

Fox Valley
DIALYSIS, LTD.

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

February 16, 2015

Ms. Kathryn J. Olson
Chairman
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Re: RCG Morris Plainfield: Project #14-065
Letter in Opposition to Application for Permit

Dear Ms. Olson:

On behalf of Fox Valley Dialysis, Ltd. ("FVD"), Yorkville Dialysis Center, LLC ("YDC"), and Fox Valley Medical Associates, Ltd. ("FVMA") we tender the following in opposition to the Fresenius Medical Care Holdings, Inc. ("FMC")/Dialysis Centers of America - Illinois, Inc. ("DCA") Plainfield, project #14-065 (the "Project"), certificate of need application (the "Application"). The Project is intended to replace the 10-station DCA Morris Dialysis Center with a replacement 10-station facility at 24020-24030 Riverwalk Court in Plainfield (the "RCG Plainfield Facility").

FVD and FVMA oppose the Application and encourage the Board's denial of the Application, mainly, because: (1) the proposed Project is one of convenience, (2) there are viable alternatives, and (3) the patient projections by the referring physicians are not credible when analyzed and compared to their historic patient data from the zip code areas at issue.

The Project is for FMC's Convenience

The proposed Project is one of convenience and not of necessity. Unquestionably, the convenience is for its owners and not its patients. That is made abundantly clear by FMC in the Application as it admits there is no station need in HSA 9 as there are in excess of 23 stations in this HSA.¹

¹ See, Application, page 75, Alternatives 1) A., "... The alternative of closing the facility was considered however *while there is no station need in HSA 9*, there is a need for additional access in the Plainfield area which is also in HSA 9 when the same physician group has a large patient base and facilities are operating at high utilization ..." See also, Application, pg. 79, Planning Area Need - Formula Need Calculation, "The current and proposed relocation site of RCG Morris dialysis facility is located in HSA 9. HSA 9 is comprised of Will, Kendall, Grundy and Kankakee Counties. According to the November 2014

Contrary to FMC's assertion that the relocation of the 10 stations at the Morris facility will not impact the inventory, it clearly will. The excess 23 stations in HSA 9 now existing will increase to at least 33 if the relocation occurs.

Further illustrating that this Project is one of convenience, FMC would have the Board believe that the Plainfield service market is being served by only Fresenius Plainfield, which presently has 83% utilization. In doing so, it discounts the existence of a significant number of other facilities within the 30 minutes driving criteria. Within 30 minutes driving from the proposed location of the RCG Plainfield Facility we have identified the following 18 facilities, which, according to the HFSRB Census Data, Fourth-Quarter 2014, have the utilization rates identified below:

No.	Facility:	Distance (miles):	MapQuest Travel Time (Minutes):	Stations:	Occupancy:
1.	Fresenius - Bolingbrook	9.97	13	24	83.33%
2.	Fresenius - Oswego	14.19	22	10	93.33%
3.	Fresenius - Plainfield	4.96	9	16	83.33%
4.	Davita - Joliet	6.86	13	29	71.26%
5.	USRC - Bolingbrook	10.28	14	13	57.69%
6.	Fox Valley Dialysis - Aurora	10.18	15	29	74.14%
7.	Fresenius - Naperbrook	9.65	15	16	82.29%
8.	Sun Health Dialysis	8.75	16	17	52.94%
9.	Yorkville Dialysis Center	17.01	26	8	35.42%
10.	Fresenius - Joliet	10.29	20	16	68.75%
11.	Fresenius - Naperville North	13.47	23	21	57.94%
12.	Fresenius - Willowbrook	19.25	23	20	67.50%
13.	Davita - New Lenox	16.19	25	19	73.68%
14.	Fresenius - Downers Grove	21.75	26	19	64.91%
15.	USR - Oak Brook	22.42	25	13	53.85%
16.	Fresenius - Lombard	23.11	27	12	52.78%

Inventory there is an excess of 23 stations in HSA. The "relocation" of the 10 stations at the Morris facility will not impact the inventory".

