

17-018

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD  
APPLICATION FOR PERMIT

**ORIGINAL**  
**RECEIVED**

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

This Section must be completed for all projects.

APR 13 2017

Facility/Project Identification

ASTA 0000 5559

HEALTH FACILITIES &  
SERVICES REVIEW BOARD

Facility Name: DuPage Vascular Care
Street Address: 7425 Janes Avenue, Suite 101
City and Zip Code: Woodridge, IL 60517
County: DuPage Health Service Area 7 Health Planning Area:

Applicant /Co-Applicant Identification

[Provide for each co-applicant (refer to Part 1130.220). 05660]

Exact Legal Name: DuPage Vascular Care, LLC
Address: 120 W. 22nd Street
Name of Registered Agent: Brian J. O'Dea
Name of Chief Executive Officer: Arthur Morris, M.D.
CEO Address: 120 W. 22nd Street, Oak Brook, IL 60523
Telephone Number: 630 573-5000

Type of Ownership of Applicant/Co-Applicant

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership	
<input type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental	
<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other

o Corporations and limited liability companies must provide an Illinois certificate of good standing.

o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Primary Contact

[Person to receive ALL correspondence or inquiries]

Name: William Brennan
Title: Special Projects
Company Name: Nephrology Associates of Northern Illinois, Ltd.
Address: 120 W. 22nd Street, Oak Brook, IL 60523
Telephone Number: (630) 368-0331
E-mail Address: bbrennan@nephdocs.com
Fax Number: (630) 368-0331

Additional Contact

[Person who is also authorized to discuss the application for permit]

Name: Mark J. Silberman
Title: Partner, CON Counsel
Company Name: Benesch, Friedlander, Coplan, & Aronoff LLP
Address: 333 W. Wacker Suite 1900 Chicago, IL 60606
Telephone Number: (312) 212-4952
E-mail Address: MSilberman@Beneschlaw.com
Fax Number: (877) 357-4913

**ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD  
APPLICATION FOR PERMIT**

**SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION**

This Section must be completed for all projects.

**Facility/Project Identification**

Facility Name: DuPage Vascular Care		
Street Address: 7425 Janes Avenue, Suite 101		
City and Zip Code: Woodridge, IL 60517		
County: DuPage	Health Service Area 7	Health Planning Area:

**Applicant /Co-Applicant Identification**

[Provide for each co-applicant [refer to Part 1130.220].

051661

Exact Legal Name: Nephrology Associates of Northern Illinois, Ltd.
Address: 120 W. 22nd Street
Name of Registered Agent: Brian J. O'Dea
Name of Chief Executive Officer: Arthur Morris, M.D.
CEO Address: 120 W. 22nd Street, Oak Brook, IL 60523
Telephone Number: 630 573-5000

**Type of Ownership of Applicant/Co-Applicant**

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership	
<input checked="" type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental	
<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other

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Name: Mark J. Silberman
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Address: 333 W. Wacker Suite 1900 Chicago, IL 60606
Telephone Number: (312) 212-4952
E-mail Address: MSilberman@Beneschlaw.com
Fax Number: (877) 357-4913

**Post Permit Contact**

[Person to receive all correspondence subsequent to permit issuance-THIS PERSON MUST BE EMPLOYED BY THE LICENSED HEALTH CARE FACILITY AS DEFINED AT 20 ILCS 3960

Name: Brian J. O'Dea
Title: COO / CFO
Company Name: Nephology Associates of Northern Illinois, Ltd.
Address: 120 W. 22nd Street, Oak Brook, IL 60523
Telephone Number: (630) 874-5255
E-mail Address: bodea@nephdocs.com
Fax Number: (630) 368-0320

**Site Ownership**

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: Poqo Properties, LLC to be leased by DuPage Vascular Care LLC
Address of Site Owner: 7425 Janes Ave. Woodridge, IL 60517
Street Address or Legal Description of Site: Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.
APPEND DOCUMENTATION AS ATTACHMENT-2, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Operating Identity/Licensee**

[Provide this information for each applicable facility, and insert after this page.]

Exact Legal Name: DuPage Vascular Care, LLC
Address: 7425 Janes Avenue, Suite 101 Woodridge, IL 60517
<input type="checkbox"/> Non-profit Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> For-profit Corporation <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
<ul style="list-style-type: none"> <li>o Corporations and limited liability companies must provide an Illinois Certificate of Good Standing.</li> <li>o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.</li> <li>o Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.</li> </ul>
APPEND DOCUMENTATION AS ATTACHMENT-3, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Organizational Relationships**

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person or entity who is related (as defined in Part 1130.140). If the related person or entity is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.

