



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-01	BOARD MEETING: January 15, 2019	PROJECT NO: 18-037	PROJECT COST:
FACILITY NAME: Cicero Dialysis		CITY: Cicero	Original: \$4,690,273
TYPE OF PROJECT: Substantive			HSA: VII

PROJECT DESCRIPTION: The Applicants (DaVita Inc. and Hopkinton Dialysis, LLC) propose to establish a 12-station ESRD facility in 6,776 GSF of leased space at a cost of \$4,690,273. The expected completion date is January 31, 2021.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicants (DaVita Inc. and Hopkinton Dialysis, LLC) propose to establish a 12-station ESRD facility in 6,776 GSF of leased space at a cost of \$4,690,273. The expected completion date is January 31, 2021.
- **Note:** The Geographic Service Area (GSA) for proposed dialysis facilities to be located in Cook and Dupage Counties is a 5-mile radius instead of the 30 minute area. This was effective March 7, 2018.

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)

PUBLIC HEARING/COMMENT:

- No public hearing was requested and there was no support or opposition letters received by the State Board Staff.

SUMMARY:

- There is a calculated excess of 42 ESRD stations in the HSA VII ESRD Planning Area, per the December, 2018 ESRD Inventory Update.
- 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.
- The Applicants addressed a total of twenty-one (21) criteria and have failed to adequately address the following:

Criteria	Reasons for Non-Compliance
Criterion 77 ILAC 1110.1430 (b) Planning Area Need	There is an <u>excess of 42 stations</u> in the VII ESRD Planning Area and from the information reviewed there is not an access issue in the 5-mile service area. The Applicants stated in part: <i>"The Cicero GSA is one of the few majority minority communities in the State of Illinois. The community is 46% Hispanic and 22% African-American. Most Hispanic residents speak a language other than English. Due to the large immigrant population, cultural barriers to access health care are high. These barriers include time and availability of providers, characteristics of healthcare personnel and patient provider communications. Limited communication and perceived lack of linguistic and cultural competence from providers can lead to mistrust of the health care system and make it difficult for immigrants to establish relationships with primary care physicians. Provider communications and an ability to connect with your primary care provider is critical for optimal healthcare, particularly when treating complex chronic illnesses."</i> [See Page 10-11 of this report]
Criterion 77 ILAC 1110.1430 (d) (1) (2) (3) Unnecessary Duplication of Service, Mal-distribution and Impact on Other Facilities	There are 16 facilities within the 5-mile radius. Of these 16 facilities one facility is in ramp-up and is not considered in this evaluation. There are eight existing facilities that have been operating at least two years that

are not at the State Board's target occupancy of 80%. Average occupancy is 78%. The Applicants stated in part: "Over the past three years, patient census at the existing clinics has increased 5.2% annually and is anticipated to increase for the foreseeable future due to the demographics of the community and disease incidence and prevalence trends. Accordingly, average utilization of the existing clinics is expected to exceed 80% by the time the proposed Cicero Dialysis becomes operational. Further, Shila Nephrology Associates is currently treating 111 CKD patients within 5 miles of the proposed Cicero Dialysis. See Appendix - 1. Conservatively, 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. Shah-Kahn anticipates that at least 64 of these 111 patients will initiate in-center hemodialysis within 12 to 24 months following project completion. No patients are expected to transfer from existing dialysis clinics." [See Page 11-13 of this report]

STATE BOARD STAFF REPORT
Project #18-037
Cicero Dialysis

APPLICATION/CHRONOLOGY/SUMMARY	
Applicants	DaVita Inc., Hopkinton Dialysis, LLC
Facility Name	Cicero Dialysis
Location	6001 Ogden Avenue, Cicero, Illinois
Permit Holder	DaVita Inc., Hopkinton Dialysis, LLC
Operating Entity	Hopkinton Dialysis, LLC
Owner of Site	National Shopping Plazas, Inc.
Total GSF	6,776 GSF
Application Received	October 12, 2018
Application Deemed Complete	October 16, 2018
Review Period Ends	February 13, 2019
Financial Commitment Date	January 15, 2021
Project Completion Date	January 31, 2021
Review Period Extended by the State Board Staff?	No
Can the Applicants request a deferral?	Yes
Received an Intent to Deny?	No

I. Project Description:

The Applicants (DaVita Inc. and Hopkinton Dialysis, LLC) propose to establish a 12-station ESRD facility in 6,776 GSF of leased space at a cost of \$4,690,273. The expected completion date is January 31, 2021.

