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April 16, 2019

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Via Federal Express

Courtney Avery
Administrator
Illinois Health Facilities & Services Review
Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

**Re: DaVita Sauganash Dialysis (Proj. No. 18-048) ("Proposed Clinic")
Submission of Additional Information**

Dear Ms. Avery

Polsinelli represents DaVita Inc. and Total Renal Care, Inc. (collectively, the "Applicants") in the above-referenced proposal to establish a 12-station dialysis clinic in Chicago, Illinois (the "Proposed Clinic"). In this capacity, we are writing to provide additional information subsequent to the Illinois Health Facilities and Services Review Board's (the "State Board") March 5, 2019 meeting where the Proposed Clinic received four favorable votes. This project has documented significant community support and is not opposed. Pursuant to Section 1130.670 of the State Board's Procedural Rules, the Applicants respectfully submit supplemental information regarding the Proposed Clinic.

As the Applicants previously described and as further discussed in this submission, the need for additional dialysis services in Chicago, generally, and in this planned service area, more specifically, is compelling. The existing clinics in the geographic service area are highly utilized, and as we detail in this submission, the need for dialysis services in HSA 6 is understated.

The key points of this supplemental information submission are as follows:

- **Service Accessibility.** The Proposed Clinic will address a service restriction, the Medically Underserved Population, in the area to be served (the geographic service area). This fact was documented in the CON permit application with supporting documentation from the Health Resources and Services Administration of the U.S. Dept. of Health and Human Services (HRSA) and, as such, the application conforms with the requirements of Section 1110.230(5)(a)(iv) of the State Board rules.

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➤ **Dialysis Services Need.**

- The Proposed Clinic will address the current State Board calculated need for stations in HSA 6, which is the only health service area in the State with a calculated need for stations.
- More current use rates show the need for stations is significantly higher than the State Board calculation (between 39 stations and 89 stations).

➤ **Utilization Trends.**

- The growth of ESRD patients in the geographic service area far outpaces growth of ESRD patients in the State of Illinois, as a whole, and also outpaces growth in the HSA 6, as a whole. None of this growth was anticipated in the State Board's last need calculation in 2017.
- The rapid increase in utilization of dialysis clinics in the geographic service area indicates that the average utilization of those clinics will well exceed 80% in 2022, the first full year of operation of the Proposed Clinic.

As the data provided in this letter (as well as the CON permit application) demonstrates, the Proposed Clinic is fully justified and will address the growing need for additional dialysis services in the City of Chicago.

1. Service Accessibility (1110.230(5)(a)(iv) - The Proposed Clinic is Located in a Medically Underserved Area

The Chicago business sector is, in many respects, flying high. This economic prosperity, however, has been largely limited to the downtown business district and the nearby neighborhoods along with more affluent and middle income suburbs. Most Chicago neighborhoods are economically disadvantaged. Many people are scraping by and face significant barriers to access health care. Despite having several nationally recognized tertiary care centers located within the City of Chicago, access to primary care for the management of chronic diseases is much more challenging for Chicago residents as most Chicago neighborhoods are designated as medically underserved areas and populations. Importantly, persons living in poverty receive the least amount of healthcare. Therefore, they are less likely to have a family physician and obtain preventative care and manage chronic progressive diseases like hypertension and diabetes. They have more difficulty navigating the complex health care system. All of these factors contribute to higher incidence and prevalence of those diseases where are precursors to end-stage kidney disease.

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After considering this issue at a macro level, to address health care disparities, it is essential to carefully assess the target area to be served for a better understanding of the clear health planning rationale for the establishment of the Proposed Clinic. As described in the CON permit application, the Proposed Clinic's 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. Due to this large immigrant population, cultural barriers to access health care are high. As the March 5, 2019 State Board staff report pointed out on Page 11, these barriers are factors that result in the HRSA designations and they negatively affect the availability of providers, characteristics of healthcare personnel and patient-provider communications.¹ 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.² Provider communications and an ability to connect with one's primary care provider are critical for optimal healthcare, particularly when treating complex chronic illnesses.

The Proposed Clinic will draw patients from a five zip code area on the northwest side of Chicago. Over 25 percent of the population of the Proposed Clinic's patient service area is Hispanic, with nearly 20% living below the federal poverty level. Due to cultural and linguistic barriers faced by members of this community, HRSA has designated this area's residents to be a Medically Underserved Population. Residents suffer from health inequities – differences in population health status and health conditions that are systemic, patterned, and actionable. Given the high rates of poverty and the high Hispanic population, this federal designation becomes even more concerning because many area residents lack the ability to travel elsewhere for care and face other issues, including language barriers, that further limit their access to health care services.