APPEND DOCUMENTATION AS ATTACHMENT-4, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Flood Plain Requirements**

[Refer to application instructions.]

Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at [www.FEMA.gov](http://www.FEMA.gov) or [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org). This map must be in a readable format. In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 (<http://www.hfsrb.illinois.gov>).

APPEND DOCUMENTATION AS ATTACHMENT -5, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Historic Resources Preservation Act Requirements**

[Refer to application instructions.]

Provide documentation regarding compliance with the requirements of the Historic Resources Preservation Act.

APPEND DOCUMENTATION AS ATTACHMENT-6, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**DESCRIPTION OF PROJECT****1. Project Classification**

[Check those applicable - refer to Part 1110.40 and Part 1120.20(b)]

Part 1110 Classification:

- Substantive  
 Non-substantive

**2. Narrative Description**

Provide in the space below, a brief narrative description of the project. Explain **WHAT** is to be done in **State Board defined terms**, **NOT WHY** it is being done. If the project site does **NOT** have a street address, include a legal description of the site. Include the rationale regarding the project's classification as substantive or non-substantive.

DuPage Vascular Care LLC ("DVC") is proposing to establish a single specialty surgery center located in Suite 101 at 7425 Janes Avenue, Woodridge, Illinois 60517, thus making this a substantive project. DVA is wholly owned by Nephrology Associates of Northern Illinois, Ltd. ("NANI"), thus making NANI a co-applicant.

The facility will be licensed for the "General/Other" category of service, with the focus being on vascular access procedures to support and maintain end-stage renal dialysis ("ESRD") patients. The facility will provide the full spectrum of general surgical procedures supporting the vascular health of ESRD patients.

**Project Costs and Sources of Funds**

Complete the following table listing all costs (refer to Part 1120.110) associated with the project. When a project or any component of a project is to be accomplished by lease, donation, gift, or other means, the fair market or dollar value (refer to Part 1130.140) of the component must be included in the estimated project cost. If the project contains non-reviewable components that are not related to the provision of health care, complete the second column of the table below. Note, the use and sources of funds must equal.

Project Costs and Sources of Funds			
USE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Preplanning Costs			
Site Survey and Soil Investigation			
Site Preparation			
Off Site Work			
New Construction Contracts			
Modernization Contracts	\$217,700.00	\$297,000.00	\$514,700.00
Contingencies	\$25,378.00	\$34,622.00	\$60,000.00
Architectural/Engineering Fees	\$10,000.00	\$30,000.00	\$40,000.00
Consulting and Other Fees		\$26,370.00	\$26,370.00
Movable or Other Equipment (not in construction contracts)			
Bond Issuance Expense (project related)			
Net Interest Expense During Construction (project related)			
Fair Market Value of Leased Space or Equipment	\$163,137.00	\$261,137.00	\$424,274.00
Other Costs To Be Capitalized		\$41,700.00	\$41,700.00
Acquisition of Building or Other Property (excluding land)			
<b>TOTAL USES OF FUNDS</b>	<b>\$416,215.00</b>	<b>\$690,829.00</b>	<b>\$1,107,044.00</b>
SOURCE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Cash and Securities	\$253,078.00	\$429,692.00	\$682,770.00
Pledges			
Gifts and Bequests			
Bond Issues (project related)			
Mortgages			
Leases (fair market value)	\$163,137.00	\$261,137.00	\$424,274.00
Governmental Appropriations			
Grants			
Other Funds and Sources			
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$416,215.00</b>	<b>\$690,829.00</b>	<b>\$1,107,044.00</b>
<b>NOTE: ITEMIZATION OF EACH LINE ITEM MUST BE PROVIDED AT ATTACHMENT-7, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b>			

**Related Project Costs**

Provide the following information, as applicable, with respect to any land related to the project that will be or has been acquired during the last two calendar years:

Land acquisition is related to project <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Purchase Price: \$ <u>0.00</u>
Fair Market Value: \$ _____
The project involves the establishment of a new facility or a new category of service <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, provide the dollar amount of all non-capitalized operating start-up costs (including operating deficits) through the first full fiscal year when the project achieves or exceeds the target utilization specified in Part 1100.
Estimated start-up costs and operating deficit cost is \$ <u>41,700.00</u> .