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 Hopkinton Dialysis, LLC. DaVita Inc, a Fortune 500 company, is the parent company of DaVita Kidney Care and HealthCare Partners, a DaVita Medical Group. DaVita Kidney Care 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.

This is a substantive project subject to a Part 1110 and 1120 review. Substantive projects shall include no more than the following:

- *Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.*
- *Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.*
- *Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]*

III. Project Costs and Sources of Funds

The Applicants are funding this project with cash of \$2,413,043 and a lease with a FMV of \$2,277,230. The start-up and operating deficit is projected to be \$1,268,967.

TABLE ONE
Project Costs and Sources of Funds

Uses of Funds	Reviewable	Total	% of Total
New Construction Contracts	\$1,537,758	\$1,537,758	32.79%
Contingencies	\$153,775	\$153,775	3.28%
Architectural/Engineering Fees	\$84,750	\$84,750	1.81%
Consulting and Other Fees	\$55,907	\$55,907	1.19%
Movable or Other Equipment (not in construction)	\$580,853	\$580,853	12.38%
Fair Market Value of Leased Space or Equipment	\$2,277,230	\$2,277,230	48.55%
Total Uses of Funds	\$4,690,273	\$4,690,273	100.00%
Sources of Funds			
Cash and Securities	\$2,413,043	\$2,413,043	51.45%
Leases (fair market value)	\$2,277,230	\$2,277,230	48.55%
Total Source of Funds	\$4,690,273	\$4,690,273	100.00%

IV. Heath Service Area VII

The proposed facility will be located in the HSA VII ESRD Planning Area. The HSA VII ESRD Planning Area includes Suburban Cook and DuPage Counties. As of December 2018 there is a calculated excess of 42 ESRD stations in this planning area. There are currently 1,472 ESRD stations in this planning area as of December 2018.

State Board Staff Notes: The State Board approved the 2017 Inventory of Health Care Facilities and Services and Need Determinations at the September 2017 State Board Meeting. This document estimated the growth in the population from 2015 to 2020 (i.e. five years) and the estimated growth in the number of dialysis patients that will need

outpatient dialysis in the HSA VII ESRD Planning Area based upon the 2015 usage. This resulted in an estimate in the number of stations (1,430) needed by 2020 in the HSA VII ESRD Planning Area. Other need determinations that do not use this Need Determination is not consistent with the Board’s rules.

TABLE TWO

Need Methodology HSA VII ESRD Planning Area	
Planning Area Population – 2015	3,466,100
In Station ESRD patients -2015	5,163
Area Use Rate 2015 ⁽¹⁾	1.472
Planning Area Population – 2020 (Est.)	3,508,600
Projected Patients – 2020 ⁽²⁾	5,163
Adjustment	1.33x
Patients Adjusted	6,867
Projected Treatments – 2020 ⁽³⁾	1,071,219
Existing Stations	1,472
Stations Needed-2020	1,430
Number of Stations In Excess	42

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

V. Background of the Applicants

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

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 or a certified listing of adverse action taken.**

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)

1. The Applicants provided the necessary attestation that no adverse action has been taken against any facility owned or operated by the Applicants and authorization allowing the State Board and IDPH access to all information to verify information in the application for permit. [Application for Permit page 78-79]
2. A Certificate of Good Standing Hopkinton Dialysis, LLC has been provided as required. An Illinois Certificate of Good Standing is evidence that an Illinois business franchise (i.e. Illinois Corporation, LLC or LP) is in existence, is authorized to transact business in the state of Illinois, and complies with all state of Illinois business requirements and therefore is in "Good Standing" in the State of Illinois. [Application for Permit page 49]
3. The site is owned by National Shopping Plaza, Inc. and evidence of this can be found at page 31-47 of the application for permit in the Letter of Intent to lease the property at 6001 Ogden Avenue, Cicero, Illinois.
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).

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

VI. Purpose of Project, Safety Net Impact Statement, Alternatives to the Proposed Project

These 3 criteria are for informational purposes only.

