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Transcript of Public Hearing

Date: February 7, 2020
Case: Project #19-044 / Dialysis Care Center Rockford, LLC

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#19-044 Public Hearing Transcript

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

HEALTH FACILITIES AND SERVICES REVIEW BOARD

BEFORE HEARING OFFICER COURTNEY AVERY

IN RE:	:	
Public Hearing and	:	
Opportunity for Public	:	
Testimony and Written	:	
Comments.	:	Project No.19-044
	:	
	:	

HEARING in accordance with requirements of the Illinois Health Facilities Planning Act

Rockton Centre Branch Library

3112 North Rockton Avenue

Rockford, Illinois 61103

Friday, February 7, 2020

11:00 a.m.

Job No. 281722

Reported by: Camille Connell, RPR, CSR

PRESENT:

ILLINOIS HEALTH FACILITIES AND SERVICES
REVIEW BOARD, by
COURTNEY AVERY, Public Hearing Officer
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761
(217) 782-3516

P R O C E E D I N G S

HEARING OFFICER AVERY: Good morning. Thank you for participating in today's public hearing for Dialysis Care Center, Rockford. I am Courtney Avery, Administrator for the Illinois Health Facilities and Services Review Board and today's hearing officer. On behalf of HFSRB, thank you for attending.

In accordance with the requirements of the Illinois Health Facilities Planning Act and 77 Illinois Administrative Code Part 1130, Notice is given of a Public Hearing on an Application For Permit for a proposed construction and/or modification project (Project Number 19-044) from the Dialysis Care Center Rockford, LLC, Dialysis Care Center Holdings Center, LLC, and Meridian Investment Partners, LLC. This project is for the establishment of an 8-station ESRD facility in Rockford, Illinois. The estimated project cost is $1,053,159.

The Application is considered a Type A Modification and was modified on January 6, 2020. The modification consists of the addition of a co-applicant (Meridian Investment Partners, LLC)

to the Application for Permit.

The Public Hearing is to be held by the Illinois Health Facilities and Services Review Board pursuant to the Illinois Health Facilities Planning Act. The Hearing is open to the public and will afford an opportunity for parties at interest to present written and/or verbal comment relevant to the project. All allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on paper, size 8-1/2" by 11".

The Public Hearing will be held on Friday, February 7, 2020, at the Rockford Public Library, Rockton Centre-Program Room, 3112 North Rockton Avenue, Rockford, Illinois, from 11:00 a.m. to 1:00 p.m.

Please note that in order to ensure that the Health Facilities and Services Review Board's Public Hearings protect the privacy and maintain the confidentiality of an individual's health information, covered entities, as defined by the Health Insurance Portability and Accountability Act of 1996, such as hospital providers, health

plans, and health care clearinghouses, submitting oral or written testimony that disclose protected health information of individuals shall have a valid written authorization from that individual. The authorization shall allow the covered entity to share the individual's protected health information at this hearing.

If you have not yet signed in, please see me. I will be sitting over there. Those of you who have prepared text for your testimony, please note that you may submit the testimony, which will be entered into today's record and made available for all HFSRB members prior to the February 25th Board meeting.

I ask that you please limit your testimony to three minutes. But we don't have that many people, so I will just say five. Participants will be called in numerical order as assigned on your sign-in sheets. As you approach the speakers' podium, please provide me with your speaker sign-in sheet. Prior to beginning your remarks, clearly state and spell your full name for the court reporter, and if you do have a written copy of your remarks, we would like a copy

of that also.

Are there any questions regarding the proceedings for today?

Hearing none, we will begin with a representative from Dialysis Care Center, which is Number 1. And again, thank you.

MR. SALAKO: My name is Dr. Babajide Salako, B-a-b-a-j-i-d-e, S-a-l-a-k-o. I am the CEO of Dialysis Care Center. We are proposing to build an eight-station dialysis clinic within the Township of Rockford, Illinois. At today's hearing, I will -- it's a two-step -- my response is a two-step response. I am going to address the opposition to this site by DaVita, which is another major dialysis provider, and then I will also address or state why Dialysis Care Center feels a need to build a dialysis clinic in Rockford. I will lead a team of providers from my organization amongst the patients that are currently or have previously dialyzed with my organization.

