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May 22, 2015

Mike Constantino,  
Supervisor, Project Review Section  
Illinois Health Facilities & Services Review Board  
525 West Jefferson Street (2nd Floor)  
Springfield IL 62761

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HEALTH FACILITIES &  
SERVICES REVIEW BOARD

Project: 15-003

Applicant: DaVita Vermilion County Dialysis

RE: Written comments in response to State Board Staff Report

Dear Mr. Constantino;

I represent Danville Dialysis Services, LLC (DDS) in Danville, Illinois and I write to respond to errors and omissions in the State Board Staff Report for the above-referenced project.

Permanent Access:

The report at page 2 incorrectly states, "...the State Board Staff does not view the proposed establishment as an unnecessary duplication or maldistribution of service. It appears there is a service access issue in this 30 minute area. Danville Dialysis, the only operating facility within the 30 minute service area of the proposed facility, will only accept patients with insurance and permanent access i.e. AV fistula."

We are compelled to again address this error as we previously did in written comments to the Board and through testimony at the public hearing. The accusation by the Applicant that Danville Dialysis only accepts patients with permanent access (i.e. AV Fistula) is a complete fabrication by the Applicant in an attempt to cause the State Agency and State Board to ignore the incontrovertible fact that this proposed facility will result in an unnecessary duplication of services in an area that already has an excess capacity. We cannot be clearer in our refutation of this false allegation. DDS accepts all patients regardless of permanent or temporary vascular access. Always has. Always will. **There is NO restriction in place at DDS with respect to permanent vascular access. DDS DOES NOT require all patients to have an AV Fistula.** This assertion is false. And Applicant is well aware that this assertion is false. In the past 3 years,

DDS has accepted 12 patients who were transferred into DDS's service directly from DaVita. Of these 12 patients, only one had AV fistula access. Two had AV graft access and nine of the 12 had catheter access. Thus, Applicant's own clinical records would demonstrate that it was making a knowingly false assertion that DDS has a restricted admission policy. It is extremely troubling that this Applicant would be permitted to make representations to the Board that it knows or reasonably should know from its own records to be false.

Attached hereto and incorporated herein are annual data records from DDS which conclusively demonstrate that DDS accepts patients with AV graft access and catheter access as well as AV fistula access. The records prove that for every single month, DDS has treated patients with all forms of vascular access. We respectfully request that the state agency remove the false assertion from its conclusion on page 2 that DDS limits its patient population to patients with AV fistula access. It is conclusively not true and never has been true. There can be no justification for granting the proposed facility an exemption from the unnecessary duplication of services standard based upon this consistently refuted false assertion.

#### Insurance Restriction:

The Applicant repeatedly alleges that DDS, has a restrictive admission policy based upon insurance. Applicant claims that it will accept self-pay patients and that DDS does not. This argument is wholly disingenuous. As addressed in detail in our prior written comments, the State's own data from prior to the January 2014 PPACA implementation date, clearly demonstrates that DaVita facilities in Illinois do not accept self-pay or charity care patients. It is dishonest for DaVita to claim that its proposed Danville facility is needed to treat self-pay patients when the other DaVita facilities almost never do so. Attached to our prior written comments are the 2011-2013 DaVita facility profiles for Illini Renal Dialysis from the IHFSRB website. It is claimed by DaVita that the new facility is needed to treat self-pay patients from Danville who were refused by DDS and instead forced to travel to Illini in Champaign, some 40 miles away. As you can see, however, DaVita's own data doesn't support this claim.

In 2013, DaVita-Illini treated no self-pay patients and no charity care patients. In 2012, DaVita-Illini treated no self-pay patients and no charity care patients. We have to go back to 2011 to find the one self-pay and one charity care patient treated by Illini. In three years of reported data, 1 self-pay and 1 charity care patient were reported. And that was more than three years ago. And that was most likely not a Danville patient. There is no evidence at all that DaVita is serving or has ever served a Danville charity care patient at its Champaign facility. Construction of this unneeded project will not create a need where none now exists.

#### MSA:

Though not substantive, the Staff Report asserts at page 14 that "The proposed dialysis facility will be located in the Champaign metropolitan statistical area ("MSA")." In fact, the facility will be located in the Danville MSA which includes the city of Danville and Vermilion County.

