

Constantino, Mike

From: Gail H. McKinnon [GMcKinnon@dsi-corp.com]
Sent: Tuesday, February 22, 2011 4:38 PM
To: Constantino, Mike
Subject: Project No. 10-067
Attachments: image.pdf

Good Afternoon,

Per the request of Jay Yalowitz, attached is a letter on behalf of Mr. Yalowitz in regard to Project No. 10-067 - Fresenius Medical Care Des Plaines.

Please let me know if you have any questions.

Thanks.

Regards,

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February 22, 2011

Via Electronic Mail and Facsimile
Mike.Constantino@illinois.gov
217/785-4111

Mr. Dale Galassie
Chair
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Re: Project No. 10-067 – Fresenius Medical Care Des Plaines

Dear Mr. Galassie:

I am writing on behalf of DSI Renal, Inc. ("DSI") to submit written comments in opposition to Fresenius Medical Care Holdings, Inc. and Fresenius Medical Care Des Plaines, LLC's (the "Applicants") application to establish a 12 station in-center hemodialysis facility to be located at 1625 Oakton Place, Des Plaines, Illinois (the "Project"). As discussed in detail in this letter, there is more than sufficient capacity among the existing facilities to accommodate all of the projected end stage renal disease ("ESRD") referrals to the proposed facility. **Only 11 of the 26 existing facilities located within 30 minutes of the site of the proposed facility are operating at or above the State's 80% utilization standard.** Accordingly, there is no need for this 12-station in-center hemodialysis facility proposed by the Applicants.

Need for the Project

The Applicants state the purpose of the project is to keep dialysis services accessible to the growing population of ESRD patients in northern Cook County (HSA 7) and to accommodate Dr. Bergman's pre-ESRD patients that will require dialysis within the next 1 to 3 years. (App. p 38). Moreover, the Applicants contend that while no service restrictions in the geographic service area ("GSA") exist at this time, the proposed facility is necessary as projected growth and demand for dialysis services will create access problems in the near future. As discussed in greater detail below, the Applicants' arguments are fundamentally flawed as they only consider the three facilities to which Dr. Bergman currently refers patients and failed to take into account any of the underutilized facilities in the GSA, including its own, in its analysis. Dr. Bergman is

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part of a large nephrology practice so any position the Applicant might take that he cannot round at other facilities is not compelling. There is an adequate supply of nephrologists in the area to cover these patients.

Based upon capacity among existing facilities, there is no need for a 12-station in-center hemodialysis facility. Currently, there are 26 in-center hemodialysis facilities in operation and three additional facilities which the State Board recently approved, that are within 30 minutes normal travel time of the site of the proposed facility. As shown in Table 1, **average utilization of the existing facilities is approximately 67%, with less than half of the facilities operating at or above the State's target utilization rate of 80%.** In fact, DSI Arlington Heights, which is located 14 minutes normal travel time from the proposed facility, is operating at 50.93% and can easily accommodate an additional 31 ESRD patients without impacting its existing patients. Importantly, the DSI Arlington Heights facility would be more convenient to nearly 50 percent of Dr. Bergman's pre-ESRD patients. Specifically, those residing in Arlington Heights (60005), Rolling Meadows (60008), Mount Prospect (60056), Bensenville (60106), Itasca (60143), and Schaumburg (60713). See Table 2. DSI Arlington Heights is willing and able to accept Dr. Bergman's current and future referrals.

| Facility Name | Stations | 12/31/2010 Patients | 12/31/2010 Utilization | Available Capacity |
|------------------------------|----------|---------------------|------------------------|--------------------|
| Fresenius Glenview | 20 | 96 | 80.00% | N/A |
| Fresenius Norridge | 18 | 56 | 51.85% | 30 |
| DSI Arlington Heights | 18 | 55 | 50.93% | 31 |
| Fresenius Niles | 32 | 130 | 67.71% | 24 |
| Resurrection Dialysis | 14 | 56 | 66.67% | 11 |
| Fresenius Elk Grove | 28 | 142 | 84.52% | N/A |
| DaVita Big Oaks | 12 | 8 | 11.11% | 50 |
| Fresenius North Kilpatrick | 22 | 114 | 86.36% | N/A |
| Fresenius Rolling Meadows | 24 | 97 | 67.36% | 18 |
| Fresenius Villa Park | 24 | 119 | 82.64% | N/A |
| Fresenius Skokie | 14 | 60 | 71.43% | 7 |
| Fresenius North Avenue | 20 | 104 | 86.67% | N/A |
| DaVita Montclare | 16 | 75 | 78.13% | N/A |
| Fresenius Deerfield | 12 | 25 | 34.72% | 33 |
| DSI Schaumburg | 14 | 69 | 82.14% | N/A |
| Fresenius Northcenter | 12 | 69 | 95.83% | N/A |
| DaVita Logan Square | 20 | 109 | 90.83% | N/A |
| Center for Renal Replacement | 16 | 66 | 68.75% | 11 |
| DSI Buffalo Grove | 16 | 58 | 60.42% | 19 |
| Fresenius West Belmont | 13 | 39 | 50.00% | 23 |
| Fresenius Westchester | 20 | 91 | 75.83% | 5 |
| Fresenius Melrose Park | 18 | 59 | 54.63% | 27 |
| Fresenius West Willow | 12 | 0 | 0.00% | 58 |
| Fresenius Hoffman Estates | 17 | 112 | 109.80% | N/A |
| Fresenius Palatine | 12 | 0 | 0.00% | 58 |
| Loyola Dialysis | 30 | 149 | 82.78% | N/A |

