

Roate, George

From: Joseph Van Leer [JVanLeer@Polsinelli.com]
Sent: Wednesday, April 24, 2013 4:55 PM
To: Roate, George
Cc: Charles Sheets; 'Timothy Tincknell'
Subject: Response to Comments on West Side Dialysis (Proj. No. 12-102)
Attachments: Response to FMC Comments (Proj. No. 12-102).pdf

George,

Please see the attached letter from DaVita in response to FMC's opposition comments to West Side Dialysis. Let me know if you have any questions. Thanks,

Joe

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**HEALTH FACILITIES &
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**Re: Response to Opposition on West Side Dialysis' CON Application
(Proj. No. 12-102)**

Dear Chairman Galassie:

I am writing in response to the March 6, 2013 letter submitted by Fresenius Medical Care ("FMC") concerning our proposal to establish West Side Dialysis in the City of Chicago's West side where there is a need for 15 stations.

1. Technical Concerns Regarding Dr. Hollandsworth's Support Letter

In response to the issues raised in FMC's letter, DaVita submitted a supplemental referral letter on behalf of Dr. Hollandsworth on March 20, 2013, which included the requisite certification language required by Section 1110.1430 of the Board's rules. Further, the letter provided a new list of patients by initials and zip codes that were referred to existing facilities within the most recent year, and updated historical utilization data to include 2012. As a point of reference, we understand Dr. Hollandsworth has not submitted a letter committing referrals of dialysis patients in over 8 years.

2. Utilization in the Service Area

DaVita adequately documented utilization in the service area. While FMC questions DaVita's representation of the average utilization of *existing* facilities rather than *existing and approved* facilities we believe it is appropriate to exclude facilities that are not yet operational and have not been operation for at least 2 years from this calculation, as they do not accurately reflect existing capacity. Both FMC Cicero and Saint Anthony's Hospital, in reliance on the projected referrals, certified that their facilities would achieve 80% utilization within two years. Thus, as demonstrated by the certification, it is not appropriate to include these facilities because they will not be able to accommodate the patients expected to be referred to West Side Dialysis. Furthermore, West Side Dialysis will serve an entirely separate patient-base, as indicated in Dr. Hollandsworth's referral letter.

3. West Side Dialysis Is Necessary to Serve the Surrounding Community

FMC misstates the proximity of the patients that West Side Dialysis anticipates serving by focusing on a 5 mile area surrounding the proposed site. FMC did not recognize that there are 64 of the CKD patients identified, or 74%, that reside within 10 miles or 20 minutes. Given the proximity of the proposed facility to Interstates 290 and 90/94, patients will be able to travel to and from the facility with relative ease. The primary referring physicians, Drs. Cook and Hollandsworth, operate a pre-ESRD clinic at Provident Hospital, which is a Division of Cook County Health Services, and their patients come from throughout the Chicago metropolitan area. This is largely due to the fact that their patients want to dialyze at a facility where their physician rounds. The only facility that Drs. Cook and Hollandsworth round at within 30 minutes normal travel time is Emerald Dialysis, which is operating at 84% utilization and, thus, cannot accommodate additional patients. As the Board has heard on several occasions, the patient-physician relationship is very important, and patients deserve to dialyze at facilities their physicians serve.

Lastly, it is disingenuous for FMC to allege that this facility will not serve the Pilsen community. As a responsible provider, we identify communities based upon both current and projected need. Given the significant African American and Hispanic patient population surrounding this facility, we anticipate that it will be a necessary resource in the near future.

The Pilsen community exhibits an approximately 82.4% Hispanic population according to 2010 US Census Data. The adjusted incident rate of ESRD nationally in 2010 was 1.5 times higher for Hispanics compared to non-Hispanics. Furthermore, the leading cause of ESRD, diabetes, is disproportionately higher among Hispanics. In 2009, 11.8% of the Hispanic population in 2009 had diabetes compared to 7.1% of non-Hispanic whites and the risk of being diagnosed with diabetes is 66% higher among Hispanics compared to non-Hispanic white adults. Thus, it is no surprise the adjusted incident rate for ESRD due to diabetes nationally was higher amongst Hispanics in all age ranges compared to non-Hispanic whites. In addition, 2011 data on the number of ESRD patients by zip code ranks the Pilsen community near the top of this list in the State of Illinois. Not only is Pilsen a high-demand community for dialysis currently, decreasing mortality rates among our dialysis patients throughout the years has lead to coupled with future demand for dialysis make this community an appropriate location for a new facility.

4. Impact on Other Area Providers

FMC also asserts the proposed facility will negatively impact FMC West Side. This is without merit. As stated above, this project involves an entirely distinct patient-base. Further, Drs. Cook and Hollandsworth are not on staff at FMC Westside and would not be able to round on their patients if dialyzing at that facility.

Upon review of FMC Westside's utilization data, it appears that the facility is on track to achieve target utilization in the near future. In just one year, the facility has added 24 patients, which is a 32% increase. If this trend continues, the facility will reach 80% in approximately 18-20 months, which is projected date that DaVita's West Side Dialysis would begin operations, if approved.

Lastly, establishment of additional capacity is necessary to respond to patients remaining on dialysis longer due to improved mortality rates, as well as increasing numbers of new ESRD patients. DaVita's IMPACT program focuses on reducing patient deaths and morbidity during the first 90 days on dialysis through aggressive education and management. This is an interdisciplinary effort by doctors, social workers, dietitians, nurses, and other professionals on the team. Since its piloting, the IMPACT program has been very successful in reaching its goals. We are proud of the success of the IMPACT program and ESRD treatment improvements, as this means our patients are living longer, healthier lives on dialysis. However, from a service delivery and planning perspective, patients living and remaining on dialysis longer means it is more difficult to accommodate new ESRD patients in existing facilities and provide the schedule flexibility. Having more capacity and opening needed clinics ensures that treatment shifts are available to meet growing patient volumes.

5. DaVita's Planned Contributions to the Community

DaVita is a leader in renal failure prevention and its establishment of this facility will directly benefit the Pilsen community. DaVita as an organization is committed to getting at the front end of disease management issues. Village Health is our renal disease management initiative. The Health Care Partners acquisition was specific to providing comprehensive, higher quality care, more convenient care, more accessible care, more thoughtful care and all at a lower cost for all the payers in America. Experts in the government and private sector all across the U.S. believe that Health Care Partners is the best at what it does and point to Health Care Partners as the leader and role model of integrated care. Health Care Partners currently provides capitated primary care and specialty care to over 650,000 patients. The two companies share aspirations to transform health care by working with physicians, payers and pursuing clinical innovations.

In summary, the Board should lend little weight to FMC's opposition, as many of their comments are overstated and do not change the community benefit that will result from the Board's approval of this project. Should you have any questions, please do not hesitate to contact me. We very much appreciate your attention to this matter.

Sincerely,



Penny Davis, RN, FACHE
Division Vice President