



STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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|                                             |                                        |                              |                                                  |
|---------------------------------------------|----------------------------------------|------------------------------|--------------------------------------------------|
| <b>DOCKET NO:</b><br>H-04                   | <b>BOARD MEETING:</b><br>March 5, 2019 | <b>PROJECT NO:</b><br>18-048 | <b>PROJECT COST:</b><br><br>Original:\$4,678,689 |
| <b>FACILITY NAME:</b><br>Sauganash Dialysis |                                        | <b>CITY:</b><br>Chicago      |                                                  |
| <b>TYPE OF PROJECT:</b> Substantive         |                                        |                              | <b>HSA:</b> VI                                   |

**PROJECT DESCRIPTION:** The Applicants (DaVita Inc. and Total Renal Care, Inc.) propose a 12-station ESRD facility in 7,067 in leased space in Chicago, Illinois. The cost of the project is \$4,678,689 and the expected completion date is April 30, 2021.

## **EXECUTIVE SUMMARY**

### **PROJECT DESCRIPTION:**

- The Applicants (DaVita Inc. and Total Renal Care, Inc.) propose a 12-station ESRD facility in 7,067 in leased space in Chicago, Illinois. The cost of the project is \$4,678,689 and the expected completion date is April 30, 2021.

### **WHY THE PROJECT IS BEFORE THE STATE BOARD:**

- The Applicants propose to establish a health care facility as defined by the Illinois Health Facilities Planning Act (20 ILCS 3960/3).
- One of the objectives of the Health Facilities Planning Act is *“to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding **capacity, quality, value and equity** in the delivery of health care services in Illinois. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process.”* [20 ILCS 3960/2]

### **PUBLIC HEARING/COMMENT:**

- A public hearing was offered in regard to the proposed project, but none was requested. Letters of support were received from State Representative John D’Amico, Alderman Margaret Laurino, US Senator Richard Durbin, Rene Madrid, and Irma Lizcano. No letters of opposition were received by the State Board Staff.

### **SUMMARY:**

- There is a calculated need for 5-ESRD stations in the City of Chicago (HSA VI ESRD Planning Area) as of January 2019.
- The GSA for proposed facility is a 5-mile radius that has a population estimate of 1,060,059 residents. Currently, there are a total of 14-ESRD facilities with 241 stations in this 5-mile GSA. Two of the 14-facilities are in ramp-up, the remaining 12-facilities are operating at 79% utilization. Five of the 12-facilities (42%) are not at target occupancy. As of December 31, 2018 there are a total of 1,048 patients receiving dialysis at these 14-facilities. These 14 facilities attested that they would attain 80% utilization two years after project completion and maintain that level.
- The proposed facility will be located in the HSA VI ESRD Planning Area which is the City of Chicago. Dr. Ho (proposed medical director) with the NorthShore Medical Group has identified 179 patients with chronic kidney disease that reside within the 5-mile radius of the proposed facility. Of these 179 patients, Dr. Ho is estimating 61 patients will require dialysis within 12-24 months of the project completion.
- The Applicants have addressed a total of 22 criteria and have failed to meet the following:

| <b>State Board Standards Not Met</b>                      |                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Criteria</b>                                           | <b>Reasons for Non-Compliance</b>                                                                                                                                                                                                                                     |
| 77 ILAC 1110.230 (b) (1) (2) (3) (5) - Planning Area Need | The number of stations being requested (12-stations) exceeds the calculated need (5-stations). Service access will not be improved as there are existing facilities within the 5-mile GSA that currently are not at target occupancy. See pages 10-11 of this report. |

|                                                                                                |                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>77 ILAC 1110.230 (c) (A) (B) (C) - Unnecessary Duplication /Mal distribution of Service</p> | <p>There are 14-ESRD facilities within the 5-mile GSA. Two of the 14-facilities are in ramp up and the remaining 12 facilities are operating at 79%. Six of the 12-facilities are not at target occupancy. See pages 12-13 of this report.</p> |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## STATE BOARD STAFF REPORT