| | | | | |
|---|------------|--------------|---------------|------------|
| Fresenius River Forest | 20 | 0 | 0.00% | 96 |
| Nephron Dialysis | 12 | 74 | 102.78% | N/A |
| ARA South Barrington | 14 | 48 | 57.14% | 19 |
| Total | 520 | 2,080 | 66.67% | 520 |
| Total - Existing Facilities | 488 | 2,080 | 71.04% | 366 |
| Total - Existing Facilities (excluding Glenview, Norridge and Niles) | 418 | 1,798 | 71.69% | 312 |

*Assuming 80% Utilization

Note that while 80% is a reasonable target, there are times when DSI, like other dialysis facility operators, accommodates additional patients in its facilities that are operating over 80% utilization without extraordinary difficulty. Therefore, the functional capacity of these area facilities is somewhere above 312 additional patients.

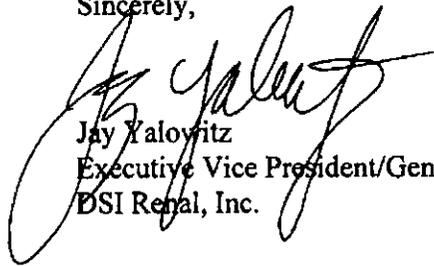
| Zip Code | Projected ESRD Patients | DSI Des Plaines | | | DSI Arlington Heights | | |
|----------|-------------------------|-----------------|------|---------------|-----------------------|------|---------------|
| | | Distance | Time | Adjusted Time | Distance | Time | Adjusted Time |
| 60005 | 19 | 7.36 | 15 | 17.25 | 1.7 | 4 | 4.60 |
| 60008 | 20 | 8.83 | 18 | 20.70 | 3.53 | 8 | 9.20 |
| 60016 | 60 | 2.11 | 7 | 8.05 | 5.32 | 12 | 13.80 |
| 60018 | 18 | 1.37 | 4 | 4.60 | 6.7 | 11 | 12.65 |
| 60056 | 54 | 4.64 | 11 | 12.65 | 3.38 | 8 | 9.20 |
| 60068 | 33 | 3.67 | 9 | 10.35 | 11.21 | 17 | 19.55 |
| 60106 | 1 | 7.51 | 15 | 17.25 | 8.1 | 14 | 16.10 |
| 60131 | 2 | 7.33 | 15 | 17.25 | 12.85 | 21 | 24.15 |
| 60143 | 1 | 9.63 | 19 | 21.85 | 6.52 | 15 | 17.25 |
| 60173 | 2 | 8.93 | 17 | 19.55 | 3.63 | 7 | 8.05 |
| 60176 | 1 | 5.3 | 11 | 12.65 | 11.74 | 17 | 19.55 |

As demonstrated by Table 2 above, all of the patient zip codes noted above are within 30 minutes of DSI Arlington Heights. In addition to DSI Arlington Heights, there are thirteen existing facilities that are operating below 80% utilization, including eight of the Applicants' own facilities. Collectively, these facilities can accommodate an additional 366 patients without impacting their current patients. While the Applicants acknowledge that not all facilities within the GSA are operating above 80% utilization, it claims the proposed facility is necessary because in addition to the 211 patients identified for the proposed facility, Dr. Bergman will refer 99 pre-ESRD patients to Fresenius Glenview, Fresenius Norridge, and Fresenius Niles within the next 12 months. As a result, these three facilities will be at or above the State's 80% utilization standard. The Applicants' analysis of need is flawed as it fails to consider any of the other underutilized facilities in the GSA, including its own. Excluding the Glenview, Norridge and Niles facilities and assuming 80% utilization, the remaining facilities could accommodate 312 additional patients, which is more than sufficient to accommodate Dr. Bergman's projected ESRD patient referrals. Accordingly, a new dialysis facility is not needed.

In summary, sufficient capacity exists in the geographic service area to accommodate the projected ESRD referrals. There is no need for a 12 station in-center hemodialysis center. Accordingly, we respectfully request the Health Facilities and Services Review Board deny the application for Project No. 10-067, Fresenius Medical Care – Des Plaines.

Thank you for your time and consideration of our comments to this project.

Sincerely,



Jay Yalowitz
Executive Vice President/General Counsel
DSI Renal, Inc.