Firstly, in a recent letter by DaVita to the State Board, opposition was raised as to why we should be building a dialysis clinic in

Rockford. The basis of their position was threefold: One, that we hurried to submit an application; two, that the ownership of the site to which we were going to own, build the clinic was in doubt; and three, the variances to the cost of the project. I can clearly state that all three oppositions -- all three objections raised by DaVita in their letter can frankly be summed up as basely false and frankly malicious.

To ascertain that we hurried an application, there is no basis for that. We submitted application in a timely manner, and when we deemed fit. With the application of real estate, anyone knows that a real estate deal is not done until it's completely finalized. The initial site we identified, we will -- we were unable to secure that site on a permanent basis, and so we got a subsequent site which has been secured by our preferred provider, which has links to our Meridian Properties, which has certain links to our organization and has built several properties for DCC in the State of Illinois and outside Illinois as well.

Finally, with an issue of the variances in

price for a project that's going to cost a million dollars, a variance in price of 8 percent is not a significant amount of money that is going to greatly influence the project in its essence or the quality of the dialysis clinic we are going to build.

Now, you will ask, why should that be of any concern to DaVita? Let me state to the purpose of the CON Board with respect to SRB is to ensure that there is access to care for dialysis patients. What DaVita is trying to do here is use the CON Board as a tool to prevent competitiveness in the dialysis industry. That, frankly, is an unethical business practice. The CON Board is there to determine whether providers meet the necessary stipulated guidelines to provide safe dialysis care within the community. They do that by, obviously, looking at the availability of the chairs and whether that company can build a sustainable dialysis clinic within that community that ensures that patients in that community will have access to care.

As everybody knows, DCC has built quite a few dialysis clinics in the State of Illinois, and

are operating them, and have been operating them, quite successfully for the past few years.

Coming back to Rockford, it's imperative to note that DaVita currently operates, I think, about nine dialysis clinics and they dialyze over 500 patients in Rockford. DaVita is the only dialysis provider in Rockford. What DaVita is trying to do is prevent another provider from coming to the Rockford market using the CON Board through the back door to prevent competition is, as I said earlier, is frankly unethical. But why does DCC want to come to several of my colleagues and some of our patients all highlight this in their own testimony? Because we believe that the dialysis patients in Rockford deserve an alternative, deserve an alternative provider for their care. They should be able to say, just like they have treatment options, they should have provider options. If, for whatever reason, you as a patient choose not or will not or desire not to dialyze any DaVita clinic within your community, you should be able to have another provider of a dialysis services to you.

Another reason, obviously, is we have

provided home-based therapy within the Rockford home market the past four years. We have a very robust home program, and several of our patients, as you will hear later today, after -- if and when they do require to go to in-center dialysis care, how they express the desire to have to continuity of their care with our provider. They would like for their physicians, their nurses, their social services workers, their dieticians, and all their caregivers who have been looking after them for years to continue to provide their care. They are happy with the familiarity. If DCC is unable to have a dialysis clinic in Rockford, these patients would lose the continuity of their care they so desire. We have examples of several of our patients who have, in recent years, driven all the way to Elgin because that is where our nearest in-center is to get that dialysis care because they choose not to get their dialysis care in Rockford. It is patient choice, and I think in all, we want to honor patient's choice. I will wrap up by saying that I would like the Board to greatly consider our petition for a dialysis clinic and disregard DaVita as baseless, useless,

malicious, and nonsensical opposition by DaVita to our application.

Thank you very much, everybody.

HEARING OFFICER AVERY: Number 2.

MS. COOPER: Good morning. My name is Anne Cooper, and I'm CON Counsel for DaVita. I am here today to not only highlight critical flaws with DCC Rockford's application for a certificate of need permit to the Health Facilities and Services Review Board members, but to describe the way Dialysis Care Center has manipulated this Board's rules with indifference to the CON permit application requirements as well as to describe the carelessness and deception in its strategy to jump the line and gain advantage over my client, which has consistently followed the rules.

