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HEALTH FACILITIES &  
SERVICES REVIEW BOARD

**VIA OVERNIGHT MAIL**

March 29, 2014

Ms. Kathryn J. Olson  
Chair  
Illinois Health Facilities and Services Review Board  
525 West Jefferson, Second Floor  
Springfield, IL 62761

**Re: Opposition to supplemental Information for reconsideration  
after Intent to Deny  
Project No. 13-040 Fresenius Medical Care Lemont**

Dr. Chairwoman Olson,

The Board issued an Intent-to-Deny to the above referenced application for permit by a vote of 1 in favor, 7 opposed, and 1 absent.

The Supplemental Information submitted by the Applicant on February 13, 2014 fails to make a meaningful case for reconsideration. The Applicant still attempts to misuse a reported need in HSA 7 to seek approval, while intending primarily to treat patients in HSA 9, which has an oversupply of stations. Thus the Applicant continues to pursue duplication and maldistribution in HSA 9, while choosing not to address the need in HSA 7.

The Application remains essentially identical to US Renal (Project # 12-058), which had attempted the same maneuver. This request for reconsideration remains troubling, coming from a sophisticated Applicant who had previously opposed US Renal Lemont (Project # 12-058) for attempting this very maneuver. Please refer to my earlier comprehensive letter of opposition for details regarding this issue.

The Applicant does attempt to differentiate this Application from US Renal Lemont on the grounds that it has not listed the same pre-ESRD patients on more than one application - yet this Applicant's list of pre-ESRD patients also lacks merit and credibility, as explained in my earlier letter of opposition. I had also pointed out that Lemont would be expected to have only 5.71 new ESRD patients per year - hardly a compelling reason for this project.

The Applicant filed this Application in July of 2013, apparently knowing that there was no need for this project. The Supplemental Information is apparently seeking reconsideration based on its purported assumption that there should be less

oversupply and perhaps even a need in the future by the time this project would be completed towards the end of 2016.

The ESRD growth data presented in the Supplemental information is misleading, and is suggestive of patient transfers between facilities, with utilization remaining below 80% at most of the facilities listed, and actually dropping at a number of them.

The 9 facilities listed in the Applicant's first spreadsheet have a capacity of 754 patients at 80% capacity, and can thus accommodate an additional 135 patients before reaching 80% utilization.

The Applicant also inappropriately attempts to discount I-355, which has in fact significantly reduced travel times in the area. The remaining 7 facilities in the second spreadsheet that the Applicant attempts to discount based on non-highway travel time, are actually within 30 minutes via highway travel. These facilities have a capacity of 590 patients at 80% utilization, and can thus accommodate another 141 patients before reaching 80% utilization.

The first set of facilities within 30 minutes of non-highway travel can thus accommodate 21.8% growth from 619 patients before reaching 80% utilization. Thus, even the aggressive 5% growth rate proposed by the Applicant does not justify this project. The lack of need is even more compelling if we consider the 9 additional facilities within 30 minutes via highway travel.

Presumably, a number of the preexisting facilities would be able to add stations once they reach 80% utilization at a much lower cost than this proposed project. (Please note that this Application seeks a facility size that exceeds state standards by 285 GSF per station – this is presumably designed to allow for future station addition, though may be labeled otherwise in the application.)

Furthermore, with the increasing use of home dialysis and nursing home dialysis (both of which are not counted in state inventory), the need for additional dialysis stations could increase more slowly than in the past, and could even decrease.

Finally, may I correct a couple of misstatements made by the applicant about Sun Health. Sun Health operated 6 shifts for many years, until a drop in utilization attributable to duplication and maldistribution forced it to eliminate one shift – this was not a matter of choice as claimed by Ms. Ranale during her testimony at the December Board hearing. Sun Health would actually like to see a rise in its utilization so that it could reopen its 6<sup>th</sup> shift.

Also Ms. Ranale misstated that Sun Health does not accept Medicaid patients – that is simply not true. Sun Health has accepted my Medicaid patients and is willing to accept its fair share of Medicaid patients from referring physicians who also refer

patients with commercial insurance and do not selectively refer their commercially insured patients elsewhere.

In conclusion, the Supplemental Information submitted fails to make a meaningful case for reconsideration, and I urge the Board ratify its earlier Intent to Deny and reject this Application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B Chawla" with a stylized flourish at the end.

Bhuvan Chawla, M.D.  
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