### Project 18-048

### Sauganash Dialysis

| APPLICATION/CHRONOLOGY/SUMMARY                   |                                         |
|--------------------------------------------------|-----------------------------------------|
| Applicants                                       | DaVita Inc. and Total Renal Care, Inc.  |
| Facility Name                                    | Sauganash Dialysis                      |
| Location                                         | 4054 W. Peterson Ave. Chicago, Illinois |
| Permit Holder                                    | DaVita Inc. and Total Renal Care, Inc.  |
| Operating Entity                                 | Total Renal Care, Inc.                  |
| Owner of Site                                    | Rule Transfer IL, Inc.                  |
| Total GSF                                        | 7,067 GSF                               |
| Application Received                             | December 10, 2018                       |
| Application Deemed Complete                      | December 12, 2018                       |
| Review Period Ends                               | April 11, 2019                          |
| Financial Commitment Date                        | March 5, 2021                           |
| Project Completion Date                          | April 30, 2021                          |
| Review Period Extended by the State Board Staff? | No                                      |
| Can the Applicants request a deferral?           | Yes                                     |
| Expedited Review?                                | Yes                                     |

#### I. Project Description

The Applicants (DaVita Inc. and Total Renal Care, Inc.) propose a 12-station ESRD facility in 7,067 in leased space in Chicago, Illinois. The cost of the project is \$4,678,689 and the expected completion date is April 30, 2021.

#### II. Summary of Findings

- A. State Board Staff finds the proposed project **not** 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 Total Renal Care, Inc. 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. The operating entity will be Total Renal Care, Inc. and the owner of the site is Rule Transfer IL, Inc. This project is subject to a Part 1110 and Part 1120 review. Financial commitment will occur after permit approval.

#### IV. Health Planning Area

The proposed facility will be located in the HSA VI Health Service Area. This planning area includes the City of Chicago. As of January 2019 the State Board is estimating a need for five ESRD stations.

| <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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 1,348     |
| <b>Stations Needed-2020</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>5</b>  |
| 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.<br>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.<br>3. Projected treatments are the number of patients adjusted x 156 treatments per year per patient<br>4. $1,013,747 / 747 = 1,353$<br>5. $936 \times 80\% = 747$ [Number of treatments per station operating at 80%] |           |

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

The Applicants are funding this project with cash in the amount of \$2,462,126 and the Fair Market Value of Leased Space of \$2,216,563. The estimated start-up costs and operating deficit is \$2,132,999.

**TABLE TWO**  
**Project Uses**

|                                                | <b>Uses of Funds</b> |            |
|------------------------------------------------|----------------------|------------|
|                                                | Total                | % of Total |
| New Construction Contracts                     | \$1,559,184          | 33.32%     |
| Contingencies                                  | \$155,918            | 3.33%      |
| Architectural/Engineering Fees                 | \$127,606            | 2.73%      |
| Consulting and Other Fees                      | \$38,000             | 0.81%      |
| Movable or Other Equipment                     | \$581,818            | 12.43%     |
| Fair Market Value of Leased Space or Equipment | \$2,216,563          | 47.38%     |

|                     |             |         |
|---------------------|-------------|---------|
| Total Uses of Funds | \$4,679,089 | 100.00% |
|---------------------|-------------|---------|

**TABLE TWO (continued)**  
**Sources of Funds**

|                                   | Sources of Funds |            |
|-----------------------------------|------------------|------------|
|                                   | Total            | % of Total |
| Cash                              | \$2,462,126      | 52.62%     |
| Fair Market Value of Leased Space | \$2,216,563      | 47.38%     |
| Total Sources of Funds            | \$4,678,689      | 100%       |

## **VI. Background of the Applicants, Purpose of the Project, Safety Net Impact, Alternatives**

### **A) Criterion 1110.110(a) - Background of the Applicant**

To address this criterion the applicants must provide a list of all facilities currently owned in the State of Illinois and an attestation documenting that no adverse actions<sup>1</sup> have been taken against any applicant's facility by either Medicare or Medicaid, or any State or Federal regulatory authority during the 3 years prior to the filing of the Application with the Illinois Health Facilities and Services Review Board or a certified listing of adverse action taken against any applicant's facility; and authorization to the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of the application for permit.

