



Fresenius Medical Care

RECEIVED

NOV 25 2009

HEALTH FACILITIES &
SERVICES REVIEW BOARD

November 24, 2009

Mr. George Roate
Illinois Health Facilities & Services Review Board
525 West Jefferson, 2nd Floor
Springfield, IL 62761

Re: Fresenius Medical Care West Batavia CON Application

Dear George:

Because of a duplication of the name "Batavia" within our company, we will have to change the name of the proposed dialysis center for which I have already submitted an application. The revised name will be Fresenius Medical Care West Batavia. This application was just recently submitted and has not yet been deemed complete. Enclosed are substitute pages for the original application as well as for the copy. There have been no other changes to the project and this is a name change only. I apologize for the inconvenience.

Sincerely,

Lori Wright
Senior CON Specialist

Phone 708-498-9121

cc: Clare Ranalli

Enclosure

Fresenius Medical Services ♦ Dialysis Services

One Westbrook Corporate Center Suite 1000 Westchester, IL 60154 708-562-0371 Fax: 708-498-9283

Original 09-067

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
APPLICATION FOR PERMIT **RECEIVED**

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION NOV 25 2009

This Section must be completed for all projects.

HEALTH FACILITIES &
SERVICES REVIEW BOARD

Facility/Project Identification

Facility Name: <i>Fresenius Medical Care West Batavia</i>			
Street Address: <i>Southeast corner of Fabyan Parkway & Branson Drive</i>			
City and Zip Code: <i>Batavia, IL</i>			
County: <i>Kane</i>	Health Service Area	<i>8</i>	Health Planning Area:

Applicant Identification

[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name: <i>Fresenius Medical Care Batavia, LLC d/b/a Fresenius Medical Care Batavia</i>	
Address: <i>920 Winter Street, Waltham, MA 02451</i>	
Name of Registered Agent: <i>CT Systems</i>	
Name of Chief Executive Officer: <i>Mats Wahlstrom</i>	
CEO Address: <i>920 Winter Street, Waltham, MA 02541</i>	
Telephone Number: <i>781-669-9000</i>	

APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Type of Ownership

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership
<input type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental
<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship
	<input type="checkbox"/> Other

- o Corporations and limited liability companies must provide an Illinois certificate of good standing.
- o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

Primary Contact

[Person to receive all correspondence or inquiries during the review period]

Name: <i>Lori Wright</i>
Title: <i>Senior CON Specialist</i>
Company Name: <i>Fresenius Medical Care North America</i>
Address: <i>One Westbrook Corporate Center, Tower One, Suite 1000, Westchester, IL 60154</i>
Telephone Number: <i>708-498-9121</i>
E-mail Address: <i>lori.wright@fmc-na.com</i>
Fax Number: <i>708-498-9334</i>

Additional Contact

[Person who is also authorized to discuss the application for permit]

Name: <i>Coleen Muldoon</i>
Title: <i>Regional Vice President</i>
Company Name: <i>Fresenius Medical Care North America</i>
Address: <i>One Westbrook Corporate Center, Tower One, Suite 1000, Westchester, IL 60154</i>
Telephone Number: <i>708-498-9118</i>
E-mail Address: <i>coleen.muldoon@fmc-na.com</i>
Fax Number: <i>708-498-9283</i>

Post Permit Contact

[Person to receive all correspondence subsequent to permit issuance]

Name: <i>Lori Wright</i>
Title: <i>Senior CON Specialist</i>
Company Name: <i>Fresenius Medical Care North America</i>
Address: <i>One Westbrook Corporate Center, Tower One, Suite 1000, Westchester, IL 60154</i>
Telephone Number: <i>708-498-9121</i>
E-mail Address: <i>lori.wright@fmc-na.com</i>
Fax Number: <i>708-498-9334</i>

Site Ownership

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: <i>DBMC Associates, LLC</i>
Address of Site Owner: <i>720 N. Franklin Street, #300, Chicago, IL 60654</i>
Street Address or Legal Description of Site: <i>Southeast corner of Fabyan Parkway & Branson Drive, Batavia, IL 60510 (approximately 2550 West Fabyan Parkway in Campbell Subdivision)</i>

* APPEND DOCUMENTATION AS **ATTACHMENT-2**, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Operating Identity/Licensee

[Provide this information for each applicable facility, and insert after this page.]