A) Criterion 1110.230(a) - Purpose of the Project

To demonstrate compliance with this criterion the Applicants must document

1. **That the project will provide health services that improve the health care or well-being of the market area population to be served.**
2. **Define the planning area or market area, or other relevant area, per the applicant's definition.**
3. **Identify the existing problems or issues that need to be addressed as applicable and appropriate for the project.**
4. **Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.**
5. **Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.**

The Applicants stated the following: *"This project is intended to improve access to life sustaining dialysis services to the residents residing in southwestern Cook County. Due to*

a large influx of Hispanic residents in the 1980s and 1990s, the Cicero geographic service area ("GSA") is one of the few majority minority communities in the State of Illinois. The community is 46% Hispanic and 22% African-American. Most Hispanic residents speak a language other than English. Due to the large immigrant population, cultural barriers to access health care are high. These barriers include time and availability of providers, characteristics of healthcare personnel and patient-provider communications. Limited communication and perceived lack of linguistic and cultural competence from providers can lead to mistrust of the health care system and make it difficult for immigrants to establish relationships with primary care physicians. Provider communications and ability to connect with your primary care provider are critical for optimal healthcare, particularly when treating complex chronic illnesses.” [See Application for Permit pages 80-85]

B) Criterion 1110.230 (b) – Safety Net Impact Statement

To demonstrate compliance with this criterion the Applicants must document

- The project's material impact, if any, on essential safety net services in the community, to the extent that it is feasible for an applicant to have such knowledge.
- The project's impact on the ability of another provider or health care system to cross-subsidize safety net services, if reasonably known to the applicant.
- How the discontinuation of a facility or service might impact the remaining safety net providers in a given community, if reasonably known by the applicant.

The Applicants provided a safety net impact statement as required at pages 156-158.

TABLE THREE
DaVita, Inc. ⁽¹⁾

Net Revenue, Charity and Medicaid Information for the State of Illinois Facilities

	2014	2015	2016	2017
Net Patient Revenue	\$266,319,949	\$311,351,089	\$353,226,322	\$357,821,315
Amt. of Charity Care (charges)	\$2,477,363	\$2,791,566	\$2,400,299	\$2,818,603
Cost of Charity Care	\$2,477,363	\$2,791,566	\$2,400,299	\$2,818,603
% of Charity Care/Net Patient Revenue	0.93%	0.90%	0.68%	.78%
Number of Charity Care Patients	146	109	110	98
Number of Medicaid Patients	708	422	297	407
Medicaid Revenue	\$8,603,971	\$7,361,390	\$4,692,716	\$9,493,634
% of Medicaid to Net Patient Revenue	3.23%	2.36%	1.33%	2.65%

1. The Applicants do not define charity care per the Illinois Health Facilities Planning Act. "Charity Care" means 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] For profit entities do not have charity care. These costs are considered a bad debt expense.

Criterion 1110.230 (c) – Alternatives to the Proposed Project

To demonstrate compliance with this criterion the Applicants must identify all of the alternatives considered to the proposed project.

1. The Applicants rejected the do-nothing alternative because it would not address the high incidence of ESRD in the proposed GSA.
2. Utilize existing facilities. This alternative was rejected because the existing facilities could not accommodate the Applicants projected referrals. [See Application for Permit pages 86-89]

VII. 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 the size of the proposed facility is in compliance with the State Board Standards published in Part 77 ILAC 1110 Appendix B.

The Applicants are proposing 6,776 GSF of space for the proposed 12-station dialysis facility. The State Board Standard is 650 GSF per station or a total of 7,800 GSF of space for the 12 stations. The Applicants have successfully addressed this criterion.

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

B) Criterion 1110.234(b) – Projected Utilization

To demonstrate compliance with this criterion the Applicants must document that the proposed facility will be in compliance with the State Board Standards published in Part 77 ILAC 1110 Appendix B two (2) years after project completion.

The Applicants expect to be at the target occupancy of 80% by the second year of operation. The Applicants identified 111 pre- ESRD patients. Based upon attrition due to patient death, transplant, return of function, or relocation, the Applicants are estimating 64 of these patients will initiate dialysis within 12 to 24 months following project completion.

$$\begin{aligned} 64 \text{ patients} \times 156 \text{ treatments/year} &= 9,984 \text{ treatments} \\ 12 \text{ stations} \times 936 \text{ treatments/year} &= 11,232 \text{ treatments} \\ 9,984 \text{ treatments} / 11,232 \text{ treatments} &= 88.88\% \end{aligned}$$

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

C) Criterion 1110.234(e) – Assurance

To demonstrate compliance with this criterion the Applicants must document that the proposed facility will be in compliance with the State Board Standards published in Part 77 ILAC 1110 Appendix B two (2) years after project completion.