In recent years, DaVita has significantly invested in the delivery of kidney care in the City of Chicago. It has established 11 dialysis clinics, more than any other dialysis provider, and also acquired the very large (63 station) University of Chicago dialysis program. In 2012, DaVita collaborated with Mount Sinai Hospital, a safety net provider on the west side of Chicago, in the establishment of Lawndale Dialysis. Importantly, all these DaVita dialysis clinics serve federally designated medically underserved populations. These patients live in economically disadvantaged, minority communities that tend to have the highest rates of chronic

¹ Joan Edward and Vicki Hines-Martin, Examining Perceived Barriers to Healthcare Access for Hispanics in a Southern Urban Community, 5 J of Hospital Administration 102, 104 (2016) *available at* https://www.researchgate.net/profile/Vicki_Hines-Martin/publication/291392351_Examining_perceived_barriers_to_healthcare_access_for_Hispanics_in_a_southern_urban_community/links/56ab9feb08ae8f386569c55b/Examining-perceived-barriers-to-healthcare-access-for-Hispanics-in-a-southern-urban-community.pdf?origin=publication_detail (last visited Jul 9, 2018).

² *Id.* at 102-103.

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disease, including hypertension, diabetes and kidney disease. In addition to providing dialysis treatment, DaVita offers free Kidney Smart classes to educate residents about kidney function and disease, how to delay the progression of kidney disease, and treatment options, from in-center and home dialysis to transplant. DaVita's investment in the City of Chicago in the Proposed Clinic is just an element of its general investment in medically underserved areas.

2. Dialysis Services Need in Chicago

Currently, there is a State Board defined need for 5 dialysis stations in the City of Chicago, the only planning area in the State where the State Board calculates a need for stations. The Proposed Clinic will address this need. The minimum number of stations for a dialysis clinic in a metropolitan service area, like Chicago, is 8 stations.³ To provide the most efficient staffing model, DaVita uses a clinic model with a minimum of 12 stations in densely populated areas and, therefore, the Proposed Clinic will have 12 stations. Taking the most conservative approach (which relies on old data and would not adequately provide for the level of services needed in the area) approval of the Proposed Clinic would result in a near perfect balance between the State Board's stated need and the actual supply of stations.

The reality, however, is there is a need for at least 39 stations in HSA 6 and, more likely, this demand is greater. As shown in the table below, the State Board calculated patient census would be flat from 2015 to 2020; however, actual patient census increased from 2015 to 2017. Taking only into account this increased patient census, the revised 2020 calculated station need increases from 5 stations to 39 stations. Further, extrapolating this historical growth forward to 2020, the projected census grows to 5,186 patients. Applying the State Board's calculation to projected 2020 patient census, the revised station need increases to 89 stations.

HSA 6 Revised Need Calculation			
	Board Calculation (2015 Data)	Revised Calculation (2017 Data)	2020 Projected ⁸
Planning Area Population ⁴	2,713,100	2,713,100	2,713,100
In Station ESRD Patients ⁵	4,886	5,004	5,186

³ 77 Ill. Admin. Code §1110.230(g).

⁴ Illinois Dept. of Public Health, Office of Health Informatics, Illinois Center for Health Statistics, Illinois Health Facilities and Services Review Board, Population Projections, Illinois, Chicago and Illinois Counties by Age and Sex, July 1, 2010 to July 1, 2025 (2014).

⁵ Illinois Health Facilities and Services Review Board, 2017 ESRD Data - HSA Summaries.

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HSA 6 Revised Need Calculation			
	Board Calculation (2015 Data)	Revised Calculation (2017 Data)	2020 Projected ⁸
Area Use Rate ⁶	1.91	1.95	2.02
Planning Area Population - 2020 (Est)	2,562,700	2,562,700	2,562,700
Projected Patients - 2020	4,886	5,005	5,186
Statutory Adjustment ⁷	1.33	1.33	1.33
Patients Adjusted	6,498	6,657	6,898
Projected Treatments - 2020 ⁸	1,013,747	1,038,536	1,076,067
Existing Stations ⁹	1,348	1,348	1,348
Stations Needed - 2020 ¹⁰	1,353	1,387	1,437
Number of Stations Needed	5	39	89

3. Utilization Trends

As demonstrated on page 12 the State Board's report, average utilization of those clinics within 5 miles of the Proposed Clinic that have been operational for more than two years is 79% (just below the State Board's 80% utilization standard). Further only five of those clinics are operating below 80%. As shown in Attachment – 1, the four year compound annual growth rate ("CAGR") for these clinics averaged nearly 4%. Projecting each clinics 2022 utilization based on each clinic's CAGR, average utilization of these twelve clinics is projected to reach 92% by 2022 (the first full year the Proposed Clinic will be operational) with five clinics exceeding full capacity. Further, assuming Irving Park Dialysis, which is currently in ramp up, reaches its projected utilization of 93% by 2020 and Norwood Park's utilization remains flat,¹¹ average utilization of all of the clinics within the five mile geographic service area is projected to reach 88% by 2022. Including the Proposed Clinic, utilization of all clinics in the geographic service area is projected to reach 87% by 2022.