Exact Legal Name: <i>Fresenius Medical Care Batavia, LLC d/b/a Fresenius Medical Care West Batavia</i>
Address: <i>920 Winter Street, Waltham, MA 02541</i>
<input type="checkbox"/> Non-profit Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> For-profit Corporation <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
<ul style="list-style-type: none"> o Corporations and limited liability companies must provide an Illinois certificate of good standing. o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

Organizational Relationships

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person who is related (as defined in Part 1130.140). If the related person is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.

APPEND DOCUMENTATION AS **ATTACHMENT-3**, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Flood Plain Requirements[Refer to application instructions.] **NOT APPLICABLE – PROJECT IS NOT NEW CONSTRUCTION**

<p>Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at www.FEMA.gov or www.illinoisfloodmaps.org. This map must be in a readable format. In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 (http://www.idph.state.il.us/about/hfpb.htm).</p>

APPEND DOCUMENTATION AS **ATTACHMENT 4**, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

APPEND DOCUMENTATION AS ATTACHMENT-6, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

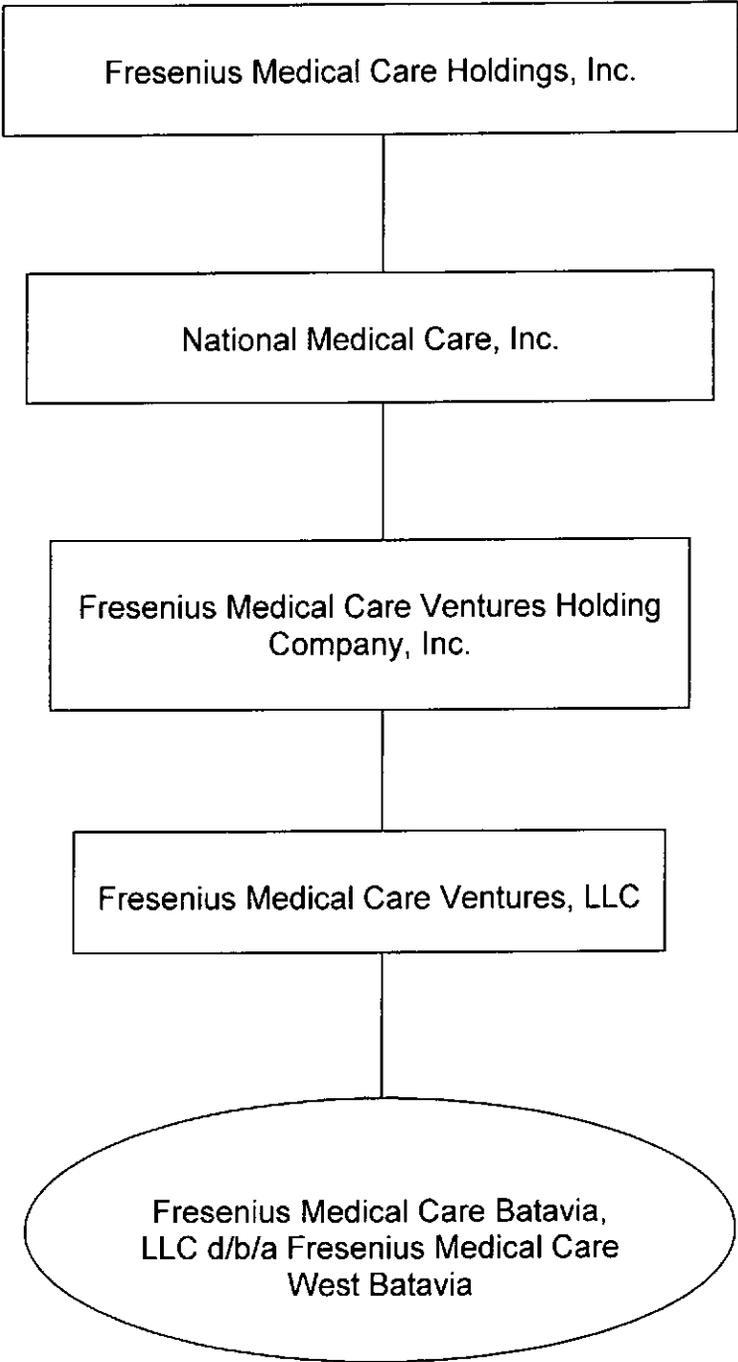
3. Narrative Description

Provide in the space below, a brief narrative description of the project. Explain **WHAT** is to be done in **State Board defined terms**, **NOT WHY** it is being done. If the project site does NOT have a street address, include a legal description of the site. Include the rationale regarding the project's classification as substantive or non-substantive.