The Applicants on page 128-129 of the application for permit attest that they will be at target occupancy within 2 years after project completion.

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

VIII. In-Center Hemodialysis Projects

A) Criterion 1110.230(b) – Planning Area Need

1. 77 ILAC 1100

As of the December 2018 Update to the Inventory of Health Care Facilities and Services and Need Determinations there is a calculated excess of 42 ESRD stations in the HSA VII ESRD Planning Area.

2. Service to Residents of the Planning Area

To demonstrate compliance with this sub-criterion the Applicants must document that the proposed facility will provide dialysis service to the residents of the planning area.

The Applicants referral letter documents that the proposed number of patients that will utilize the proposed facility live within 5-miles of the proposed facility.

3. Service Demand

To demonstrate compliance with this criterion the Applicants must document that there is demand for the proposed service.

The physician referral letter from Dr. Shah-Kahn identified 111 pre ESRD patient in which Dr. Shah-Kahn believes 64 patients will require inpatient dialysis within two years after project completion.

The referral letters included the following information as required.

- The physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, at the end of the year for the most recent three years and the end of the most recent quarter;
- The number of new patients (by facility and zip code of residence) located in the area, as reported to The Renal Network, that the physician referred for in-center hemodialysis for the most recent year;
- An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience. The anticipated number of referrals cannot exceed the physician's documented historical caseload;
- An estimated number of existing patients who are not expected to continue requiring in-center hemodialysis services due to a change in health status (e.g., the patients received kidney transplants or expired);
- The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;
- Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services; and
- Each referral letter shall contain a statement attesting that the information submitted is true and correct

5. Service Accessibility

To demonstrate compliance with this sub-criterion the Applicants must document one of the following:

- The absence of the proposed service within the planning area;
- 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;
- Restrictive admission policies of existing providers;
- 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;
- For purposes of this subsection (c)(5) only, all services within the 5-miles normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

The State Board has calculated an excess of **42-stations** in the HSA VII ESRD Planning Area by 2020. There is no absence of ESRD service within the HSA VII ESRD planning area as there are currently 1,472 ESRD stations in this ESRD Planning Area. There have been no access limitations due to payor status of the patients nor have any restrictive admission policies of existing providers been identified by the Applicants. While the existing care system has been identified as a health professional shortage area by the Secretary of Health and Human Services all facilities within the 5-mile radius must be at target occupancy for this to be applicable. The Applicants have not met the requirements of this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT TO BE IN CONFORMANCE WITH PLANNING AREA NEED CRITERION (77 ILAC 1110.230(b)(1) (2) (3) and (5))

B) Criterion 1110.230(c) – Unnecessary Duplication/Maldistribution/Impact on Other Facilities

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 facilities in the area.
1. There are 16 dialysis facilities within the 5-mile radius of the proposed facility with an average utilization of approximately 69%. Of these 16 facilities one was recently approved (Brighton Park Dialysis) and is in ramp-up. Of the remaining 15 facilities 8 facilities are not at target occupancy (54%). The average utilization of the 15 facilities is approximately 78%.
 2. The population in the 5-mile radius is 629,619 and there are 325 ESRD stations in the 5-mile radius. The ratio of stations to population in the 5-mile radius is 1 station per 1,938 residents. There are 4,923 stations in the State of Illinois and a population of 12,978,800 (Est. 2015 Population). The ratio of stations to population in the State of Illinois is 1 station per 2,637 residents. A mal-distribution of stations (surplus of stations) exists when the ratio of stations to population in the 5-mile service area is 1.5 times the ratio of stations in the State of Illinois. For there to be a surplus of

stations in the 5-mile service area the ratio must be 1 station for every 1,758 residents. Based upon this ratio there is no surplus of stations in this 5-mile radius service area.