1. A listing of DaVita Dialysis Facilities in Illinois have been provided at pages 59-62 of the Application for Permit.
2. 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 pages 63-64]
3. Evidence of ownership (Copy of the Letter of Intent to Lease the Property) of the site has been provided as required at pages 29-39 of the Application for Permit. Organizational relationships can be found at pages 26 of the Application for Permit.
4. A Certificate of Good Standing has been provided as required for Total Renal Care, Inc., as a foreign entity with permission to transact business in the State of Illinois. 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 27-28]
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*

<sup>1</sup> "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)

*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. [Application for Permit page 44-45]*

6. The proposed location of the 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). [Application for Permit page 47]

## **B) Criterion 1110.110(b) - 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 in part:

*“There is currently a need for 5 hemodialysis stations in the City of Chicago, the only Health Service Area in the State with a need for dialysis stations. This project is intended to address that need and will improve access to life sustaining dialysis services to the residents residing on the north side of Chicago. The Sauganash geographic service area is one of the most ethnically diverse areas in Chicago. Since the 1970s, it has been a point of entry for immigrants from Latin America and Asia. The community is 28% Hispanic and 11% Asian. Due to this 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. A 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 are critical for optimal healthcare, particularly when treating complex chronic illnesses. Due to cultural and linguistic barriers faced by members of this community, the Health Resources & Services Administration ("HRSA") has designated this area a Medically Underserved Population.*

*Further, the incidence of ESRD in the Hispanic community is higher than in the general population. The ESRD incident rate among the Hispanic population is 1.5 times greater than the non-Hispanic population. Likely contributing factors to this burden of disease*

*include diabetes and metabolic syndrome, both are common among Hispanic individuals. Other factors that contribute to a higher disease burden are family history, impaired glucose tolerance, diabetes during pregnancy, hyperinsulinemia and insulin resistance, obesity and physical inactivity. Access to health care, the quality of care received, and barriers due to language and health literacy also play a role in the higher incident rates. Given these factors, readily accessible dialysis services are imperative for the health of the residents living in Sauganash and the surrounding communities. There are 14 existing or approved dialysis clinics within 5 miles of the proposed Sauganash Dialysis (the "Sauganash GSA"). Excluding Irving Park Dialysis, which recently came online and is being developed to serve a different patient group, and the one non-reporting clinic, average utilization of area dialysis clinics is 76.5% as of September 30, 2018. Further, over the past four years, patient census at the existing clinics has increased 3.3% annually and is anticipated to increase for the foreseeable future due to the demographics of the community and disease incidence and prevalence trend. Accordingly, average utilization of the existing clinics is expected to reach 80% by the time the proposed Sauganash Dialysis becomes operational."* [Application for Permit 52-58]

### C) **Criterion 1110.110(c) – 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 138-140.

**TABLE THREE**

**DaVita, Inc. <sup>(1)</sup>**

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

|                                            | <b>2014</b>   | <b>2015</b>   | <b>2016</b>   | <b>2017</b>   |
|--------------------------------------------|---------------|---------------|---------------|---------------|
| 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 (self-pay) | 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.

### D) **Criterion 1110.110(d) – Alternatives to the Proposed Project**

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

The Applicants considered two alternatives to the proposed project; **do nothing or utilize existing clinics.** Both of these alternatives were rejected based in part on the following;

*“According to the Renal Network data 1,470 in-center ESRD patients live within 5 miles of the proposed clinic and this number is expected to grow. Importantly, 306 stations are needed to adequately serve this population; however, there are only 261 stations. Accordingly, there is a need for 45 stations in the Sauganash GSA. As noted above, additional stations recently came online; however, these stations are dedicated to a different patient base. The existing clinics will not have adequate capacity to treat NorthShore Medical Group's projected patients. As a result, DaVita rejected this option.” [See Application for Permit page 71-74 for complete discussion]*

## **VII. Size of the Project, Projected Utilization and Assurances**

### **A) Criterion 1110.120(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 7,067 GSF for 12-stations. The State Board Standard is 650 GSF per station or 7,800 GSF.  $[7,800 \text{ GSF (State Standard)} - 7,067 \text{ GSF (Proposed GSF)} = (733 \text{ GSF})$ . 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 1110.120(a))**

### **B) Criterion 1110.120(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 are projecting 61 patients will require dialysis within 12-24 months of project completion.

$$\begin{aligned} 61 \text{ patients} \times 156 \text{ treatment per year} &= 9,516 \\ 12 \text{ stations} \times 936 \text{ treatments per year per station} &= 11,232 \text{ treatments} \\ 9,516 \div 11,232 &= 84.7\% \end{aligned}$$

The Applicants have successfully addressed this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH PROJECTED UTILIZATION CRITERION (77 ILAC 1110.120(b))**

### **C) Criterion 1110.120(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 have provided the necessary attestation as required at page 106 of the Application for Permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH ASSURANCE CRITERION (77 ILAC 1110.120(e))**

**VIII. In-Center Hemodialysis**

**A) Criterion 1110.230(b)(1)(A) & (B) - Planning Area Need**

The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:

1) 77 Ill. Adm. Code 1100

A) The number of stations to be established for in-center hemodialysis is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

B) The number of stations proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the utilization standard specified in 77 Ill. Adm. Code 1100.

