



Fresenius Medical Care

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

February 8, 2012

Via Fax and UPS Overnight

Ms. Courtney Avery
Administrator
Illinois Health Facilities & Services Review Board
525 W. Jefferson Street, 2nd Floor
Springfield, IL 62761

Re: Response to Opposition
Project: #11-120, Fresenius Medical Care East Aurora

Dear Ms. Avery,

The enclosed pages contain Fresenius Medical Care's response to letters submitted by Fox Valley Dialysis and Rush-Copley Medical Center in opposition to the above mentioned project.

Thank you for your time and consideration of this information.

Sincerely,

Lori Wright
Senior CON Specialist

cc: Clare Ranalli

Fresenius Medical Services ♦ Dialysis Services

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#11-120, FRESENIUS MEDICAL CARE EAST AURORA
RESPONSE TO OPPOSITION

The following information is being submitted in response to opposition of the Fresenius Medical Care East Aurora proposed dialysis facility by Fox Valley Dialysis and also by Rush-Copley Medical Center.

PART ONE

Fox Valley Dialysis (FVD), of which Dr. Rubenstein is Medical Director and **part owner**, allege that there is, *"insufficiency and unreliability of the patient demand and pre-renal patient referral data tendered by the referring physician"*. Dr. Dodhia and his partner have supported several CON applications with pre-ESRD patients that were cross-checked by Dr. Dodhia as well as Fresenius staff to ensure no patients were duplicated to support more than one application.

- Dr. Dodhia and Fresenius certified project #06-013, Fresenius Oswego, would reach 80% within 2 years of operation. This facility reached 80% before reaching 2 years of operation.
- In #09-018, Fresenius Aurora expanded by 6 stations and certified that that facility would also reach 80% within 2 years of operation of the new stations with 52 new referrals. The doctors referred 68 new patients in this time period. This expansion was complete in March of 2010. 4 Months later in July 2010, the facility was at 94% utilization.
- The Fresenius Aurora clinic, then at 94% utilization, prompted the submittal (and certification of attaining target utilization) of yet another CON #10-054 to add a final four stations to the facility. These stations were certified in January 2011. Dr. Dodhia certified he would refer 43 patients in the ensuing 24 months. He referred 52 and it has not yet been only 12 months. According to the Staff Board Report the facility was at 78.47% as of September Currently, as of February 2012 the facility is operating at 85% with 122 patients. This is a full year ahead of State Board targets (see attached patient list as of 02/08/2012).
- Other facilities that FVD mentions are outside of the 30-minute travel zone of the East Aurora site. They are:
 - Fresenius West Batavia – This facility just received certification in January 2012 and has two years to reach target utilization with a patient population that resides further north of Aurora.
 - Fresenius Sandwich – This 9 - station facility was approved in 2008. It is on the campus of Valley West Community Hospital located in a rural area. This is the only facility that Dr. Dodhia's practice supported that has not reached target utilization and this is due to the rural nature of the area. The majority of rural clinics do not operate at 80% utilization based on 6 shifts. The average for all Illinois Fresenius rural clinics is 4 shifts (2 per day).

FVD also extolled the high growth of their own Aurora facility in their Yorkville Application, #07-123, as seen below.

Excerpt from #07-123

SUMMARY

**In-Center Hemodialysis Patient Growth
Fox Valley Medical Associates Nephrology Practice
From 44 Patients to 211 Patients in 11 Years**

In July 1996 we opened a temporary 8-station Fox Valley Dialysis at 516 S. Lincoln in Aurora, with 44 chronic hemodialysis patients, a 92% occupancy (CON #95-044.)

In April 1997 we opened 4 more chairs at Fox with 62 patients, 86% occupancy (Alteration.)

In January 1998 we initiated a 4th shift at Fox to improve access to care.

In July 1998 we opened the permanent 16-station Fox facility at 1300 Waterford Drive on the campus of Rush-Copley Medical Center in Aurora, serving 87 patients at 91% occupancy. We discontinued the temporary facility (CON#96-044 & Alteration.)

In September 2000 we opened 8 more stations at Fox. The 24 stations immediately served 120 patients, an 83% occupancy rate (CON #99-103.).