Fresenius Medical Care Batavia, LLC, proposes to establish a 12 station in-center hemodialysis facility at the southeast corner of Fabyan Parkway & Branson Drive, Batavia, Illinois. The facility will be in leased space on the campus of the Dryer Medical Clinic. The interior of the leased space will be built out by the applicant.

Fresenius Medical Care West Batavia will be in HSA 8.

This project is "non-substantive" under Planning Board rule 1110.10(b) as it entails the establishment of a health care facility that will provide chronic renal dialysis services



Criterion 1110.230 – Purpose of Project

The purpose of this project is to keep dialysis services accessible to central Kane County (HSA 8) residents in an area where the population is rapidly growing and ESRD facilities are experiencing high growth and high utilizations. The area is comprised mainly of Batavia, North Aurora, and the Elburn and Sugar Grove areas. This facility will help to alleviate high the high utilization at Fresenius Medical Care in Aurora and will provide for ongoing growth.

There has been historic high utilization and/or growth of those facilities closest to Batavia over the past several years causing access issues with some facilities at capacity, scheduling of a fourth shift, difficulty scheduling a patient on a shift that is accommodating to their families, jobs or transportation and patients having to travel out of their home market area for dialysis. The closest facility, Fresenius Aurora, has recently transferred patients to Fresenius Oswego bringing that facility to 80% and has also just added 6 stations in an attempt to keep up with the growth of ESRD in the area. The facility is still at 82% utilization even with these efforts. Given Dr. Dodhia's pre-ESRD population, a new facility is necessary to provide access for these patients.

- **Historic Utilization and Growth of those facilities considered within 30 minutes travel time of Fresenius Medical Care West Batavia**

Facility	City	Adjusted Time	Stations	2005		2006		2007		2008		Sep-09	
				Pts	Utl								
Tri Cities LLC	Geneva	5	18	68	63%	61	56%	71	66%	81	75%	88	81%
Fresenius Aurora	Aurora	15	20	96	114%	99	118%	92	110%	100	119%	98	82%
Fresenius DuPage West	West Chicago	15	16	91	95%	82	85%	95	99%	91	95%	82	85%
Fresenius Oswego*	Oswego	22	10	-	-	1	2%	26	43%	41	68%	43	72%
Fresenius West Chicago	West Chicago	23	12	-	-	-	-	-	-	-	-	14	19%
Fresenius Elgin	Elgin	26	12	-	-	-	-	-	-	-	-	-	-
QRC Carpentersville	Carpentersville	29	13	74	95%	68	87%	68	87%	76	97%	76	97%
Fox Valley	Aurora	30	26	132	85%	142	91%	136	87%	143	92%	134	86%
TOTALS			115	461	88%	453	78%	488	84%	532	91%	535	78%

- (1) Fresenius Aurora was approved to expand from 14 to 20 stations in September 2009
 (2) Fresenius Elgin was approved in September 2009 and is not yet in operational
 (3) 115 stations does not include the 12 approved stations at Fresenius Elgin which are not yet operational. If these 12 stations were included in the count the September 2009 utilization would be 70%.

* Fresenius Oswego is currently at 80% utilization according to the facilities patient data base. See certification at Attachment - 23.

The goal of Fresenius Medical Care is to keep dialysis access available to this patient population as we continue to monitor the growth in this area. There is no direct empirical evidence relating to this project other than that when chronic care patients have adequate access to services, it tends to reduce overall healthcare costs and results in less complications. It is expected that this facility would have the same quality outcomes as the other Fresenius facilities in Illinois as listed below.

- 90.55% of patients had a URR \geq 65%
- 92.66% of patients had a Kt/V \geq 1.2

- The alternative to expand an existing facility was considered and acted upon. Fresenius Medical Care Aurora was permitted in September 2009 to add 6 stations at a cost of \$80,000. Fresenius Medical Care Oswego, which is at 80%, is in the process of adding an isolation station and Fresenius Medical Care DuPage West is also in the process of adding two stations to alleviate high utilization at that facility. Tri-Cities Dialysis, Fox Valley Dialysis and QRC Carpentersville have all added stations in the last several years. The addition of stations at these facilities will only be a temporary fix for an area of high historic utilization and growth.
- Fresenius Medical Care has thoroughly explored all options available and even acted on some of those such as adding stations or using other facilities. This however, is only a partial solution. The establishment of Fresenius Medical Care West Batavia appears to be the most cost effective option to maintain dialysis access to the residents of this area. Planning for future growth now is responsible healthcare planning. Although, the cost of this project, \$3,885,561, is higher than doing nothing, the cost is an issue only to Fresenius Medical Care and we are able to sustain this cost. There is no increase to healthcare costs to the patient since Medicare covers all dialysis patients and is a needed service that a patient cannot seek unless medically necessary.