The Applicants are proposing a 12-station facility. There is a calculated need in this ESRD Planning Area for 5-stations. The number of stations requested (12-stations) have exceeded the number of stations needed (5-stations). The Applicants have not met this sub-criterion.

**B) Criterion 1110.230 (b) (2) - Service to Planning Area Residents**

A) Applicants proposing to establish or add stations shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.

The proposed 12-station facility will be located at 4054 W. Peterson Ave, Chicago, IL. Dr. Ho (proposed medical director) with the NorthShore Medical Group has identified 179 patients with chronic kidney disease that reside within the 5-mile radius of the proposed facility. Of the 179 patients, Dr. Ho is estimating 61 patients will require dialysis within 12-24 months of the project completion [Application for Permit page 142].

**TABLE FOUR**  
**Number of Patients with CKD in the 5-**  
**mile GSA by zip code**

| Zip Code | City        | Patients | Miles |
|----------|-------------|----------|-------|
| 60625    | Chicago     | 10       | 4.4   |
| 60630    | Chicago     | 23       | 2.6   |
| 60646    | Chicago     | 33       | 0     |
| 60659    | Chicago     | 43       | 3.3   |
| 60712    | Lincolnwood | 70       | 2.1   |
| Total    |             | 179      |       |

**C) Criterion 1110.230 (b) (3) - Service Demand – Establishment of In-Center Hemodialysis Service**

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 historical and projected referrals, or, if the applicant proposes to establish a new facility, the applicant shall submit projected referrals. The applicant shall document subsection (b) (3) (A) and either subsection (b) (3) (B) or (C).

Historical patient information was provided for Dr. Ho with the North Shore Medical Group and projected information was provided as required. The Applicants are projecting 61 patients will require dialysis within 12-24 months of the opening of the proposed facility [See 77 ILAC 1110.120 (b) above].

**D) Criterion 1110.230 (b) (5) - Service Accessibility**

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 shall document the following:

**A) Service Restrictions**

The applicant shall document that at least one of the following factors exists in the planning area:

- 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;
- v) For purposes of this subsection (b)(5) only, all services within the established radii outlined in subsection (b)(5)(C) meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

- i) There is no absence of ESRD services in the HSA VI ESRD Planning Area-Chicago. There are 68-ESRD facilities within this planning area with 1,345 stations.
- ii) No Access limitations have been identified.
- iii) No restrictive admission policies of existing providers have been identified.
- iv) The proposed facility will be located in an area that has been Federally designated as a Medically Underserved Area and Medically Underserved Population.<sup>2</sup>

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<sup>2</sup> Medically Underserved Areas (MUAs) and Medically Underserved Populations (MUPs) identify geographic areas and populations with a lack of access to primary care services. MUAs have a shortage of primary care health services for residents within a geographic area such as:

- a whole county;
- a group of neighboring counties;
- a group of urban census tracts; or
- a group of county or civil divisions.

MUPs are specific sub-groups of people living in a defined geographic area with a shortage of primary care health services. These groups may face economic, cultural, or linguistic barriers to health care. Examples include, but are not limited to, those who are:

- homeless;
- low-income;
- Medicaid-eligible;
- Native American; or
- migrant farmworkers.

MUA/P designations are based on the Index of Medical Underservice (IMU). IMU is calculated based on four criteria:

- the population to provider ratio;
- the percent of the population below the federal poverty level;

- v) There are 14 ESRD facilities within the 5-mile radius with an average utilization of approximately 70%. Seven of the 14-ESRD facilities are not at the target occupancy of 80%.