Immediately after new in-center dialysis supply and demand figures were published in September 2019, DCC Rockford filed a new facility application for a location in Rockford for which it could not gain site control due to the fact that the property had been leased to an unrelated third party. Though the real estate site control documentation submitted with the application was

not signed by the property owner, the fact papers that appeared to be site control documentation were included in the application resulted in the application being deemed complete and being slated for the upcoming hearing later this month. We knew the property wasn't available to DCC because DaVita's real estate broker advised DaVita the property had already been leased to another tenant by the property owner. It is hard to see how DCC should be given the benefit of the doubt that this filing was an honest mistake. DCC has been through this process many times and knows the importance of documenting site control.

DCC Rockford waited nearly three months to update site information, though when it filed this material change, it again did not provide the required information. And still, nearly two months since it made a site change, the property owner of this new site still has not expressed its intent to sell or lease the property to DCC or to its affiliate, Meridian Investment Partners. For the record, the properties owner of 1007 West Riverside is JM Commercial Properties, LLC.

What DCC has submitted is a letter between

Meridian, which does not own 1007 West Riverside, and DCC Rockford. Not only does this filing not demonstrate site control, but it is also another indicator that DCC is willing to continue to deceive this Board by submitting whatever it thinks might work to pull the wool over everyone's eyes while it works on addressing something that should have been resolved before a CON permit application is filed. It is possible that Meridian will buy this property and lease it to DCC, but we always counsel our clients that these arrangements with property owners need to be resolved before they can file their application.

Putting aside for a moment the lack of documentation of site control and assuming this property is under contract by DCC or Meridian, the other documentation relating to this site appears to be contrived. Specifically, despite the fact the initial site for the proposed DCC Rockford clinic involved an existing building with its own unique characteristics and tenant improvement requirement, DCC asserts that this substitute location in another existing building is the same cost and square footage and fair market value.

Further, the lease terms are supposedly identical despite the fact that the intended landlord is an affiliate, and the previous intended landlord was an unaffiliated third party. DCC purports that this building has identical parameters, exact square footage, lease term, base rate and annual rent escalation. In fact, the letter for the 1007 West Riverside Boulevard site mirrors letter of intent for the initial site. This seems highly suspect, as the initial site was constructed in 2012 while the the second side was constructed in 1973 and was formerly a furniture and appliance store. It seems doubtful Meridian could modernize the space and create a turnkey dialysis clinic with the same budget as the initial site.

If Meridian is the developer of the site as a related party co-applicant, Meridian's costs to renovate the site should be included in the project costs. Further, as the person financially responsible for the tenant improvements, financial statements, or other documentation should be submitted demonstrating Meridian has the financial resources to complete the tenant improvements. Importantly, while DCC Rockford states the project

will be funded entirely with cash and cash equivalents, thereby qualifying for the financial viability waiver (see Page 172 of the application), they failed to provide financial statements in the application or in any of their supplemental materials demonstrating they have sufficient cash to fund the project. What we expect you will hear from DCC is that they have a uniform clinic design that they implement in all their sites. DaVita too has uniformity in its clinic layout, but that does not at all mean that they don't have to adjust that layout and associated square footage and cost based on things like co-location of a clinic within another building (as is the apparent case with this updated location) versus operation of a freestanding clinic, as would have been the case with the initially identified site.

When filing its applications with this Board, DaVita is cognizant of the filing requirements and ensures its applications comply with the Board's requirements prior to filing.

DCC Rockford failed to follow your rules and has continued to demonstrate disregard for the

certificate of need process. It appears DCC Rockford prematurely filed its incomplete application to ensure its project would be considered prior to any competitor projects in the area. It should not be rewarded for its flagrant disregard of this Board's filing requirements. The DCC Rockford application should not be considered until all the flaws have been adequately addressed. Thank you for your time and attention.

HEARING OFFICER AVERY: Number 3.