#### Hospital affiliation:

At page 15, the Staff Report states, "DaVita HealthCare Partners Inc. has an agreement with The Carle Foundation Hospital to provide inpatient care and other hospital services." It is important to note that Carle Foundation Hospital IS NOT located within 30 minutes of the facility. Carle is over 40 miles from the proposed facility. The local hospital, Presence United Samaritans Medical Center has already provided a written statement to the board opposing the project.

#### Capacity:

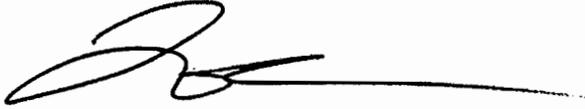
Finally, and most importantly, the Staff Report at page 13 incorrectly addresses the issue of unnecessary duplication of service under Criterion 1110.1430 (d). DDS is operating at 66.67% of its capacity, well below the utilization standard in place to prevent excess capacity/maldistribution. But even this figure fails to tell the whole story with respect to excess capacity. In 2002, DDS was approved to increase its capacity from the 10 stations originally licensed to 19 stations. (Permit 02-088) At that time, the Board also permitted DDS to construct a facility that was large enough and specifically designed to accommodate a total of 24 stations. These additional 5 stations were not justified in 2002 and are still not justified today. Nevertheless, DDS has already, with Board approval, constructed a facility that stands ready to increase to 24 stations without any additional construction expenditure. For the cost of equipping the already constructed additional 5 stations, DDS can immediately accommodate every single patient that the Applicant projects to serve. The Staff Report considers the currently licensed 19 stations and notes that target utilization has not been achieved. When taking into consideration the additional 5 stations that DDS could place into service upon Board approval with no additional construction cost, the utilization percentage plummets. If, in fact, there is ever a market need for the additional stations proposed by Applicant, DDS is already much better positioned to immediately place those stations into service, at a cost savings of \$2,658,190<sup>1</sup>.

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<sup>1</sup> Applicant estimates the cost of the project, not including clinical equipment to be \$2,658,190.

Based upon the preceding information, we strongly encourage the Staff to amend its report and the Board to deny the permit application.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized initial 'T' followed by a long horizontal line that tapers to the right.

Thomas J. Pliura, M.D., J.D.  
Attorney for Danville Dialysis Services, L.L.C.