**Project Status and Completion Schedules**

<b>For facilities in which prior permits have been issued please provide the permit numbers.</b>
Indicate the stage of the project's architectural drawings:
<input type="checkbox"/> None or not applicable <input checked="" type="checkbox"/> Preliminary
<input type="checkbox"/> Schematics <input type="checkbox"/> Final Working
Anticipated project completion date (refer to Part 1130.140): <u>December 1, 2017</u>
Indicate the following with respect to project expenditures or to obligation (refer to Part 1130.140):
<input type="checkbox"/> Purchase orders, leases or contracts pertaining to the project have been executed.
<input type="checkbox"/> Project obligation is contingent upon permit issuance. Provide a copy of the contingent "certification of obligation" document, highlighting any language related to CON Contingencies
<input checked="" type="checkbox"/> Project obligation will occur after permit issuance.
<b>APPEND DOCUMENTATION AS ATTACHMENT-8, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b>

**State Agency Submittals** Not Applicable.

Are the following submittals up to date as applicable:
<input type="checkbox"/> Cancer Registry
<input type="checkbox"/> APORS
<input type="checkbox"/> All formal document requests such as IDPH Questionnaires and Annual Bed Reports been submitted
<input type="checkbox"/> All reports regarding outstanding permits
<b>Failure to be up to date with these requirements will result in the application for permit being deemed incomplete.</b>

**Cost Space Requirements**

Provide in the following format, the department/area DGSF or the building/area BGSF and cost. The type of gross square footage either DGSF or BGSF must be identified. The sum of the department costs **MUST** equal the total estimated project costs. Indicate if any space is being reallocated for a different purpose. Include outside wall measurements plus the department's or area's portion of the surrounding circulation space. **Explain the use of any vacated space.**

Dept. / Area	Cost	Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
		Existing	Proposed	New Const.	Modernized	As Is	Vacated Space
<b>REVIEWABLE</b>							
Ambulatory Surgery			2,129.00		2,129.00		
Total Clinical	\$0.00	0.00	2,129.00	0.00	2,129.00	0.00	0.00
<b>NON REVIEWABLE</b>							
Administrative			2,077.00		2,077.00		
Total Non-clinical	\$0.00	0.00	2,077.00	0.00	2,077.00	0.00	0.00
<b>TOTAL</b>	<b>\$0.00</b>	<b>0.00</b>	<b>4,206.00</b>	<b>0.00</b>	<b>4,206.00</b>	<b>0.00</b>	<b>0.00</b>
APPEND DOCUMENTATION AS ATTACHMENT-9, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.							

**CERTIFICATION**

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- o in the case of a corporation, any two of its officers or members of its Board of Directors;
- o in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- o in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- o in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- o in the case of a sole proprietor, the individual that is the proprietor.

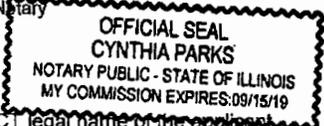
This Application for Permit is filed on the behalf of DuPage Vascular Care LLC \*  
 In accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

*Brian J. O'Dea*  
 SIGNATURE  
Brian J. O'Dea  
 PRINTED NAME  
Manager  
 PRINTED TITLE

*Arthur Morris, MD*  
 SIGNATURE  
Arthur Morris, M.D.  
 PRINTED NAME  
Manager  
 PRINTED TITLE

Notarization:  
 Subscribed and sworn to before me  
 this 10 day of April, 2017

Notarization:  
 Subscribed and sworn to before me  
 this 10 day of April, 2017

*Cynthia Parks*  
 Signature of Notary  
 Seal  


*Cynthia Parks*  
 Signature of Notary  
 Seal  


\*Insert EXACT legal name of the applicant

**CERTIFICATION**

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- o in the case of a limited liability company, any two of its managers or members (or the sole manager or member when two or more managers or members do not exist);
- o in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- o in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- o in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of Nephrology Associates of Northern Illinois, Ltd \* in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

*Brian J. O'Dea*  
 SIGNATURE  
Brian J. O'Dea  
 PRINTED NAME  
COO / CFO  
 PRINTED TITLE

*Arthur Morris, M.D.*  
 SIGNATURE  
Arthur Morris, M.D.  
 PRINTED NAME  
CEO  
 PRINTED TITLE