MS. ZEPEDA: Good afternoon. My name is Alejandra. I'm a registered nurse, and the home program clinical manager. I have worked closely to Dr. Mahmood and Dr. Manda, and in the last three years I have been directly involved for the Project patient satisfaction and transitioning patients through the home study. When a patient comes to our clinic for the first time, we the nursing staff are the first person the patient sees and encounters. After the doctors, the nurses are the first contact to the patients -- the first ones the patients contact when the patients have any questions, needs, or any

concerns. The nursing staff is the one that does the patient supply ordering. We see the patients through many stages and transitions. We will -- we train them for their home therapies, and they become attached to us. By allowing the patient the option to transfer into a program with monitoring and built by the same culture and values, this will be -- this type of communications, the patient will experience with less emotional trauma and this transition from home to in-center will be much easier for the patient. Being given the option of an in-center will allow these patients to have more choice of their provider once they are no longer able to perform dialysis in their home. Along with being able to stay with their provider, the patient will stay with their whole care team -- nurses, techs, dieticians, and social workers, and just imagine from the start of the dialysis, you work with the same group of people and now you have to switch over to -- switch to a different clinic with different people, with a different type of communications.

We at Dialysis Care Center help see our

patients through many stages and transitions while we train them for the home. By allowing the patient this option to transfer into the program monitored and built on these same culture, patients will experience less stress when coming into an in-center. This continuity of care improves patient satisfaction and outcome with the benefits the whole communities. Thank you guys.

HEARING OFFICER AVERY: Your name?

MS. ZEPEDA: It's A-l-e-j-a-n-d-r-a, Z-e-p-e-d-a.

HEARING OFFICER AVERY: Number 4.

MS. HIKE: Good morning. My name is Lynanne Hike, L-y-n-a-n-n-e, H-i-k-e. I am the Regional Operations Director for DaVita in the Rockford region.

DaVita opposes Dialysis Care Center's proposal to establish an eight-station dialysis facility in Rockford. Note that the information I provide today about DaVita serves to rebut claims made by DCC, contrasting its business from that of DaVita.

Currently, there is a need for five dialysis stations in HSA 1, where both the DCC

Rockford and our Forest City dialysis facility is located. While we agree dialysis stations are needed in Rockford, we believe the most cost effective option is to expand an existing clinic in Rockford rather than establish a new dialysis center.

Forest City, which has an application before the Board later this month, is already plumbed for the four additional stations requested. The expansion of Forest City will only cost $100,000, compared to DCC's much higher cost proposal.

The proposed location of DCC Rockford is less than five miles from our Forest City dialysis clinic. Both clinics will serve the people residing in the immediate area. In fact, more pre-ESRD patients identified in the DCC Rockford referral letter reside within five minutes of Forest City Dialysis than within five miles of the proposed DCC Rockford Facility.

DCC claims, as a physician-owned dialysis provider, its physicians have "total independence to make crucial clinical decisions to maximize positive patient outcomes, and that quality of

care is first over profit." Recognize that DCC is a for-profit business corporation, not a charity, and DaVita is the leader in its commitment to clinical quality and innovation, and has been for over 20 years. It is committed to patient-centric care models, implementing the latest technologies and developing integrated care models.

Further, DaVita, closely collaborates with its physician partners. Whether it is through a joint venture, like Forest City, or serving as medical directors in our clinics, Rockford Nephrology Associates is a valued partner supporting our Rockford area clinics.

To suggest DaVita does not respect each physician's independent medical judgment or places profits above quality is patently false. Each dialysis clinic has medical director, who is a community nephrologist. The medical director participates in governance, administration, and clinical oversight, which includes, among other things, ensuring the qualifications and training of the clinical staff and that adequate staffing and resources are available for patient care; oversight of each clinic's quality assurance and

performance improvement program; and development and implementation of clinic policies and procedures, and ensuring staff adherence to the policies and procedures.

As for DaVita's quality, DaVita receives top marks remarks nationally as a quality provider. This is according to DaVita's rankings under the CMS' ESRD Quality Incentive Program, also known as QIP.

DaVita's CMS Star Ratings for the past five years are outstanding despite its specialization in managing high-risk patients.