*All patient data obtained from The Renal Network annual statistical report

Unnecessary Duplication/Maldistribution

1(A-B) The ratio of ESRD stations to population in the zip codes within a 30 minute radius of Fresenius West Batavia is 1 station per 8,220 residents according to the 2000 census. This is more than double the state ratio of 1/3776 and does not account for population growth which would make the ratio even higher.

Zip Code	Population	Stations	Facility
60103	75,585		
60110	32,145	13	QRC Carpentersville
60112	1,294		
60115	42,372		
60118	14,739		
60119	7,705		
60120	48,581		
60123	55,201	12	Fresenius Elgin
60134	21,497	18	Tri-Cities Dialysis
60136	1,459		
60137	38,026		
60139	32,303		
60140	7,315		
60151	3,554		
60174	31,513		
60175	17,953		
60177	16,941		
60178	16,477		
60184	698		
60185	32,936	28	Fresenius DuPage West Fresenius West Chicago
60187	61,481		
60188	43,730		
60190	12,065		
60504	44,412		
60505	56,971	26	Fox Valley Dialysis
60506	51,184		
60510	26,565	20	Fresenius Aurora
60511	1,862		
60512	892		
60515	27,514		
60519	74		
60520	2,770		
60532	27,341		
60538	13,702		
60540	42,065		
60542	11,007		
60443	18,769		
60545	7,638		
60554	4,812		
60555	13,852	10	Fresenius Oswego
60556	1,797		
60560	11,502		
60563	31,405		
60564	32,206		
Total	1,043,910	127	1/8,220

Total population within a 30 minute* travel time of Fresenius Batavia is 1,043,910 according to the 2000 Census.

According to the Sept 9, 2009 Station Inventory (3,385 stations) and the 2005-7 U.S. Census Bureau projection (12,783,049), the State ratio of stations to population is 1/3776.

*Travel time is MapQuest x 1.15

Unnecessary Duplication/Maldistribution

C. In-center Hemodialysis Centers Within 30 minutes of Fresenius Medical Care Batavia

Facility	Address	City	Zip Code	Miles	Time	Adjusted Time	Sept 2009 Utilization
Tri Cities LLC	306 Randall Rd	Geneva	60134	2.31	4	4.6	81%
Fresenius Aurora	455 Mercy Ln	Aurora	60506	8.02	13	14.95	82%
Fresenius DuPage West	450 E Roosevelt Rd	West Chicago	60185	8.74	13	14.95	85%
Fresenius Oswego	1051 Station Drive	Oswego	60543	13.92	19	21.85	72% (80%)
Fresenius West Chicago	1859 N Neltnor Blvd	West Chicago	60185	11.13	20	23	19%
Fresenius Elgin	2130 Point Blvd	Elgin	60123	16.54	23	26.45	0%
QRC Carpentersville	2203 Randall Rd	Carpentersville	60110	18.8	25	28.75	97%
Fox Valley	1300 Waterford Dr	Aurora	60504	18.2	26	29.9	86%