- 3. The Applicants stated:** *“The proposed dialysis clinic will not lower the utilization of other area clinics that are currently operating below HFSRB standards. As noted above, there are 16 dialysis clinics within the Cicero Dialysis GSA. Excluding Fresenius Medical Care Summit, which is in its two year ramp up; Brighton Park Dialysis, which is not yet operational, and two non-reporting clinics (Maple Avenue Kidney Center and Mount Sinai Hospital Medical Center), average utilization of area dialysis clinics is 80.2%. Over the past three years, patient census at the existing clinics has increased 5.2% annually and is anticipated to increase for the foreseeable future due to the demographics of the community and disease incidence and prevalence trends. Accordingly, average utilization of the existing clinics is expected to exceed 80% by the time the proposed Cicero Dialysis becomes operational. Further, Shila Nephrology Associates is currently treating 111 CKD patients within 5 miles of the proposed Cicero Dialysis. See Appendix - 1. Conservatively, 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. Shah-Kahn anticipates that at least 64 of these 111 patients will initiate in-center hemodialysis within 12 to 24 months following project completion. No patients are expected to transfer from existing dialysis clinics.”*

There is an excess of 42 stations in the HSA VII ESRD Planning Area and there are eight existing facilities not at the State Board’s target occupancy of 80%. The Applicants have not successfully addressed this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH UNNECESSARY DUPLICATION MALDISTRIBUTION IMPACT ON OTHER FACILITIES CRITERION (77 ILAC 1110.230(c) (1)-(3))

TABLE FOUR
ESRD Facilities within 5-mile radius

ESRD Name	Ownership	City	HSA	Stations	County	Miles ⁽¹⁾	Utilization ⁽²⁾	Medicare Star Rating ⁽³⁾	Met Standard
Fresenius Kidney Care Cicero	Fresenius	Cicero	7	18	Cook	1.5	87.96%	5	Yes
Fresenius Kidney Care Berwyn	Fresenius	Berwyn	7	30	Cook	1.7	81.11%	4	Yes
Lawndale Dialysis	DaVita	Chicago	6	16	Cook	2.7	104.17%	4	Yes
Fresenius Kidney Care Summit	Fresenius	Summit	7	12	Cook	3.3	58.33%	2	No
Fresenius Kidney Care Oak Park	Fresenius	Oak Park	7	12	Cook	3.3	90.28%	5	Yes
Maple Avenue Kidney Center, LLC		Oak Park	7	18	Cook	3.4	65.74%	2	No
SAH Dialysis Center at 26th Street	Hospital	Chicago	6	15	Cook	3.7	51.11%	5	No
Fresenius Kidney Care Midway	Fresenius	Chicago	6	12	Cook	3.9	76.39%	4	No
Fresenius Kidney Care West Suburban	Fresenius	Oak Park	7	46	Cook	3.9	86.59%	5	Yes
Fresenius Kidney Care River Forest	Fresenius	River Forest	7	22	Cook	4.1	72.92%	4	No
Fresenius Kidney Care Congress Pkwy	Fresenius	Chicago	6	30	Cook	4.3	60.00%	4	No
Loyola Dialysis Center	Hospital	Maywood	7	30	Cook	4.4	77.78%	4	No
Fresenius Kidney Care Austin Com.	Fresenius	Chicago	6	16	Cook	4.4	65.63%	4	No
Mt. Sinai Hospital	Hospital	Chicago	6	16	Cook	4.6	89.58%	4	Yes
DaVita Little Village	DaVita	Chicago	6	16	Cook	4.7	97.92%	5	Yes
				309			77.70%		
Brighton Park Dialysis	DaVita	Chicago	6	16	Cook	4.5	1.04%	NA	
				325			68.80%		

1. Miles determined by Map Quest.
2. Utilization as of September 30, 2018
3. Medicare Star Rating from Medicare Compare Website

C) Criterion 1110.230(e) - Staffing

To demonstrate compliance with this criterion the Applicants shall 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 Medical Director will be Farheen M. Shah-Kahn, M.D. for the proposed facility. A copy of Farheen M. Shah-Kahn, M.D. curriculum vitae has been provided. Initial staffing for the proposed facility will be as follows:

- Administrator (1.06 FTE)
- Registered Nurse (4.57 FTE)
- Patient Care Technician (4.58 FTE)
- Biomedical Technician (.34 FTE)
- Social Worker (.59 FTE)
- Registered Dietitian (.59 FTE)
- Administrative Assistant (.86 FTE)
- Other/Training (.13 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. All staff will train 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, ARFICRF, 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. Cicero Dialysis will maintain an open medical staff.