DaVita's has a comprehensive care management program, Health Solutions, providing house calls, post-acute care, and 24/7 care coordination for our sickest patients. In the first year, the program resulted in fewer emergency room visits, less hospitalizations and readmissions, reduced care costs, and a much lower length of stay in skilled care.

Finally, I would like to discuss DaVita's commitment to home dialysis. DaVita is the largest provider of home dialysis in the country. DaVita teammates work hard to educate patients to

elect home dialysis, and we constantly invest in technology to support the patients at home. Our program, Home Dialysis Connect, includes: Home remote patient monitoring using Bluetooth technology to transmit patient vitals to help clinicians get ahead of destabilizing events. With our telehealth platform, we conduct online appointments with our patients in the comfort of their own homes. Our mobile app also support video visits, customized education, reminders, secure texting and image sharing, and this allows consistent and immediate communications with our patients' care teams.

We also use predictive analytics to help avoid costly hospitalizations and allow patients to stay on home dialysis longer. We have recently implemented a training model for nurses to become comprehensive health managers for patients with typical co-morbid conditions like diabetes, cardiovascular disease and hypertension, improving our patients chances of continuing dialysis at home.

These innovations are shifting more care to the home setting, and just over the last year

our home program grew at four times the rate of our outpatient program. Patients in the Rockford area have access to high quality dialysis care. A new clinic is not warranted at this time.

Thank you for your time and attention.

HEARING OFFICER AVERY: This is Number 5.

DR. MAHMOOD: My name is Dr. T-a-l-a-l, M-a-h-m-o-o-d. I am a physician nephrologist with Kidney Care Center, and I'm here to support the DCC clinic in Rockford here. I will talk about two perspectives: One from patient, and one from physician.

As we all know, DaVita is the sole provider of in-center dialysis in the Rockford area, and they have a monopoly here. Remember, they can provide whatever kind of care to the patients and patients have to tolerate that care as they do not have any other choice or options.

The dissatisfaction in the care of patients can lead to complaint issues, which can cause problems with the overall well-being of the patient.

The closest dialysis facility other than DaVita is about 40 to 50 miles from Rockford, and

there have been instances where a patient has to travel that far to obtain the treatment because they were not satisfied with the care provided by DaVita. Imagine, ESRD is already a life-changing disease, and if you have to travel that far to get life-sustaining treatment, it is a burden to the patient and their families.

Therefore, I want the patients in the Rockford area to have that option, have a choice of doing dialysis, in-center dialysis in another facility other than UWW.

Also, the care that is provided to the patient improves when there is competition around. So this clinic will provide that competition. From the physician aspects, as a physician with Kidney Care Center, I do not have any voice in DaVita. I do not have any insight into their operations, their, you know, staffing, etc. So I would like to work in a facility which is owned and managed by the physicians so that I can be a part of the operations, quality, staffing in order to provide the best possible care to the patients in the Rockford area. Thank you.

HEARING OFFICER AVERY: Number 6, please.

MS. TREJO: Hi, good morning. My name is Jacqueline, J-a-c-q-u-e-l-i-n-e, T-r-e-j-o, and I am a patient of Dr. Mahmood's, and he has been my doctor since 2012, and I just feel like this is going to help me with my care, because I do home dialysis, which is my husband thankfully was willing to be trained, and he was trained for about five weeks, and we do it at home. But when this was brought to my attention, I felt that this was a great idea because sometimes I feel if my husband were not able to do dialysis, I would have to travel which I [inaudible] because I don't want to go anywhere but the Kidney Clinic, because that has been -- it's my second home. I know everyone there. They are amazing. Every time I have any problems, they are there 24/7, and the care that I have there, I don't feel I will have it in DaVita. I've never been treated by them, so I really can't say, but I've just been really comfortable with the kidney clinic, and also, it's like my second home. And thanks to them, my quality of life has been great, you know, I've been able to be a mom and a wife and I can do my daily life, you know, I just feel like without that clinic, that opens a

little bit for my husband, because sometimes, you know, it's hard. It's hard for him to take care of me, take care of home, go to work, and then do dialysis for four hours.