In March 2001 we opened the 8-station Tri-Cities Dialysis in Geneva (CON #98-125.) *
By year end the facility served 41 patients, 85% occupancy. Twenty-three patients living in North Aurora, Geneva and Batavia were able to transfer from Fox to Tri, significantly reducing travel times from 40 minutes, and temporarily alleviating overcrowding at Fox.

In October 2003 we added one station to Tri using the 10% rule, and by year end the 9 stations served 48 patients, 89% occupancy. In April 2004 we opened another 9 stations at Tri (CON #03-070), and by year end the facility served 70 patients, 65% occupancy.

In October 2005 we added two stations to Fox using the 10% rule. By year end the 26 stations served 133 patients, 85% occupancy. In 2006 Fox served 142 patients in 26 stations for 91% occupancy and Tri served 62 patients in 18 stations for 57% occupancy.** Together both facilities had a combined average occupancy of 81% in 2006.

On June 30, 2007 Fox served 138 patients in 26 stations for 88% occupancy and Tri served 73 patients in 18 stations for 68% occupancy.** Together both facilities had a combined average occupancy of 80% on June 30, 2007.

As of the Renal Network September 2011 data, utilized by the State Board in the Staff Board Report for the Fresenius East Aurora facility, Fox Valley Dialysis is operating at 91.67% utilization. With 24-stations, this is only 12 patients away from being at total capacity.

Given the above information for both FVD and Fresenius in the city of Aurora, it is hard to imagine there being an overstatement of demand in Aurora or the need to "paint" a picture for the Board.

If one looks **beyond** the 30-minute travel zone, underutilization may be found (Bolingbrook, West Chicago, West Batavia), however these clinics do not serve Aurora, especially the underserved area of East Aurora. A nephrologist that has his patient's best interest in mind would not have the patient travel past an array of clinics outside of their service area to receive treatment.

PART TWO

Fox Valley Dialysis states there is, "*understated capacity of existing dialysis facilities in the service area*".

In their letter FVD contends that according to MapQuest there are other facilities that lie within 30 minutes of the East Aurora site that Fresenius is not addressing. Per Board rules applicants are utilize MapQuest plus an adjustment factor to determine the 30-minute travel zone. To refine the travel zone, an independent travel study can be conducted (please refer to Section 1100.510 of the rules).

While Fresenius Medical Care appreciates the ability to adjust MapQuest for areas of high traffic congestion, we also feel that the adjustment does not fully capture the true picture of travel in certain congested areas. We therefore, had an independent travel study performed by a professional traffic engineer per the Board's rules and as were accepted as evidenced by the Staff Board Report. The clinics below were those found to be within a 30-minute travel distance. Other clinics mentioned by FVD as "viable" options for the Aurora patients do not fall within 30 minutes.

Name	HSA	Stations	Independent Travel Time	Occupancy	State Standard	Met Standard
Fox Valley Dialysis Center	8	26	8.8	91.67%	80%	Yes
Fresenius Medical Care Aurora	8	24	12.2	78.47%	80%	No
Fresenius Medical Care of Naperville-North	7	14	22.2	85.71%	80%	Yes
Fresenius Naperville	7	15	19.2	85.56%	80%	Yes
Fresenius Medical Care of Oswego	9	10	18.2	85.00%	80%	Yes
Fresenius Medical Care Dupage	7	16	26.5	83.33%	80%	Yes

It is also noted that when reviewing Dr. Rubinstein's CON application (#07-123) for Yorkville Dialysis Center he also found web generated travel times to be an inadequate measure and had independent travel studies conducted to verify with increased accuracy actual travel times. We wonder, why then, he does not accept them in this instance especially since they conform to Board rules.

Further, as mentioned the West Batavia facility is now operational and FVD is expecting 15 patients from North Aurora to transfer to that facility dropping Fresenius Aurora's utilization. It is unclear how FVD can know what the patients at Aurora Dialysis are going to do. There were no patients identified in the West Batavia application who were going to transfer. As well, now that the site is open, patients have been informed of the new location and there was only 1 patient interested in making the transfer. This patient has since changed his mind. These 15 patients have formed bonds with staff at the

clinic and with other patients. These patients would never be asked to transfer against their will.