As per the criterion the Applicants are proposing a facility that exceeds the calculated need of five stations in the HSA VI ESRD Planning Area. Additionally of the 14-facilities within the 5-mile radius two facilities are in ramp-up and the remaining 12-facilities are operating at approximately 79%. Five of the 12-facilities (42%) are not at target occupancy. The Applicants have not met the Planning Area Need requirements.

**TABLE FIVE**  
**ESRD Facilities within the 5-mile radius**

| Facilities                                | City        | Ownership | Stations<br>(1) | Patients<br>(2) | Utilization | Star<br>Rating (3) | Met Target<br>Utilization? |
|-------------------------------------------|-------------|-----------|-----------------|-----------------|-------------|--------------------|----------------------------|
| Center for Renal Replacement              | Lincolnwood |           | 16              | 54              | 56.25%      | 5                  | No                         |
| Fresenius Medical Care Northcenter        | Chicago     | Fresenius | 16              | 60              | 62.50%      | 5                  | No                         |
| Fresenius Medical Care of Lakeview        | Chicago     | Fresenius | 14              | 56              | 66.67%      | 3                  | No                         |
| Big Oaks Dialysis                         | Niles       | DaVita    | 12              | 49              | 68.06%      | 4                  | No                         |
| Dialysis Ctr. of America - ( Rogers Park) | Chicago     | Fresenius | 20              | 90              | 75.00%      | 4                  | No                         |
| DaVita Evanston                           | Evanston    | DaVita    | 20              | 102             | 85.00%      | 5                  | Yes                        |
| Logan Square Dialysis                     | Chicago     | DaVita    | 28              | 138             | 82.14%      | 5                  | Yes                        |
| Fresenius Medical Care Logan Square       | Chicago     | Fresenius | 14              | 71              | 84.52%      | 3                  | Yes                        |
| Fresenius Medical Care North Kilpatrick   | Chicago     | Fresenius | 28              | 143             | 85.12%      | 4                  | Yes                        |
| Fresenius Medical Care West Belmont       | Chicago     | Fresenius | 17              | 87              | 85.29%      | 4                  | Yes                        |
| RCG - Uptown                              | Chicago     | Fresenius | 14              | 78              | 92.86%      | 3                  | Yes                        |
| Nephron Dialysis Ctr. Swedish Covenant    | Chicago     | Swedish   | 16              | 96              | 100.00%     | 5                  | Yes                        |
| Total/Average Utilization                 |             |           | 215             | 1,024           | 78.62%      |                    |                            |
| Norwood Park                              | Chicago     | DaVita    | 14              | 9               | 10.71%      | NA                 | No                         |
| Irving Park Dialysis                      | Chicago     | DaVita    | 12              | 15              | 20.83%      | NA                 | No                         |
| Total/Average Utilization                 |             |           | 241             | 1,048           | 69.64%      |                    |                            |

1. Stations as of January 2019.
2. Patients as of December 31, 2018
3. Star Rating taken from Medicare Compare Website.

- the percent of the population over age 65; and
- the infant mortality rate.

IMU can range from 0 to 100, where zero represents the completely underserved. Areas or populations with IMUs of 62.0 or less qualify for designation as an MUA/P. Source: Health Resources and Services Administration.

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

**C) Criterion 1110.230(c) - Unnecessary Duplication of Service/Maldistribution**

1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:

A) A list of all zip code areas that are located, in total or in part, within the established radii outlined in subsection (c)(4) of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and

C) The names and locations of all existing or approved health care facilities located within the established radii outlined in subsection (c)(4) of the project site that provides the categories of station service that are proposed by the project.

A. A list of zip codes was provided at page 83 of the Application for Permit. There are approximately 1,060,059 residents within this 5-mile radius. There are 14 ESRD facilities within this 5-mile radius with 241 stations.

B. There is one station per every 4,399 residents in the identified 5-mile GSA. In the State of Illinois there is one station per every 2,626 residents. There is not a surplus of stations in this 5-mile GSA when compared to the State of Illinois ratio.