And the other thing is, if he gets sick -- that has not happened thankfully, but I would just -- I'm really thankful for the care that I have received here, and opening a in-clinic, I think, would be an amazing opportunity for all the patients and me. Thank you.

HEARING OFFICER AVERY: Number 7.

MS. SMITH: My name is Melissa Smith, and I'm an area manager and home therapy nurse for Dialysis Care Center. I am here as an advocate for the current and future patients and families that will experience the benefits of the proposed DCC in-center facility. As our company continues to grow, we have seen an increased need to be able to provide transitional care to both incoming and current patients, and this discussion speaks directly of both new patients that are going transfer to the home program who need short-term hemodialysis while they dialyze, and current home patients that need hemodialysis temporarily after

surgeries or other illnesses that require a break from [inaudible].

The goal for all of these patients is home therapy. Although our company's foundation is built on home therapy, as our patient population grows and their needs change, it has become a growing concern that we were unable to provide a transition, which has had a direct impact on the care the patients and their families deserve.

Unfortunately, without the ability to have a DCC in-center for our transitional patients to utilize, we were unable to provide them with the quality of the care that they are accustomed to in our home programs, and they are many times lost to other providers during this time as a result of not having the opportunity to sit and talk face-to-face with their home program team and have their questions or fears resolved. I have personally worked with DCC in the transitional care on the other unit that I oversee. I have seen an improvement in patients' understanding of home therapy and a decreased level of attrition during the transitional process. These improvements that I have witnessed are a direct

result of our care team being able to come into the DCC unit to sit down and have a personal -- sit face-to-face, and answer their questions and calm their fears. We cannot enter into units that are not owned by DCC to have these one-on-one interactions that were on our own in the past. It is unfortunate that only one company is given the opportunity to provide this valuable to the Rockford community. The United States is placing such a focus on the future of dialysis and the positive impact that home therapy has on patients. By allowing DCC the opportunity to provide these transitional care patients a hemodialysis option within their current provider, we will be improving the continuity of care and the quality of the care, which ultimately affects most the important people in this discussion -- the patients.

Thank you for providing the opportunity to advocate for patients and their families.

HEARING OFFICER AVERY: Number 8, please.

MR. MANDA: Hi, good morning everybody. I am Krishna, K-r-i-s-h-n-a, Manda, M-a-n-d-a. I am one of the nephrologists working with the Dialysis

Care Center, and I just briefly want to say something in support of DCC's in-center dialysis unit.

Right now, we kind of strive to provide excellent quality of the care for our patients. Right now, we are only able to do that in a clinical setting with our Kidney Care Center and as an inpatient in the hospital. We do have a home dialysis program where we try and provide, again, excellent quality of the care. But not all patients can do home dialysis, and when they transition, DaVita is the only dialysis unit available in town. By having an in-center Dialysis Care Center unit, we can try and provide the same quality of the care to the patients when they are in-center.

Our goal is to provide kind of safe, effective, efficient, timely, and patient-centered care, which I think will be possible if we were actually involved in dialysis units rather than be consulting physicians, like we are at this time with DaVita. Thank you for your time.

HEARING OFFICER AVERY: Number 9.

MS. SEGAL: Hi, my name is Samantha Segal

(phonetic). I work for DCC. I have also worked for DaVita. I have worked with Dr. Manda and Dr. Mahmood for over five years. In the last year, I have worked with them in the clinic to help build the census and learn more about patient management and how much patient care should be involved in going forward in this process. I have noticed that with patient-centered care, the patients have a better outlook where ESRD is concerned. They have also been more compliant and more willing to ask questions and want check check with opening a clinic where they can go to the same area with the same people, the same staff, the same doctors. It's comfortable. It's like a family. So, in turn, the patients are happier and their treatments go better. That's it.

HEARING OFFICER AVERY: Number 10. I'll take your sheet.

MS. VIGIL: Hi.

HEARING OFFICER AVERY: Excuse me -- state your name, and spell it for the court reporter.