In addition, there were 29 pre-ESRD patients identified from North Aurora who were expected to be referred to West Batavia. No patients from this zip code were duplicated in support of the East Aurora project. As evidenced by Dr. Dodhia's letter, there were no pre-ESRD identified from that zip code.

We note too, that Rush-Copley Medical Center provides a list of MapQuest only travel times to several clinics, which does not give an accurate picture of area facilities. 6 of the 8 facilities they mention as being within 30 minutes are in fact not. The only facility which Fresenius did not do a travel study for is Fresenius Naperville, because that facility was not in existence at the time of submission. It is 12 miles away and was developed to serve Naperville residents in Will County and to accommodate the Naperville facility's patients when that clinic is discontinued in 2014.

Again, Rush-Copley Medical Center cannot determine that 15 patients of the Fresenius Aurora facility may transfer to West Batavia, dropping the utilization at Aurora. These patients are not transferring as addressed earlier.

We also, disagree that this project is "premature" given the continued growth and over-utilization in the city of Aurora.

In closing, the CON's for clinics that Dr. Dodhia has supported have attained 80% utilization prior to target date, (with the exception of Sandwich which is rural and operated differently) and all physician data was certified too. Dr. Dodhia, went through his patient list one by one cross-referencing lab values and zip codes to ensure accuracy (a patient's need for dialysis is determined by glomerular filtration rate or GFR, this is the rate at which the kidney filters the waste from the body). Also evidencing that patients were not duplicated is the timing of projects. Those patients identified for the West Batavia facility (although mainly from separate zip codes) will all have begun dialysis by the time the patients identified for the East Aurora facility is operating according to their lab values. The continued demand for dialysis services is further evidenced through the high utilization of the two Aurora facilities historically and currently, despite the addition of 10-stations in the past two years.

Fresenius Medical Care thanks the Board for its time and consideration of these materials.

On the following pages is a computer generated in-center hemodialysis patient list for Fresenius Medical Care Aurora (as of February 8, 2012). Each patient can be identified by last and first initial. All other patient specific data has been removed to protect the privacy of the patients.

Date: 02/08/2012
Time: 10:53 am

BMA AURORA DIALYSIS CENTER

Patient List by Modality

Modality: Hemodialysis

Supervision and Setting: In-Unit Staff-Assisted

Acct No.	Patient	MRN	DOB	Admit Date	Attending Doctor
	A, N				
	A, B				
	B, D				
	B, K				
Expired	B, N, E				
	B, J				
	B, C				
	B, B				
	B, P				
	C, A				
	C, W				
	C, R				
	C, D				
	C, M				
	C, J				
	C, C				
	C, F				
	C, FT				
	C, V				
	C, B				
	C, M				
	C, W				
	C, E				
	D, C				
	D, J				
	D, L				
	DI, M				
	DI, G				

Date: 02/08/2012
Time: 10:53 am

BMA AURORA DIALYSIS CENTER

Patient List by Modality

Modality: Hemodialysis Supervision and Setting: In-Unit Staff-Assisted

Acct No.	Patient	MRN	DoB	Admit Date	Attending Doctor
H	I, J				
H	, S				
J	, D				
J	, C				
K	, S				
K	, A				
K	, J				
L	, C				
L	, A				
L	, M				
L	, M				
L	, P				
L	, M				
I	, E				
M	, J				
M	, A				
M	, A				
M	, C				
M	, S				
M	, J				
M	, D				
M	, G				
N	, R				
N	, M				
O	, J				
O	, R				
O	, M				
O	, V				

Date: 02/08/2012
Time: 10:53 am

BMA AURORA DIALYSIS CENTER

Patient List by Modality

Modality: Hemodialysis Supervision and Setting: In-Unit Staff-Assisted

Acct No.	Patient	MRN	DoB	Admit Date	Attending Doctor
T	, EI				
T	, M				
T	, I				
T	, MI				
V	, VI				
V	, S:				
V:	, C:				
W	, D:				
WI	, M				
W	, W:				
W.	, EI				

Hemodialysis In-Unit Staff-Assisted subtotal: 123 - 1 = 122

Active patient total: 138