Notarization:  
 Subscribed and sworn to before me  
 this 10 day of April, 2017

Notarization:  
 Subscribed and sworn to before me  
 this 10 day of April, 2017

*Cynthia Parks*  
 Signature of Notary  
 Seal  
 OFFICIAL SEAL  
 CYNTHIA PARKS  
 NOTARY PUBLIC - STATE OF ILLINOIS  
 MY COMMISSION EXPIRES:09/15/19  
 \*Insert EXACT legal name of the applicant

*Cynthia Parks*  
 Signature of Notary  
 Seal  
 OFFICIAL SEAL  
 CYNTHIA PARKS  
 NOTARY PUBLIC - STATE OF ILLINOIS  
 MY COMMISSION EXPIRES:09/15/19

### SECTION III – BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES - INFORMATION REQUIREMENTS

This Section is applicable to all projects except those that are solely for discontinuation with no project costs.

#### Criterion 1110.230 – Background, Purpose of the Project, and Alternatives

READ THE REVIEW CRITERION and provide the following required information:

##### BACKGROUND OF APPLICANT

1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable.
2. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.
3. Authorization permitting HFSRB and DPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of DPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.
4. If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed, to update and/or clarify data.

APPEND DOCUMENTATION AS ATTACHMENT-11, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-4) MUST BE IDENTIFIED IN ATTACHMENT 11.

##### PURPOSE OF PROJECT

1. Document that the project will provide health services that improve the health care or well-being of the market area population to be served.
2. Define the planning area or market area, or other, per the applicant's definition.
3. Identify the existing problems or issues that need to be addressed, as applicable and appropriate for the project. [See 1110.230(b) for examples of documentation.]
4. Cite the sources of the information provided as documentation.
5. Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.
6. Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.

For projects involving modernization, describe the conditions being upgraded if any. For facility projects, include statements of age and condition and regulatory citations if any. For equipment being replaced, include repair and maintenance records.

NOTE: Information regarding the "Purpose of the Project" will be included in the State Board Report.

APPEND DOCUMENTATION AS ATTACHMENT-12, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-6) MUST BE IDENTIFIED IN ATTACHMENT 12.

**ALTERNATIVES**

- 1) Identify ALL of the alternatives to the proposed project:

Alternative options must include:

- A) Proposing a project of greater or lesser scope and cost;
  - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;
  - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and
  - D) Provide the reasons why the chosen alternative was selected.
- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of total costs, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation. **FOR EVERY ALTERNATIVE IDENTIFIED THE TOTAL PROJECT COST AND THE REASONS WHY THE ALTERNATIVE WAS REJECTED MUST BE PROVIDED.**
- 3) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

**APPEND DOCUMENTATION AS ATTACHMENT-13, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**SECTION IV - PROJECT SCOPE, UTILIZATION, AND UNFINISHED/SHELL SPACE**

**Criterion 1110.234 - Project Scope, Utilization, and Unfinished/Shell Space**

READ THE REVIEW CRITERION and provide the following information:

**SIZE OF PROJECT:**

1. Document that the amount of physical space proposed for the proposed project is necessary and not excessive. This must be a narrative.
2. If the gross square footage exceeds the BGSF/DGSF standards in Appendix B, justify the discrepancy by documenting one of the following:
  - a. Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;
  - b. The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;
  - c. The project involves the conversion of existing space that results in excess square footage.

Provide a narrative for any discrepancies from the State Standard. A table must be provided in the following format with Attachment 14.

SIZE OF PROJECT				
DEPARTMENT/SERVICE	PROPOSED BGSF/DGSF	STATE STANDARD	DIFFERENCE	MET STANDARD?
ASTC	2129	1,660 - 2,200	n/a	Yes

APPEND DOCUMENTATION AS ATTACHMENT-14, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**PROJECT SERVICES UTILIZATION:**

This criterion is applicable only to projects or portions of projects that involve services, functions or equipment for which HFSRB has established utilization standards or occupancy targets in 77 Ill. Adm. Code 1100.

Document that in the second year of operation, the annual utilization of the service or equipment shall meet or exceed the utilization standards specified in 1110.Appendix B. A narrative of the rationale that supports the projections must be provided.

A table must be provided in the following format with Attachment 15.

UTILIZATION					
	DEPT./ SERVICE	HISTORICAL UTILIZATION (PATIENT DAYS) (TREATMENTS) ETC.	PROJECTED UTILIZATION	STATE STANDARD	MET STANDARD?
YEAR 1	ASTC	1,323	80%	>1500 hours	Yes
YEAR 2	ASTC	1,492	90%	>1500 hours	Yes

The average procedure time is 73 minutes.