MS. VIGIL: Blanca, so B-l-a-n-c-a, V-i-g-i-l. So, I don't really know what to say. I didn't write anything. But I am very close to

going into hemodialysis, and one of the things I was very scared of was having to go to DaVita, because I don't want to start from zero, because my nurses are people who I really trust with my treatment. They already know everything I have been through, and new nurses are very hard to trust because they don't know you in a personal level the way that they do. And yeah, Dr. Mahmood, it's -- he's, like, the best doctor I have had, and I don't want to lose that.

So -- I'm sorry -- so if there is a chance for them to open up their own clinic, it would be very helpful. Sorry. Thank you.

HEARING OFFICER AVERY: Number 11.

MS. HARRIS: My name is Tracy Harris, T-r-a-c-y, H-a-r-r-i-s. Good morning, everybody. Good morning. Like I just said, my name is Tracy Harris. I have four children and a husband, a very busy household, and I moved from Tennessee to Rockford a few months ago. Unlike some of the patients here, I was a patient at DaVita, and I didn't care for it -- I really did not, because DaVita treats all of us like it's a cookie-cutter operation, and I don't appreciate that. I never

had the opportunity -- DaVita never presented me with the opportunity to go do home dialysis, but when I got here, the opportunity was presented to me, and when I went to home dialysis, it's -- I loved it. I had my life back, you know what I'm saying, and I work closely with the doctors and nurses, and I love it. It's the best thing that ever happened to me. The dialysis was the worst thing, but the best thing that ever happened to me was my dialysis -- and my nurses and my doctors that I work closely with at DCC. And I loved it.

And what I am ignorant about, what I want to say is, I been sitting here listening to everything that's represented here today about DaVita and DCC and everything, and DaVita has monopolized the market everywhere I been. I been to several different states, and they have clinics everywhere, and in a nutshell, DaVita, mind your own business.

HEARING OFFICER AVERY: Thank you, ma'am. Number 12.

MR. AZAM: Good morning, everyone. My name is Salman, S-a-l-m-a-n, last name A-z-a-m, I'm the general counsel for Dialysis Care Center.

And I'm happy to be here today in support for DCC. From DaVita's side, you heard from their lawyer and their director of operations, both very business-minded individuals. You see where business falls here.

Who did you hear from, from DCC? Yes, you heard from our CEO, but you also heard from our physicians. You have also heard from our patients. So, this shows you where we categorize patient care and health care. Yes, we are both for-profit, but we are going about the care of patients very, very differently, where patients come first.

As DCC's attorney, I will counter what their attorney had said. Their attorney spoke very eloquently, but eloquently misrepresented facts. They twisted information to color the argument in an effort to keep DCC or any new provider away from the dialysis market in Rockford.

History has always shown that every time we let a big company corner the market, that only the consumers suffer. In this situation, if we continue to let DaVita corner the market, the only

people that will benefit is DaVita. The patients will suffer, the quality of the services will go down. This is what we have seen every time when we have a healthy, competitive market, prices go down, services go up, quality of the care goes up. The winners are the patients.

So what did DaVita's attorney say? They made strong accusations without any substantive fact or correlation thereof. We heard DaVita will have you say that we have manipulated the Board's rules. No. We wanted to introduce a new choice, a new alternative for patients in Rockford. They said, Oh, this property, the first property that we assigned, was not available. It was not signed by the property owner. We did not have a lease. We had a letter of intent. We don't have leases because the CON process takes too long. A letter of intent is absolutely appropriate in this situation. How could the property never have been involved? How could we have furthered the process when we had the letter of intent? The letter of intent is proof positive that the landlord intended to deal with us, and we relied on this from the landlord, okay, that's what happened.

It's not a unique situation from DCC. I can guarantee you with the several thousands of clinics that DaVita has worldwide, they have deals that have fallen through.

We are not saying that this is a misrepresentation that they tried to defraud the process and jump the line. It's simply something that happens in business. But DCC remains confident and its commitment-renewed and found another place that would work so that we could continue our commitment to our patients that we have cultivated here in Rockford. Okay.