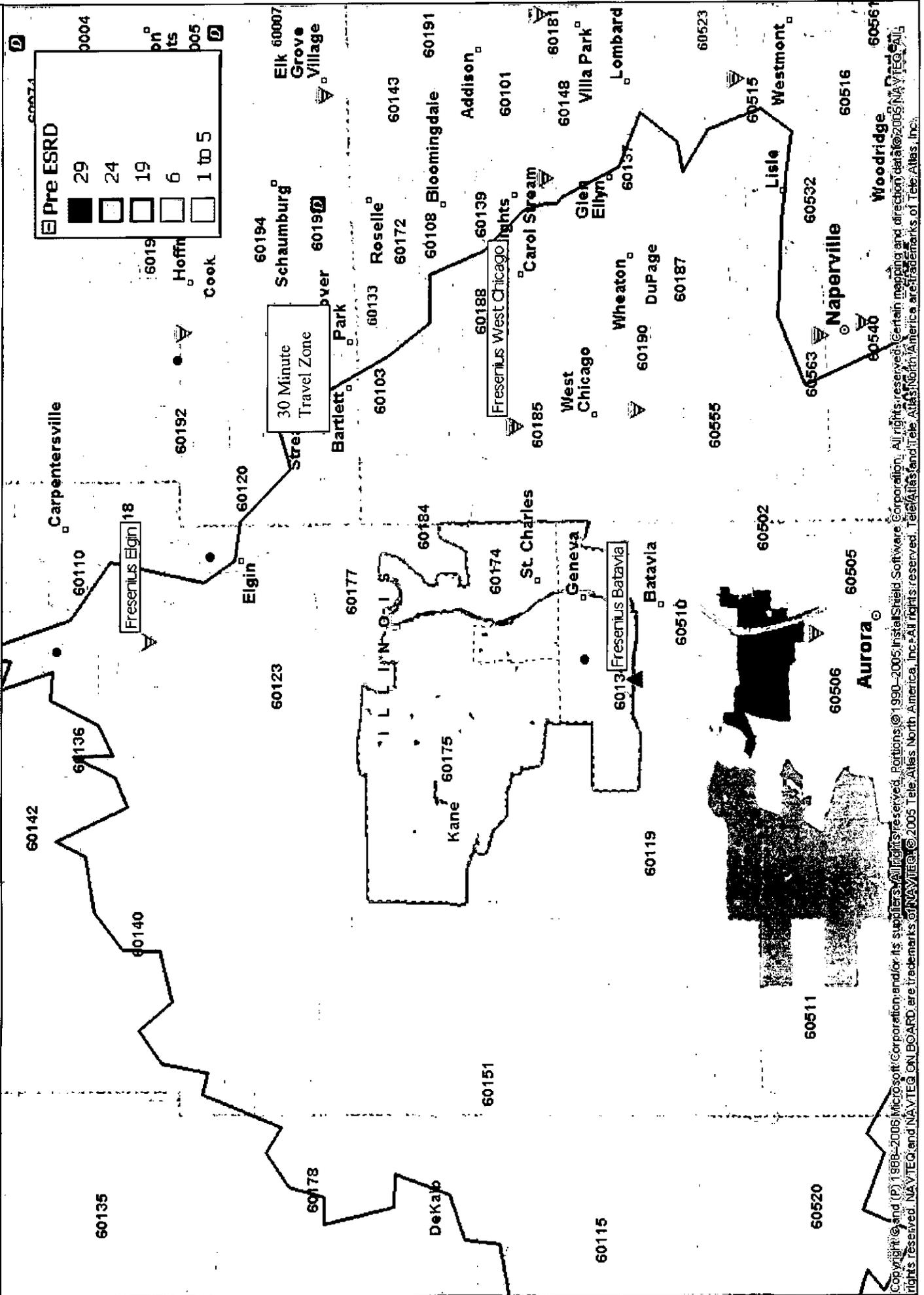
*2nd quarter 2009 the utilization at Fresenius Oswego was 80%, it dipped to 72% 3rd quarter 2009 and is now again at 80% according to the clinic patient data base (see certification at end of this attachment)

Although all facilities within thirty minutes travel time are not above the target utilization of 80%, Fresenius Medical Care West Batavia will not create a maldistribution of services. As noted on the previous page, the ratio of stations to population within 30 minutes travel time exceeds the State ratio (1/3,776) by more than twice as much. (Based on 3,385 stations as of the September 9, 2009 State Inventory and State population estimated for 2005-7 of 12,783,049). This is evidence in itself of a need for this facility.

3A. Fresenius Medical Care West Batavia will not have an adverse effect on any other area ESRD provider in that all of the 83 patients identified for this facility are new pre-ESRD patients. No patients will be transferred from any other facility. The facilities within 30 minutes are all operating at high utilization levels except for two, Fresenius West Chicago and Fresenius Elgin.

➤ Fresenius West Chicago – This facility was just recently certified in January 2009 after which it took several months to become contracted with Blue Cross/Blue Shield. This caused some delay in patient admissions. However the facility is now at 19% utilization after only a few months of becoming fully operational. Dr. Kozeney, in the West Chicago CON application, certified that he had 59 patients who would be referred to that facility within the first two years of operation. His patients are separate from those identified for Fresenius Batavia and live in a different market area. This facility could not accommodate Dr. Dodhia's 83 pre-ESRD patients. As well, the West Chicago facility may be 20 minutes away from the proposed Batavia site, but would over a 30 minute drive from where a majority of the patients identified reside – south and west of Batavia, further away from the West Chicago facility.