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

D) Criterion 1110.230(f) 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 provided a letter from Arturo Sida, Assistant Corporate Secretary of DaVita Inc. and Hopkinton Dialysis, LLC attesting that the proposed facility will participate in a dialysis data system, will make support services available to patients, and will provide training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training. [See Application for Permit pages 115-116] The Applicants have successfully addressed this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH SUPPORT SERVICES CRITERION (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 there will meet 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 dialysis facility will be located in the Chicago-Joliet-Naperville metropolitan statistical area ("MSA"). A dialysis facility located within an MSA must have a minimum of eight dialysis stations. The Applicants propose to establish a 12-station dialysis facility. The Applicants have met this criterion.

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

F) Criterion 1110. 230(h) - 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.

Total Renal Care Inc., a subsidiary of DaVita Inc., has an agreement with Saint Anthony Hospital to provide inpatient care and other hospital services for the patients of Cicero Dialysis. [Application for Permit pages 119-125]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CONTINUITY OF CARE CRITERION (77 ILAC 1110.230(h))

G) Criterion 1110.230(i) - Relocation of Facilities

The Applicants are proposing to establish a 12-station ESRD facility and will not be relocating an existing facility

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH RELOCATION OF FACILITIES CRITERION (77 ILAC 1110.230(i))

H) Criterion 1110.230(j) - Assurances

To demonstrate compliance with this criterion the applicant representative who signs the CON application must 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 Applicants attested:

“By the second year after project completion, Melrose Village Dialysis expects to achieve and maintain 80% target utilization; and Melrose Village Dialysis also expects hemodialysis outcome measures will be achieved and maintained at the following minimums:

- *> 85% of hemodialysis patient population achieves urea reduction ratio (URR) > 65%² and*
- *>85% of hemodialysis patient population achieves Kt/V Daugirdas II .1.2”³*

The Applicants have successfully addressed this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH ASSURANCES CRITERION (77 ILAC 1110.230(j))

² **Urea:** A nitrogen-containing substance normally cleared from the blood by the kidney into the urine. **URR** stands for urea reduction ratio, meaning the reduction in urea as a result of dialysis. The URR is one measure of how effectively a dialysis treatment removed waste products from the body and is commonly expressed as a percentage. If the initial, or pre-dialysis, urea level was 50 milligrams per deciliter (mg/dL) and the post-dialysis urea level was 15 mg/dL, the amount of urea removed was 35 mg/dL. The amount of urea removed (35 mg/dL) is expressed as a percentage of the pre-dialysis urea level (50 mg/dL). Although no fixed percentage can be said to represent an adequate dialysis, patients generally live longer and have fewer hospitalizations if the URR is at least 60 percent. As a result, some experts recommend a minimum URR of 65 percent. The URR is usually measured only once every 12 to 14 treatments, which is once a month. The URR may vary considerably from treatment to treatment. Therefore, a single value below 65 percent should not be of great concern, but a patient's average URR should exceed 65 percent.

³ The **Kt/V** is more accurate than the URR in measuring how much urea is removed during dialysis, primarily because the Kt/V also considers the amount of urea removed with excess fluid. Consider two patients with the same URR and the same post-dialysis weight, one with a weight loss of 1 kg—about 2.2 lbs—during the treatment and the other with a weight loss of 3 kg—about 6.6 lbs. The patient who loses 3 kg will have a higher Kt/V, even though both have the same URR. The fact that a patient who loses more weight during dialysis will have a higher Kt/V does not mean it is better to gain more water weight between dialysis sessions so more fluid has to be removed, because the extra fluid puts a strain on the heart and circulation. However, patients who lose more weight during dialysis will have a higher Kt/V for the same level of URR. On average, a Kt/V of 1.2 is roughly equivalent to a URR of about 63 percent. Thus, another standard of adequate dialysis is a minimum Kt/V of 1.2. The Kidney Disease Outcomes Quality Initiative (KDOQI) group has adopted the Kt/V of 1.2 as the standard for dialysis adequacy.¹ Like the URR, the Kt/V may vary considerably from treatment to treatment because of measurement error and other factors. So while a single low value is not always of concern, the average Kt/V should be at least 1.2. In some patients with large fluid losses during dialysis, the Kt/V can be greater than 1.2 with a URR slightly below 65 percent—in the range of 58 to 65 percent. In such cases, the KDOQI guidelines consider the Kt/V to be the primary measure of adequacy. [CMS Center for Clinical Standards and Quality]

IX. Financial Viability

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 this project with cash in the amount of \$2,413,043 and a lease with a FMV of \$2,277,230. A summary of the financial statements of the Applicants is provided below. The Applicants have sufficient cash to fund this project.