When it comes to 1000 Riverside, the property that we did submit, they said that we have no proof of owning it. We have a purchase contract, okay, we have a purchase contract. We have financials. Financials are confidential. We submitted them to the Board, you know, and as the process moves forward, you will see that the Board knows they have it. And as far as the purchase contract, it's there. You can definitely rely on a purchase contract, and they say that it's possible that we do have one. Actually, we do actually have one. It's not possible -- we do

have a purchase contract, and we intend to move forward with that. But these maligning of facts is literally just to corner the market. Big business as DaVita [inaudible]. This is the case everywhere.

Everywhere I go, DaVita is all over the place, which is fine, but we don't want them to do the same thing in Rockford that they have done other places. We don't want them to cover the market. We don't want them to have the abilities to curl ark and keep competition out.

You know, DCC offers a boutique as a physician-owned practice. So, yes, we are for profit, but we care about our patients. We care about our patients. When we had a patient here talk about it, you saw the emotion, because they spoke about how they like their physician and they want to keep their physician. The patients have spoken here today. We can hear from business owners all up and down, but where it counts here we are here the CON Board is here for the betterment of the patients here in Illinois, and the patients of Rockford have spoken here today, and you know, when you look around, Rockford has

three major hospitals. I was driving down and I came to Rockford it said, All people are welcome here, right? So, when it comes to dialysis too all people should be welcome to get the care, and it should be the care that the patients want, okay, not be forced to deal with only one provider because that's the only game in town.

DaVita has over a hundred chairs. I don't see one patient here saying, I love the situation with DaVita. I am sure there are many, many positively happy patients from DaVita, but here you have heard from three patients -- three such patients, which is a subset of many others that are representing that we want a choice. We want something different, and who are we to keep that choice away from them? The director of operations came here and said expanding an existing clinic is cheaper. Cheaper for whom, right? Cheaper for them. But we don't want them to make more money. We don't want to patients to suffer because it's cheaper to for DaVita to expand a clinic. We want the community of Rockford to benefit. We want the patients to benefit. We want them to have a choice; we want them to have a choice to keep

their physician. We want them to have their choice to pick where they want their care done, and where they're happy, and where they're satisfied, okay.

A vote for DCC is a vote for pro giving patients choices. It is a vote for for healthy competition and for a better patient and business environment in Rockford. Thank you.

HEARING OFFICER AVERY: Are there other individuals who would like the opportunity to speak that have not had the chance to do so?

Okay. Hearing none, we are here -- I am here and the court reporter is here until 1:00, which is when the hearing will conclude. But for those of you who would like to leave prior to 1:00, I am going to give you some dates that you should take notice of.

Again, this is project is tentatively scheduled for consideration by the Board at its February 25th meeting. The meeting will be held at the Bolingbrook Golf Club, located at 2001 Rodeo Drive, Bolingbrook, Illinois, and for anyone who is wondering, this is a City of Bolingbrook-owned building, so you shouldn't have

any issues accessing it. Please refer to the website hfsrb.il.gov for more details and possible agenda changes.

Also, if you have written comments regarding this application, those comments must be received by 9:00 a.m. on Wednesday, February 5th, and they have to be mailed in to our Springfield office, which is the Illinois Health Facilities and Services Review Board, Attention: Courtney Avery, Administrator, 525 West Jefferson Street, Second Floor, Springfield, Illinois, 62761.

In addition to that, the State Board Staff Report, which will be posted online at the website on Tuesday, February 11th, and written responses to the State Board Staff Report must be received by 9:00 a.m. on Tuesday, February 18th.

And all of this information is included on our website, but if you have any questions you can always give us a call. And we will just fake res until anyone else arrives, and at 1:00, we will adjourn. Thank you.

Okay. Seeing that there are none to testify on Dialysis Care Center Project Number 19-044, I would adjourn this public hearing.

Thank you. Adjourned. Thank you.

(The hearing was adjourned at 12:54 p.m.)

CERTIFICATE OF SHORTHAND REPORTER

I, Camille S. Connell, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 12th day of February, 2020.



My commission expires:

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