PRE-ESRD PATIENTS IDENTIFIED FOR FRESENIUS WEST BATAVIA IN RELATION TO FRESENIUS ELGIN AND FRESENIUS WEST CHICAGO



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Criterion 1110.1430 (e)(5) Medical Staff

I am the Regional Vice President of the Chicago Central Region of the North Division of Fresenius Medical Care North America. In accordance with 77 Il. Admin Code 1110.1430, and with regards to Fresenius Medical Care West Batavia, I certify the following:

Fresenius Medical Care Batavia will be an "open" unit with regards to medical staff. Any Board Licensed nephrologist may apply for privileges at the West Batavia facility, just as they currently are able to at all Fresenius Medical Care facilities.



Signature

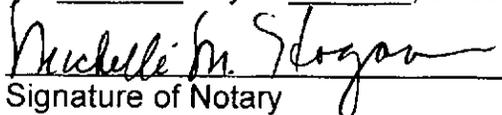
Coleen Muldoon

Printed Name

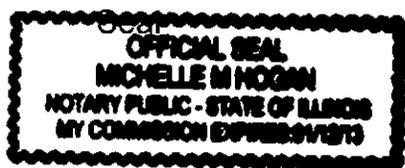
Regional Vice President

Title

Subscribed and sworn to before me
this 23rd day of November, 2009



Signature of Notary

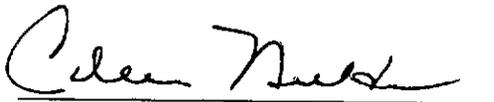


Criterion 1110.1430 (j) – Assurances

I am the Regional Vice President of the Chicago Central Region of the North Division of Fresenius Medical Care North America. In accordance with 77 II. Admin Code 1110.1430, and with regards to Fresenius Medical Care West Batavia, I certify the following:

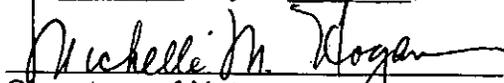
1. As supported in this application through expected referrals to Fresenius Medical Care West Batavia in the first two years of operation, the facility anticipates achieving and maintaining the utilization standard, specified in 77 III. Adm. Code 1100, of 80% and;
2. Fresenius Medical Care hemodialysis patients in Illinois have achieved adequacy outcomes of:
 - o 90.55% of patients had a URR \geq 65%
 - o 92.66% of patients had a KtV \geq 1.2

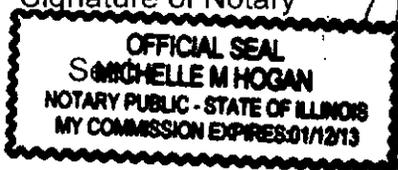
and same is expected for Fresenius Medical Care Batavia.


Signature

Coleen Muldoon/Regional Vice President
Name/Title

Subscribed and sworn to before me
this 23rd day of November, 2009


Signature of Notary



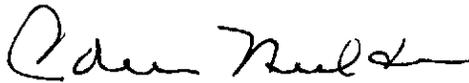
Criterion 1110.1430 (g) – Minimum Number of Stations

Fresenius Medical Care West Batavia is located in the Chicago-Naperville-Joliet-Gary, IL-IN-WI Metropolitan Statistical Area (MSA). A minimum of eight dialysis stations is required to establish an in-center hemodialysis center in an MSA. Fresenius Medical Care West Batavia will have twelve dialysis stations thereby meeting this requirement.

Criterion 1110.1430 (f) – Support Services

I am the Regional Vice President of the Chicago Central Region of the North Division of Fresenius Medical Care North America. In accordance with 77 II. Admin Code 1110.1430, I certify to the following:

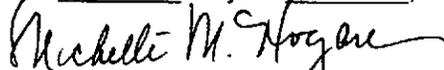
- Fresenius Medical Care utilizes the Proton patient data tracking system in all of its facilities.
- These support services are will be available at Fresenius Medical Care West Batavia during all six shifts:
 - Nutritional Counseling
 - Psychiatric/Social Services
 - Home/self training
 - Clinical Laboratory Services – provided by Spectra Laboratories
- The following services will be provided via referral to Provena Mercy Medical Center, Aurora:
 - Blood Bank Services
 - Rehabilitation Services
 - Psychiatric Services



Signature

Coleen Muldoon/Regional Vice President
Name/Title

Subscribed and sworn to before me
this 23rd day of November, 2009


Signature of Notary