**TABLE FIVE
DaVita Audited Financial Statements
Ending December 31st
(in thousands (000))**

	2017	2016	2015
Cash	\$508,234	\$674,776	\$1,499,116
Current Assets	\$8,744,358	\$3,994,748	\$4,503,280
Total Assets	\$18,948,193	\$18,755,776	\$18,514,875
Current Liabilities	\$3,041,177	\$2,710,964	\$2,399,138
LTD	\$9,158,018	\$8,944,676	\$9,001,308
Patient Service Revenue	\$9,608,272	\$9,269,052	\$9,480,279
Total Net Revenues	\$10,876,634	\$10,707,467	\$13,781,837
Total Operating Expenses	\$9,063,879	\$8,677,757	\$12,611,142
Operating Income	\$1,812,755	\$2,029,710	\$1,170,695
Net Income	\$830,555	\$1,033,082	\$427,440

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 this project with cash of \$2,413,043 and a lease with a FMV of \$2,277,230. The Applicants have qualified for the financial waiver⁴.

⁴ The applicant is NOT required to submit financial viability ratios if:

- 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.

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 this project with cash of \$2,413,043 and a lease with a FMV of \$2,277,230. The lease is for 15 years at \$33.75/GSF per year for the first 5 years, \$37.13/GSF for years 6-10 and \$40.84/GSF for years 11-15.

The Applicants attested

“I hereby certify under penalty of perjury as provided in § 1-109 of the Illinois Code of Civil Procedure, 735 ILCS 5/1-109 and pursuant to 77 Ill. Admin. Code § 1120.140(a) that the total estimated project costs and related costs will be funded in total with cash and cash equivalents. Further, the project involves the leasing of a facility. The expenses incurred with leasing the facility are less costly than constructing a new facility.” [Application for Permit page 149-150]

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))

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.

Table Six illustrates the Reasonableness of Project costs for this project. Table Seven below details the ESRD cost per GSF for new construction based upon 2015 historical information and inflated by 3% to the midpoint of the construction. Additionally Table Six details the cost per station based upon 2008 historical information and inflated by 3% to the midpoint of construction.

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.

**TABLE SIX
Reasonableness of Project Costs**

Use of Funds	Project Costs		State Standard		Difference		Met Standard?
	Total	GSF/%/Station	Total	GSF/%/Station	Total	GSF/%/Stations	
New Construction Contracts	\$1,691,533	\$249.64 per GSF	\$1,941,527	\$286.53 per GSF	-\$249,994	(\$36.89) per GSF	Yes
Contingencies	\$153,775	10.00%	\$153,775	10.00%	\$0	0.00%	Yes
Architectural/Engineering Fees	\$84,750	5.01%	\$165,939	9.81%	-\$81,189	-4.80%	Yes
Movable or Other Equipment (not in construction)	\$580,853	\$48,405 per Station	\$663,516	\$55,293 per Station	-\$82,663	-\$6,888 per Station	Yes
Consulting and Other Fees	\$55,907						
Fair Market Value of Leased Space or Equipment	\$2,277,230						No Standard

TABLE SIX Calculation of ESRD Cost per GSF						
Year	2015	2016	2017	2018	2019	2020
ESRD Cost Per GSF	\$254.58	\$262.22	\$270.08	\$278.19	\$286.53	\$295.13

Calculation of Moveable Equipment Cost per ESRD Station						
Year	2015	2016	2017	2018	2019	2020
Cost per Station	\$49,127	\$50,601	\$52,119	\$53,683	\$55,293	\$56,952

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 \$152.09 operating expense per treatment. The Board does not have a standard for this criterion.

THE 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 \$20.73 per treatment. The Board does not have a standard for this criterion.

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

18-037 DaVita Cicero Dialysis - Cicero

