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JUL 11 2016
HEALTH FACILITIES & SERVICES REVIEW BOARD

July 7, 2016

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

Re: Fresenius Kidney Care East Aurora: Project #16-024
Letter in Opposition to Application for Permit

Dear Ms. Olson:

On behalf Fox Valley Dialysis, Ltd. ("FVD") and Fox Valley Medical Associates, Ltd. ("FVMA") we tender the following in opposition to the Fresenius Medical Center East Aurora, LLC's ("FMC's") East Aurora project, project #16-024 (the "Project"), certificate of need application (the "Application"). We oppose the Project mainly as FMC has not met its service accessibility requirements set forth in 77 Ill. Admin. § 1110.1430(c)(5)(A).[1]

Since 1994, FVD and FVMA's nephrologists have been serving the needs of the East Aurora community, the precise geographic area where the Project is contemplated. We know this community. While we serve in a Federally Designated Medically Underserved Area, to be clear, East Aurora was not designated a medically underserved area due to a shortage of dialysis facilities. This area received this designation as a combined result of the number of persons living in poverty within this area, the shortage of primary care physicians to care for this population, the infant mortality rate, and the percentage of population over the age of 65. It is misleading for FMC to use the medically underserved area designation as a predicate for the need of a new dialysis facility. The designation speaks to the need of greater preventative primary care, education and outreach to the community, but not the need for more dialysis facilities. That said, we mainly oppose the Project given the clear

[1] That section requires an applicant to demonstrate service restrictions by documenting at least one of the following factors exist in the planning area: (i) the absence of proposed service within the planning area; (ii) access limitations due to payor status of patients; (iii) restrictive admission policies of existing providers; or (iv) the area population of existing care system exhibit indicators of medical care problems.

availability and access to existing dialysis services within 30 minutes from the Project.

The projected increases in the number of persons requiring chronic dialysis treatments can and should be readily absorbed by existing facilities in the area that are underutilized. While FMC Aurora is now operating at 100% (using FMC's distance, adjusted travel time and utilization rates as set forth in its Application), there are still 8 facilities, including FVD, within the 30 minute travel limit rule that are underutilized, as follows:

Facility	City	Miles	Adjusted Time	Utilization
1. Fox Valley Dialysis	Aurora	3.74	9.20	74.14%
2. FMC Naperville North	Naperville	9.79	18.14	61.11%
3. FMC West Batavia	Batavia	9.8	19.55	56.94%
4. USR Oak Brooke	Downers Grove	17.05	23.00	71.79%
5. FMC Downers Grove	Downers Grove	17.57	23.00	65.63%
6. Tri-Cities Dialysis	Geneva	11.91	24.15	50.00%
7. FMC Lombard	Lombard	17.48	26.45	72.22%
8. FMC West Chicago	West Chicago	14.37	28.75	62.50%

With the exception of the FVD, FMC discounts the availability of all of the underutilized facilities emphasizing that the remaining seven are 10–20 miles away and approximately 20–30 (adjusted) minutes away, which may require highway travel and purportedly do not serve Aurora residents. In doing so, it is asking the board to disregard the service accessibility requirements in 77 Ill. Admin. § 1110.1430(c)(5), which contains the 30 minute normal travel time limit. Moreover, the statement

that those facilities "do not serve Aurora residents" is a bit odd. Apart from the residency guidelines contained in 77 Ill. Admin. § 1100.510(c)(2),[2] there is no legal or administrative restrictions or absolute residency requirement for patients to be treated at a particular facility. If FMC is insinuating that there are restrictive admission policies by the providers of those facilities, we confirm that is not the case for Tri-Cities Dialysis, LLC, which is an affiliate of FVD and FVMA, and of the remaining viable facilities, FMC controls five of them, the utilization rates of which range from 56.94% - 71.79%.

Given the above, FMC has not met the service accessibility requirements in 77 Ill. Admin. § 1110.1430(c)(5)(A) as it has failed to demonstrate the absence of the proposed service within the planning area; access limitations due to payor status of patients; restrictive admission policies of existing providers; or area population and existing care system exhibit indicators of medical care problems. For the foregoing reasons, we urge the board to deny the Application.

Very truly yours,

FOX VALLEY DIALYSIS, LTD.

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

[2] The residency guideline contained in that section states "... As a general principle, 50% or more of residents receiving care from facility's or resources located within the planning area should reside within the planning area..."