APPEND DOCUMENTATION AS ATTACHMENT-15, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**H. Non-Hospital Based Ambulatory Surgery**

This section is applicable to all projects proposing to establish or modernize a non-hospital based ambulatory surgical treatment center or to the addition of surgical specialties.

**1. Criterion 1110.1540(a), Scope of Services Provided**

Read the criterion and complete the following:

a. Indicate which of the following types of surgery are being proposed:

<input type="checkbox"/> Cardiovascular	<input type="checkbox"/> Obstetrics/Gynecology	<input type="checkbox"/> Pain Management
<input type="checkbox"/> Dermatology	<input type="checkbox"/> Ophthalmology	<input type="checkbox"/> Podiatry
<input type="checkbox"/> Gastroenterology	<input type="checkbox"/> Oral/Maxillofacial	<input type="checkbox"/> Thoracic
<input checked="" type="checkbox"/> General/Other	<input type="checkbox"/> Orthopedic	<input type="checkbox"/> Otolaryngology
<input type="checkbox"/> Neurology	<input type="checkbox"/> Plastic	<input type="checkbox"/> Urology

b. Indicate if the project will result in a  limited or  a multi-specialty ASTC.

**2. Criterion 1110.1540(b), Target Population** Now 1110.1540(c)

Read the criterion and provide the following:

- On a map (8 1/2" x 11"), outline the intended geographic services area (GSA).
- Indicate the population within the GSA and how this number was obtained.
- Provide the travel time in all directions from the proposed location to the GSA borders and indicate how this travel time was determined.

**3. Criterion 1110.1540(c), Projected Patient Volume** Now 1110.1540(d)

Read the criterion and provide signed letters from physicians that contain the following:

- The number of referrals anticipated annually for each specialty.
- For the past 12 months, the name and address of health care facilities to which patients were referred, including the number of patients referred for each surgical specialty by facility.
- A statement that the projected patient volume will come from within the proposed GSA.
- A statement that the information in the referral letter is true and correct to the best of his or her belief.

**4. Criterion 1110.1540(d), Treatment Room Need Assessment** Now 1110.1540(f)

Read the criterion and provide:

- The number of procedure rooms proposed.
- The estimated time per procedure including clean-up and set-up time and the methodology used in arriving at this figure.

**5. Criterion 1110.1540(e), Impact on Other Facilities** No longer required under regulations.

Read the criterion and provide:

- A copy of the letter sent to area surgical facilities regarding the proposed project's impact on their workload. NOTE: This letter must contain: a description of the project including its size, cost, and projected workload; the location of the proposed project; and a request that the facility administrator indicate what the impact of the proposed project will be on the existing facility.

- b. A list of the facilities contacted. NOTE: Facilities must be contacted by a service that provides documentation of receipt such as the US. Postal Service, FedEx or UPS. The documentation must be included in the application for permit.

**6. Criterion 1110.1540(f), Establishment of New Facilities** Now 1110.1540(h)

Read the criterion and provide:

- a. A list of services that the proposed facility will provide that are not currently available in the GSA; or
- b. Documentation that the existing facilities in the GSA have restrictive admission policies; or
- c. For co-operative ventures,
- a. Patient origin data that documents the existing hospital is providing outpatient surgery services to the target population of the GSA, and
- b. The hospital's surgical utilization data for the latest 12 months, and
- c. Certification that the existing hospital will not increase its operating room capacity until such a time as the proposed project's operating rooms are operating at or above the target utilization rate for a period of twelve full months; and
- d. Certification that the proposed charges for comparable procedures at the ASTC will be lower than those of the existing hospital.

**7. Criterion 1110.1540(g), Charge Commitment** Now 1110.1540(j)

Read the criterion and provide:

- a. A complete list of the procedures to be performed at the proposed facility with the proposed charge shown for each procedure.
- b. A letter from the owner and operator of the proposed facility committing to maintain the above charges for the first two years of operation.

**8. Criterion 1110.1540(h), Change in Scope of Service** Incorporated into 1110.1540(g)

Read the criterion and, if applicable, document that existing programs do not currently provide the service proposed or are not accessible to the general population of the geographic area in which the facility is located.

