	34.41%	5
FMC Dialysis Services of Congress Pkwy.	Chicago	60608	2.6	6	116	30	6/30/2003	64.44%	5
DaVita West Side	Chicago	60608	2.8	6	35	12	2/11/2015	48.61%	3
U of I at Chicago Dialysis	Chicago	60612	2.9	6	131	26	NA	83.97%	3
FMC Cicero	Cicero	60804	2.9	7	89	16	8/1/2013	92.71%	NA
Stroger Dialysis of Cook County	Chicago	60612	3	6	22	9	NA	40.74%	5
DaVita Garfield Kidney Center	Chicago	60624	3.54	6	93	16	9/30/2002	64.58%	3
Circle Medical Management	Chicago	60624	3.9	6	110	27	5/7/1987	67.90%	5
FMC Chicago Dialysis	Chicago	60607	4.2	6	62	21	5/15/2015	49.21%	5
FMC Polk	Chicago	60607	4.2	6	55	24	9/17/2013	38.19%	
FMC Bridgeport	Chicago	60609	4.2	6	124	27	3/6/1997	76.54%	NA
FMC Prairie	Chicago	60616	4.4	6	101	24	7/15/2008	70.14%	NA
FMC Humboldt Park	Chicago	60651	4.5	6	142	34	7/15/2008	69.61%	4
Total Stations/Average Utilization								68.52%	
DaVita Brighton Park	Chicago		2.9	6	0	16		0.00%	
DaVita Loop Renal Center	Chicago	60607	4.3	6	104	28	6/2/2018	61.90%	4
FMC New City	Chicago		4.6	6	26	16	7/6/2017	27.08%	
FKC West Metro Dialysis	Chicago		4.8	6	2	12		2.78%	
					1,566	432		58.95%	
1. # of patients as of June 30, 2018 2. Stations as of September 2018 3. Completion date facility was certified 4. As of June 30, 2018 5. Star Rating taken from the Medicare Compare Website. 6. NA – Not Available									

# 18-017 DaVita Marshall Square Dialysis - Chicago