17.	Fresenius - Lemont	14.84	18	12	0.00%
18.	Fresenius - Aurora	15.22	25	24	98.61%

13 of those additional 18 facilities have utilization rates under, and for many of those, well under, 80%. For purposes of CON approval, the market area consists of all facilities within a 30 minute driving radius of the proposed Project and not simply within the confines or in close proximity of a municipality. There may well be additional facilities beyond the 18 identified above that are also within a 30 minute driving radius of the proposed Project. Thus, contrary to FMC's assertions, there is a significant amount of existing capacity within the Plainfield market area when that market area is properly viewed as consisting of the above identified 18 facilities. Assuming for a moment that there will be in fact a projected increase of 53 ESRD patients within the next two years, with those 18 facilities servicing the Plainfield market, the existing market can easily absorb the FMC projected 53 ESRD patient increase in two years.

Absence of Viable Alternatives

FMC asserts that there are no viable alternatives, where in fact there are as we have identified above with the capacity of the 18 facilities within the Plainfield market area when that market is correctly defined. Moreover, as the referring physicians tout their strong support for home dialysis through their Joliet and Plainfield home therapies programs,² promoting the modality of home hemodialysis and home peritoneal dialysis as viable modalities seems opportune, and is in fact another viable alternative.

A major advantage to home hemodialysis and peritoneal dialysis is that patients can dialyze every day. This is more natural and has distinct advantages, especially with respect to quality of life, reduction of symptoms and better management of fluids and diet. Home care gives patients more authority and responsibility toward their own care by empowering them to do well. Empowerment is the best way to improve adherence. Home dialysis therapy offers flexibility with one's work and lifestyle schedule and avoids the wasted time in travel and meeting a tight schedule when dialyzing in a

² See Application, page 156, Patient Referral Letter ("... We also strongly support home dialysis through our Joliet and Plainfield home therapies programs and will continue to refer to those patients who are good candidates for home dialysis services ...")

center as patients create their own schedules and dialyze in the comfort of their own homes.

We submit that an aggressive outreach and education of FMC's patients on the benefits of home dialysis for hemodialysis and peritoneal dialysis may obviate the need to immediately build a new dialysis facility in a market that can already meet the demands of the existing and future projected ESRD and pre-ESRD population.

In addition, referral to DaVita is another viable alternative. The relocation of the Morris facility is being proposed while the other facility in Morris, owned and operated by DaVita has, as of the end of 2014, 33 patients and is operating at 63% utilization. Contrary to FMC's assertion that it has no viable options other than relocation, it can close its facility and transfer those 14 patients at its Morris facility to the DaVita Morris facility. The Project's referring physicians already refer patients to at least four DaVita facilities.

Referring Physicians' Projections

Finally, the referring physicians, Dr. Morufu Alausa and Dr. Sameer Shafi partners at Kidney Care Center (KCC), in Joliet, project to refer 53 pre-ESRD patients to the Project in its first two years, drawing patients from 6 zip code areas. However, in the most recent 12-month period reported by KCC, from September 1, 2013 through August 31, 2014,³ the practice had only 11 total new referrals from those 6 zip code areas, which is 45.8% of their historical 3-year average of referring 24 patients from those six zip code areas for in-center hemodialysis.⁴ Thus, their projection of 53 patient referrals over two years is in effect simply keeping pace with their historical 3-year average, and, if anything, projects a shifting of patients, but certainly not patient growth.

It is difficult to discern the factual basis for those projections, and absent additional explanation, it is even more difficult to understand how those projections will be realized. What the scrutiny of the referral data shows is that this Project is premature and clearly is proposed for the convenience of its owners.

³ See Application, pg. 84.

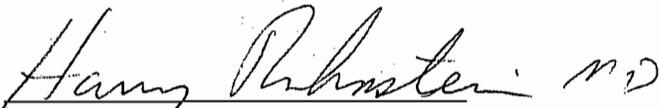
⁴ For all of 2011, 2012 and 2013, in the six zip codes (60046, 60047, 60543, 60544, 60585 and 60586), the referring physicians referred 24, 21 and 27 patients, respectively, for in-center hemodialysis.

Ms. Kathryn J. Olson
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Page 5 of 5

For all of the foregoing reasons, we respectfully urge the Board to deny FMC's Application for its relocation of its Morris facility to Plainfield.

Very truly yours,

FOX VALLEY DIALYSIS, LTD.

By:  M.D.
Harry Rubinstein, M.D., President