APPEND DOCUMENTATION AS ATTACHMENT-27, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

The following Sections **DO NOT** need to be addressed by the applicants or co-applicants responsible for funding or guaranteeing the funding of the project if the applicant has a bond rating of A- or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application):

- Section 1120.120 Availability of Funds – Review Criteria
- Section 1120.130 Financial Viability – Review Criteria
- Section 1120.140 Economic Feasibility – Review Criteria, subsection (a)

**VIII. - 1120.120 - Availability of Funds**

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable: Indicate the dollar amount to be provided from the following sources:

\$682,770.00	a)	Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to: <ol style="list-style-type: none"> <li>1) the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and</li> <li>2) interest to be earned on depreciation account funds or to be earned on any asset from the date of applicant's submission through project completion;</li> </ol>
	b)	Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience.
	c)	Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;
\$424,274.00	d)	Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including: <ol style="list-style-type: none"> <li>1) For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the issue, including any discounting anticipated;</li> <li>2) For revenue bonds, proof of the feasibility of securing the specified amount and interest rate;</li> <li>3) For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.;</li> <li>4) For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital improvements to the property and provision of capital equipment;</li> <li>5) For any option to lease, a copy of the option, including all terms and conditions.</li> </ol>
	e)	Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;
	f)	Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;
	g)	All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.
\$ 1,107,044.00	<b>TOTAL FUNDS AVAILABLE</b>	

**APPEND DOCUMENTATION AS ATTACHMENT-36, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**IX. 1120.130 - Financial Viability** Not applicable. Completely funded through internal sources.

All the applicants and co-applicants shall be identified, specifying their roles in the project funding or guaranteeing the funding (sole responsibility or shared) and percentage of participation in that funding.

**Financial Viability Waiver**

The applicant is not required to submit financial viability ratios if:

1. "A" Bond rating or better
2. All of the projects capital expenditures are completely funded through internal sources
3. The applicant's current debt financing or projected debt financing is insured or anticipated to be insured by MBIA (Municipal Bond Insurance Association Inc.) or equivalent
4. The applicant provides a third party surety bond or performance bond letter of credit from an A rated guarantor.

See Section 1120.130 Financial Waiver for information to be provided

**APPEND DOCUMENTATION AS ATTACHMENT-37, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

Provide Data for Projects Classified as:	Category A or Category B (last three years)			Category B (Projected)
Enter Historical and/or Projected Years:				
Current Ratio				
Net Margin Percentage				
Percent Debt to Total Capitalization				
Projected Debt Service Coverage				
Days Cash on Hand				
Cushion Ratio				

Provide the methodology and worksheets utilized in determining the ratios detailing the calculation and applicable line item amounts from the financial statements. Complete a separate table for each co-applicant and provide worksheets for each.

**2. Variance**

Applicants not in compliance with any of the viability ratios shall document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

**APPEND DOCUMENTATION AS ATTACHMENT 38, IN NUMERICAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**X. 1120.140 - Economic Feasibility**

This section is applicable to all projects subject to Part 1120.

**A. Reasonableness of Financing Arrangements**

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or
- 2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:
  - A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or
  - B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

**B. Conditions of Debt Financing**

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.

**C. Reasonableness of Project and Related Costs**

Read the criterion and provide the following:

1. Identify each department or area impacted by the proposed project and provide a cost and square footage allocation for new construction and/or modernization using the following format (insert after this page).

COST AND GROSS SQUARE FEET BY DEPARTMENT OR SERVICE										
Department (list below)	A	B	C		D	E	F	G	H	Total Cost (G + H)
	Cost/Square Foot New	Mod.	Gross Sq. Ft. New	Circ.*	Gross Sq. Ft. Mod.	Circ.*	Const. \$ (A x C)	Mod. \$ (B x E)		
ASTC		\$148.07			4,206				\$622,770	\$622,770
Contingency		\$14.27			4,206				\$60,000	\$60,000
<b>TOTALS</b>		<b>\$162.33</b>			<b>4,206</b>				<b>\$682,770</b>	<b>\$682,770</b>

\* Include the percentage (%) of space for circulation

**D. Projected Operating Costs**

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

**E. Total Effect of the Project on Capital Costs**

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

**APPEND DOCUMENTATION AS ATTACHMENT -39, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**XI. Safety Net Impact Statement**

**SAFETY NET IMPACT STATEMENT that describes all of the following must be submitted for ALL SUBSTANTIVE AND DISCONTINUATION PROJECTS:**

1. The project's material impact, if any, on essential safety net services in the community, to the extent that it is feasible for an applicant to have such knowledge.
2. The project's impact on the ability of another provider or health care system to cross-subsidize safety net services, if reasonably known to the applicant.
3. How the discontinuation of a facility or service might impact the remaining safety net providers in a given community, if reasonably known by the applicant.