**TABLE SIX  
Ratio Analysis**

|            | 5-mile GSA                    | State of Illinois             |
|------------|-------------------------------|-------------------------------|
| Stations   | 241                           | 4,943                         |
| Population | 1,060,059                     | 12,978,800                    |
| Ratio      | 1 station per 4,399 residents | 1 station per 2,626 residents |

C. The Applicants stated the following:

*"The proposed dialysis clinic will not have an adverse impact on existing clinics in the Sauganash GSA NorthShore Medical Group is currently treating 179 CKD patients within 3 miles of the proposed Sauganash Dialysis. 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. Ho anticipates that at least 61 of these 179 patients will initiate in-center hemodialysis within 12 to 24 months following project completion. No patients are expected to transfer from existing dialysis clinics. b. 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 14 existing or approved dialysis clinics within the Sauganash GSA. Excluding Irving Park Dialysis, which recently came online and is being developed to serve a different patient group, and the one nonreporting clinic, average utilization of area dialysis clinics is 76.5% as of September 30, 2018. Further, over the past four years, patient census at the existing clinics has increased 3.3% annually and is anticipated to increase for the*

*foreseeable future due to the demographics of the community and disease incidence and prevalence trend. Accordingly, average utilization of the existing clinics is expected to reach 80% by the time the proposed Sauganash Dialysis becomes operational. Further, NorthShore Medical Group is currently treating 179 CKD patients within 3 miles of the proposed Sauganash Dialysis. 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. Ho anticipates that at least 61 of these 179 patients will initiate incenter hemodialysis within 12 to 24 months following project completion. No patients are expected to transfer from existing dialysis clinics.”*

Based upon the State Board’s methodology there is no surplus of stations within this 5-mile GSA. However, there are five existing facilities not at target occupancy within this 5-mile GSA. The Applicants have not met the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION/MALDISTRIBUTION (77 ILAC 1110.230(c)(1)-(3))**

**D) Criterion 1110.230(e) - Staffing**

The applicant shall 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.

The proposed clinic will be staffed in accordance with all State and Medicare staffing requirements. The Medical Director is Louisa Tammy Ho, M.D. A copy of Dr. Ho's curriculum has been provided as required. 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 clinic is in operation. All staff will be training under the direction of the proposed clinic's Governing Body, utilizing DaVita's comprehensive training program. A summary of the training program has been provided. Sauganash Dialysis will maintain an open medical staff. [Application for Permit pages 88-104]

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

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

An applicant proposing to establish an in-center hemodialysis category of service 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 attested to the following:

- DaVita utilizes an electronic dialysis data system;

- Sauganash Dialysis will have available all needed support services required by CMS which may consist of clinical laboratory services, blood bank, nutrition, rehabilitation, psychiatric services, and social services; and
- Patients, either directly or through other area DaVita facilities, will have access to training for self-care dialysis, self-care instruction, and home hemodialysis and peritoneal dialysis. [Application for Permit pages 116-117]

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

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

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 ESRD facility will be located 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))**

**G) Criterion 1110.230(h) - Continuity of Care**

An applicant proposing to establish an in-center hemodialysis category of service shall 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.

A signed transfer agreement with NorthShore University HealthSystem - Evanston Hospital has been provided as required. Evanston Hospital has agreed to provide Emergency, In-Patient and Backup Support Services to the dialysis patients. The Hospital is approximately 7.5 miles from the proposed facility.

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

**H) Criterion 1110.230(i) - Relocation of Facilities**

This criterion may only be used to justify the relocation of a facility from one location in the planning area to another in the same planning area and may not be used to justify any additional stations. A request for relocation of a facility requires the discontinuation of the current category of service at the existing site and the establishment of a new category of service at the proposed location. The applicant shall document the following:

- 1) That the existing facility has met the utilization targets detailed in 77 Ill. Adm. Code 1100.630 for the latest 12-month period for which data is available; and
- 2) That the proposed facility will improve access for care to the existing patient population.

The Applicants are proposing the establishment of a new facility and not relocating an existing facility. This criterion is not applicable to this project.

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

**I) Criterion 1110.230 (j) - Assurances**

The applicant 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 Applicants have provided the necessary attestation at pages 116-117 of the Application for Permit.

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

**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 \$2,462,126 and a lease with a FMV of \$2,216,563. A summary of the financial statements of the Applicants is provided below. The Applicants have sufficient cash to fund this project.