Enc.: As indicated







DDS YEAR: 2012	J	F	M	A	M	J	J	A	S	O	N	D
<b>IMMUNIZATION</b>												
% of Pts KTYD2 ≥ 1.2 Goal: ≥ (95%) 96%	(90%) 90%	90%	94%	92%	88%	93%	88%	95%	95%	97%	97%	94%
% of Pts UR ≥ 65% Goal: ≥ (95%) 96%	(87%) 92%	93%	98%	100%	88%	96%	94%	100%	95%	98%	100%	99%
<b>PERIPHERAL VASCULAR DISEASE</b>												
% CAPD Pts w/Creatinine Clearance ≥ 60 L/Wk or Wkly KTV ≥ 1.7 Goal: > 85%	100%	100%				100%				100%		
% CCPD Pts w/Creatinine Clearance ≥ 63 L/Wk or Wkly KTV ≥ 1.7 Goal: > 85%	100%	0%	100%			100%			100%			
<b>NEUTROPHILS</b>												
% Pts T-Sat (>20%) Goal: ↑ %	(99%) 92%	94%	96%	92%	93%	91%	88%	96%	90%	89%	92%	92%
≥ 20% & ≤ 50% Goal: ↑ %	(77%) 74%	64%	69%	76%	81%	80%	78%	80%	85%	82%	85%	81%
% Pts Ferritin (> 200) Goal: ↑ %	(99%) 99%	97%	97%	99%	96%	97%	99%	99%	99%	97%	99%	99%
≥ 200 & ≤ 800 Goal: ↑ %	(13%) 18%	19%	19%	24%	21%	21%	24%	21%	25%	29%	26%	23%
% Pts Hgb 10-12% Goal: ↑ %	(76%) 76%	66%	60%	73%	78%	79%	76%	78%	80%	79%	72%	62%
30-36% Goal: ↑ %	(45%) 51%	48%	45%	58%	61%	61%	55%	64%	63%	50%	59%	66%
<b>VASCULAR ACCESS MANAGEMENT</b>												
% AVF Goal: ↑ ≥ 66%	(58%) 57%	56%	54%	53%	50%	52%	51%	55%	56%	55%	55%	57%
% AVG Goal: ↑ ≥ 66%	(27%) 28%	27%	25%	25%	25%	26%	26%	24%	26%	25%	23%	25%
% Catheters ≥ 90 days Goal: ↑ (<10%) ≤ 10%	(9%) 9%	13%	14%	15%	14%	10%	11%	12%	12%	14%	16%	13%
% Catheters < 90 days Goal: ↓ (>10%) ≥ 10%	(6%) 6%	4%	7%	8%	11%	12%	12%	9%	6%	6%	6%	5%
<b>ALBUMIN</b>												
% of Pts Albumin ≥ 3.5 Goal: ↑ %	(73%) 75%	73%	78%	77%	74%	74%	64%	65%	71%	74%	70%	65%
> 4.0 Goal: ↑ %	(23%) 23%	19%	11%	14%	16%	15%	15%	14%	15%	11%	11%	10%
<b>RENAL BONE DISEASE</b>												
% of Pts RPTH 150-300 Goal: ↑ %	(46%) 41%	41%	39%	43%	38%	41%	34%	51%	45%	39%	50%	48%
% of Pts Ca/PO Product < 55 Goal: ↑ %	(89%) 82%	90%	81%	86%	78%	80%	85%	89%	81%	88%	85%	75%
% of Pts Cal > 8.4 - < 10.2 Goal: ↑ %	(77%) 66%	83%	85%	75%	84%	71%	84%	80%	85%	80%	82%	79%
% of Pts Phos ≤ 5.5 Goal: ↑ %	(83%) 71%	82%	78%	75%	74%	76%	84%	80%	68%	78%	71%	71%
<b>VACCINATIONS</b>												
% of Pts Hep B Vaccination Goal: ↑ %	(98%) 99%	97%	98%	99%	99%	96%	96%	99%	99%	100%	100%	100%
% of Pts Pneumonia Vaccine Goal: ↑ %	(99%) 99%	97%	96%	96%	99%	96%	97%	99%	99%	99%	99%	99%
% of Pts Influenza Vaccine Goal: ↑ %	(89%) 88%	87%	85%	-	-	-	-	-	49%	85%	88%	88%
10/1-3/31												
<b>INFECTIONS</b>												
Infections-Fistula ↓ < 1% Goal: ↓ %	0	0	0	0	0	0	0	0	0	0	0	0
Grafts ↓ < 10% Goal: ↓ %	0	0	0	0	0	0	0	0	0	0	0	0
Thrombosis Episodes-Fistula ↓ < 0.50/pt/yr Goal: ↓ %	0/38	0/38	0/37	1/35	0/36	0/37	0/35	0/36	0/38	0/37	0/37	0/39
Grafts ↓ < 0.25/pt/yr Goal: ↓ %	0/19	4/18	3/17	1/17	1/18	0/19	0/18	4/16	1/18	1/17	3/16	0/17
VA Patency-Fistula ↑ > 3 yrs Goal: ↑ %	45%	45%	49%	49%	47%	43%	48%	47%	47%	46%	54%	51%
Grafts ↑ > 2 yrs Goal: ↑ %	48%	50%	56%	53%	54%	58%	61%	62%	56%	53%	56%	53%
<b>RENAL PATIENT FUNCTIONING</b>												
# Patients % Completing KDQOL-36 Goal: ↑ %/total	70/579	72/381	73/583	72/484	73/287	72/491	72/492	72/292	71/394	72/472	70/374	72/275
Monthly	7.14%	4.20%	6.80%	5.60%	2.70%	5.50%	5.50%	2.78%	4.22%	5.55%	4.29%	2.77%
Total	24.41%	27.20%	32.53%	36.90%	37.93%	40.70%	44.60%	46.70%	49%	5.55%	9.46%	12.00%
Total - (Oct - Sept)									43% / 54%			
									44% / 49%			