**Safety Net Impact Statements shall also include all of the following:**

1. For the 3 fiscal years prior to the application, a certification describing the amount of charity care provided by the applicant. The amount calculated by hospital applicants shall be in accordance with the reporting requirements for charity care reporting in the Illinois Community Benefits Act. Non-hospital applicants shall report charity care, at cost, in accordance with an appropriate methodology specified by the Board.
2. For the 3 fiscal years prior to the application, a certification of the amount of care provided to Medicaid patients. Hospital and non-hospital applicants shall provide Medicaid information in a manner consistent with the information reported each year to the Illinois Department of Public Health regarding "Inpatients and Outpatients Served by Payor Source" and "Inpatient and Outpatient Net Revenue by Payor Source" as required by the Board under Section 13 of this Act and published in the Annual Hospital Profile.
3. Any information the applicant believes is directly relevant to safety net services, including information regarding teaching, research, and any other service.

**A table in the following format must be provided as part of Attachment 43.**

Safety Net Information per PA 96-0031			
CHARITY CARE			
Charity (# of patients)	Year	Year	Year
Inpatient	2014	2015	2016
Outpatient	10	3	7
<b>Total</b>			
Charity (cost in dollars)	Year	Year	Year
Inpatient			
Outpatient	\$52,724	\$19,031	\$21,788
<b>Total</b>	2.38%	0.93%	1.03%
MEDICAID			
Medicaid (# of patients)	Year	Year	Year
Inpatient	2014	2015	2016
Outpatient	48	45	10
<b>Total</b>			

Note: These amounts reflect charity care provided, but not in accordance with the statutory definition.

Medicaid (revenue)			
Inpatient			
Outpatient	\$66,209	\$70,364	\$2,326
Total	2.98%	3.43%	0.11%

APPEND DOCUMENTATION AS ATTACHMENT-40, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**XII. Charity Care Information**

Charity Care information **MUST** be furnished for **ALL** projects.

1. All applicants and co-applicants shall indicate the amount of charity care for the latest three audited fiscal years, the cost of charity care and the ratio of that charity care cost to net patient revenue.
2. If the applicant owns or operates one or more facilities, the reporting shall be for each individual facility located in Illinois. If charity care costs are reported on a consolidated basis, the applicant shall provide documentation as to the cost of charity care; the ratio of that charity care to the net patient revenue for the consolidated financial statement; the allocation of charity care costs; and the ratio of charity care cost to net patient revenue for the facility under review.
3. If the applicant is not an existing facility, it shall submit the facility's projected patient mix by payer source, anticipated charity care expense and projected ratio of charity care to net patient revenue by the end of its second year of operation.

Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. (20 ILCS 3960/3) Charity Care must be provided at cost.

A table in the following format must be provided for all facilities as part of Attachment 44.

CHARITY CARE			
	Year	Year	Year
Net Patient Revenue	2014	2015	2016
Amount of Charity Care (charges)	\$52,724	\$19,031	\$21,788
Cost of Charity Care	\$52,724	\$19,031	\$21,788

Note: These amounts reflect charity care provided, but not in accordance with the statutory definition.

APPEND DOCUMENTATION AS ATTACHMENT-41, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

After paginating the entire, completed application, indicate in the chart below, the page numbers for the attachments included as part of the project's application for permit:

<b>INDEX OF ATTACHMENTS</b>		
<b>ATTACHMENT NO.</b>		<b>PAGES</b>
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16	Unfinished or Shell Space	
17	Assurances for Unfinished/Shell Space	
18	Master Design Project	
19	Mergers, Consolidations and Acquisitions	
	<b>Service Specific:</b>	
20	Medical Surgical Pediatrics, Obstetrics, ICU	
21	Comprehensive Physical Rehabilitation	
22	Acute Mental Illness	
23	Neonatal Intensive Care	
24	Open Heart Surgery	
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36	Availability of Funds	119-159
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File Number

0614945-6



**To all to whom these Presents Shall Come, Greeting:**

*I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that*

DUPAGE VASCULAR CARE LLC, HAVING ORGANIZED IN THE STATE OF ILLINOIS ON FEBRUARY 15, 2017, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A DOMESTIC LIMITED LIABILITY COMPANY IN THE STATE OF ILLINOIS.