**TABLE SEVEN  
DaVita Audited Financial Statements  
Ending December 31<sup>st</sup>  
(in thousands (000))**

|                          | <b>2017</b>  | <b>2016</b>  | <b>2015</b>  |
|--------------------------|--------------|--------------|--------------|
| 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 in the amount of \$2,462,126 and a lease with a FMV of \$2,216,563. The Applicants have qualified for the financial waiver<sup>3</sup>.  
**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 in the amount of \$2,462,126 and a lease with a FMV of \$2,216,563. The lease is for 15 years at \$31.50/GSF per year for the first 5 years with a 10% increase every 5 years. [Application for Permit pages 29-39]

**TABLE EIGHT  
Terms of Lease Space**

|             |                                                                                                                                                                                                                     |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Premises    | Approximately 7,069 GSF, 4054 W. Peterson Ave. Chicago, Illinois 60646                                                                                                                                              |
| Landlord:   | Rule Transfer II. Inc.                                                                                                                                                                                              |
| Tenant:     | Total Renal Care, Inc. or related entity                                                                                                                                                                            |
| Term:       | 15 Years with three five year options                                                                                                                                                                               |
| Base Rent:  | \$31.50/psf with 10% increases every 5 years                                                                                                                                                                        |
| Provisions: | Triple-net: Maintenance, real estate taxes/assessments, insurance premiums, utilities. Following the first full calendar year, the controllable CAMIT expenses shall not increase more than 3% annually thereafter. |

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 131-132]

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<sup>3</sup> 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.
- 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 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 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 details the cost per station based upon 2008 historical information and inflated by 3% to the midpoint of construction.

| TABLE NINE                                              |          |          |          |          |          |          |
|---------------------------------------------------------|----------|----------|----------|----------|----------|----------|
| 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 |

New construction and Contingencies total \$1,715,102 or \$242.69 per GSF ( $\$1,715,102 \div 7,067 \text{ per GSF} = \$242.69$ ). This appears reasonable when compared to the State Standard of \$295.13 per GSF or \$2,085,684.

Contingencies total \$155,918 and are 10% of new construction costs of \$1,559,184. This appears reasonable when compared to the State Board Standard of 10% [ $\$155,918 \div \$1,559,184 = 10\%$ ].

Architectural and Engineering Fees total \$127,606 or 7.44% of new construction and contingencies [ $\$127,606 \div \$1,715,102 = 7.44\%$ ]. This appears reasonable when compared to the State Board standard of 9.81 % or \$168,252.

Movable or Other Equipment totals \$581,818 or \$48,485 per station [ $\$581,818 \div 12 \text{ stations} = \$48,485 \text{ per station}$ ]. This appears reasonable when compared to the State Board Standard of \$56,952 per station or \$683,424.

| TABLE TEN                   |           |
|-----------------------------|-----------|
| Equipment Costs             |           |
| Communications              | \$105,157 |
| Water Treatment             | \$140,500 |
| Bio-Medical Equipment       | \$15,940  |
| Clinical Equipment          | \$196,824 |
| Clinical Furniture/Fixtures | \$22,335  |
| Lounge Furniture/Fixtures   | \$3,855   |

**TABLE TEN  
Equipment Costs**

|                            |          |
|----------------------------|----------|
| Storage Furniture/Fixtures | \$6,862  |
| Business Office Fixtures   | \$35,645 |
| General Furniture/Fixtures | \$36,500 |
| Signage                    | \$18,200 |

**TABLE ELEVEN  
Reasonableness of Project Costs**

|                                                | Project Costs |                      | State Standard |                      | Difference  |                    |
|------------------------------------------------|---------------|----------------------|----------------|----------------------|-------------|--------------------|
|                                                | Total         |                      | Total          |                      | Total       |                    |
| New Construction Contracts & Contingencies     | \$1,715,102   | \$242.69 per GSF     | \$2,085,684    | \$295.13 per GSF     | (\$370,582) | -\$52.44 per GSF   |
| Contingencies                                  | \$155,918     | 10.00%               | \$155,918      | 10.00%               | (\$0)       | \$0                |
| Architectural/Engineering Fees                 | \$127,606     | 7.44%                | \$168,252      | 9.81%                | (\$40,646)  | 2.37%              |
| Movable or Other Equipment                     | \$581,818     | \$48,485 per Station | \$683,424      | \$56,952 per Station | (\$101,606) | -8,467 per Station |
| Consulting and Other Fees                      | \$38,000      | No standard          |                |                      |             |                    |
| Fair Market Value of Leased Space or Equipment | \$2,216,563   |                      |                |                      |             |                    |

**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 \$151.72 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 \$22.09 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))**