⁶ 77 Ill. Admin. Code §1100.630(d)(2).

⁷ 77 Ill. Admin. Code §1100.630(d)(4).

⁸ 77 Ill. Admin. Code §1100.630(d)(5).

⁹ Illinois Health Facilities and Services Review Board, Update to Inventory of Other Health Services (incl. ASTC, ESRD, Alternatives Models) (Mar. 11, 2019).

¹⁰ 77 Ill. Admin. Code §1100.630(d)(6).

¹¹ Norwood Park Dialysis, formerly known as Presence Resurrection Medical Center Dialysis, temporarily ceased operation from March 17, 2017 to September 26, 2017.



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When dialysis clinics are heavily utilized it is difficult for new dialysis patients to dialyze at their preferred dialysis clinic and on their preferred shift as existing patients are frequently unwilling or unable to change shifts to accommodate another patient. If a dialysis patient cannot dialyze at a preferred clinic or on a preferred shift, he or she may miss dialysis treatments, resulting in involuntary non-compliance. Skipping one or more dialysis sessions in a month has been associated with a 16% higher risk of hospitalization and 30% increased mortality risk compared to those who did not miss a dialysis session. These hospitalizations are one of the most costly elements of caring for ESRD patients.

Finally, as a matter of procedure, during the March 5, 2019 hearing, legal counsel went on record during consideration of the Proposed Clinic stating that the State Board members were compelled to consider the need figures in the rules set forth in the State Board staff report." Such an interpretation of the rules, however, is directly contrary to the Part 1130.660(a) rule which states: "The failure of a project to meet one or more of the applicable review criteria shall not prohibit the issuance of a permit." There are countless projects which have been approved over the years which deviate from the State Board's most recent need calculation. Further, in the January 2019 State Board meeting immediately prior to the March meeting, the State Board members had a meaningful dialogue with the Applicants acknowledging that the State Board data is not current and, therefore, may not be reflective of actual demand. We appreciate the State Board's staff consideration of our updated methodology which we believe more fairly reflects the demand for 2020 and better serves the State constituents residing in the geographic service area of the Proposed Clinic.

Thank you for your consideration of the additional information for Sauganash Dialysis.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne M. Cooper'.

Anne M. Cooper

Attachment

cc: Gaurav Bhattacharyya, DaVita Inc.

Facility	Ownership	HSA	Straight Line Distance	Number of Stations 12/31/2018	Number of Patients 12/31/18	Utilization % 12/31/18	Projected Patients 12/31/2022	Projected Utilization % 12/31/2022
Center for Renal Replacement		7	1.70	16	54	56.25%	48	49.80%
Fresenius Medical Care North Kilpatrick	Fresenius	6	1.71	28	143	85.12%	149	88.85%
Nephron Dialysis Ctr Swedish Covenant		6	1.96	16	96	100.00%	117	121.52%
Dialysis Ctr of America - (Rogers Park)	Fresenius	6	2.36	20	90	75.00%	98	81.33%
Big Oaks Dialysis	Davita	7	2.43	12	49	68.06%	80	111.16%
Fresenius Medical Care Northcenter	Fresenius	6	3.55	16	60	62.50%	49	51.37%
Fresenius Medical Care West Belmont	Fresenius	6	3.67	17	87	85.29%	92	90.49%
Neomedica Dialysis Ctrs - Evanston	Davita	7	3.86	20	102	85.00%	153	127.50%
Fresenius Medical Care of Lakeview	Fresenius	6	3.94	14	56	66.67%	56	66.67%
Logan Square Dialysis	Davita	6	4.08	28	138	82.14%	159	94.46%
Fresenius Medical Care Logan Square	Fresenius	6	4.23	14	71	84.52%	87	104.02%
RCG - Uptown	Fresenius	6	4.46	14	78	92.86%	95	113.17%
Total (Clinics Operational > 2 Years)				215	1,024	79.38%	1,183	91.71%
Irving Park Dialysis ¹	Davita	6	2.12	12	15	20.83%	67	93.06%
Norwood Park ²	Presence	6	4.24	14	25	29.76%	21	25.00%
Sauganash Dialysis	Davita		0.00	12	0	0.00%	51	70.83%
Total				253	1,064	67.09%	1,322	87.10%