Authentication #: 1705501660 verifiable until 02/24/2018  
Authenticate at: <http://www.cyberdriveillinois.com>

**In Testimony Whereof, I hereto set  
my hand and cause to be affixed the Great Seal of  
the State of Illinois, this 24TH  
day of FEBRUARY A.D. 2017 .**

*Jesse White*

SECRETARY OF STATE



**To all to whom these Presents Shall Come, Greeting:**

*I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that*

NEPHROLOGY ASSOCIATES OF NORTHERN ILLINOIS, LTD., A DOMESTIC CORPORATION, INCORPORATED UNDER THE LAWS OF THIS STATE ON APRIL 01, 1977, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE BUSINESS CORPORATION ACT OF THIS STATE RELATING TO THE PAYMENT OF FRANCHISE TAXES, AND AS OF THIS DATE, IS IN GOOD STANDING AS A DOMESTIC CORPORATION IN THE STATE OF ILLINOIS.



Authentication #: 1707202504 verifiable until 03/13/2018

Authenticate at: <http://www.cyberdriveillinois.com>

***In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 13TH day of MARCH A.D. 2017 .***

*Jesse White*

SECRETARY OF STATE

**Site Ownership / Control**

The building in which the ASTC will be located is owned by POGO Properties and will be leased by DuPage Vascular Care, LLC. Attached as evidence of control is the existing lease and a letter of intent to reflect the terms under which the space will be leased if approved for the establishment of an ASTC.

## **LEASE AGREEMENT**

**BUILDING:** Woodgrove Medical and Professional Center  
**LOCATION:** 7425 Janes Ave., Woodridge, ILLINOIS 60517  
**LANDLORD:** Woodgrove Professional Center, Inc.  
**TENANT:** Nephrology Associates of Northern Illinois, P. C.

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**EXHIBITS**

Exhibit A	Site Plan
Exhibit A-1	First Floor Plan
Exhibit A-2	Lease Plan
Exhibit B	Corrected Minimum Rent
Exhibit C	Tenant's Work
Exhibit D	Final Letter of Intent (LOI) Dated March 2, 2007

## LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made as of this First day of April, 2007, by and among Woodgrove Professional Center, an Illinois Corporation ("Landlord"), with its principal office at 7425 Janes Ave., Suite 200, Woodridge, IL 60517, and Nephrology Associates of Northern Illinois, P. C.

### ARTICLE I GRANT AND TERM

#### Section 1.01 – Premises.

Landlord hereby leases to Tenant for the Term (hereafter defined) and upon the covenants hereinafter set forth, approximately 3628 +/- square feet of first area (the "Premises") space A-D in the building commonly known as Woodgrove Medical and Professional Center, or by such other name as Landlord may, from time to time hereafter designate (the "Building"). The Building is the parcel of land as shown outlined on Exhibit A of this Lease and first Floor Lease Plan on Exhibit A-1 of this Lease, and all improvements situated thereon, provided however that once any such area, or portion thereof, is sold by Landlord, then such area, or portion thereof, would no longer be so included. The Premises showing space A-D, attached hereto and made a part hereof as Exhibit A-2 (Lease Plan). The exact square footage in the Premises shall be determined by landlord or designated architect. Such square footage shall be measured from the mid-line of interior demising walls and the outside surface part of exterior demising walls, and shall include the totality of the area within such boundaries, including any mezzanines. Landlord may measure the floor area of the Premises within sixty (60) days of the Commencement Date. In the event Tenant does not object to such measurement within thirty (30) after the expiration of such sixty (60) period, such measurement shall be binding upon the parties hereto, except as otherwise provided in this Lease. In the event the square footage, as determined by Landlord/Architect and not objected to by Tenant, differs from the square footage set forth above, the Minimum Rent to be paid by Tenant as set forth in Article II shall be adjusted after the exact square footage is determined by multiplying the square footage by the amount(s) per square foot as set forth in Section 2.01 of this Lease and will be attached as Exhibit B.

#### Section 1.02 - Site Plan.

Exhibit A sets forth the general layout of the building and Exhibit A-2 sets forth the lease plan of the area A-D of Building. Landlord does not warrant or represent that the Building will be or has been constructed exactly as shown thereon or that it will be completed by a specific date. Landlord may change or alter any of the spaces, Common Areas (hereafter defined) or any other aspect of the Building, or may sell or lease any portions of the Building all without the consent of or notice to Tenant. This Lease is subject to all applicable building restrictions, planning and zoning ordinances, governmental rules and regulations, and all other encumbrances, restrictions and easements affecting the Building and the terms and provisions of certain declarations, reciprocal easement and operating agreements now or hereafter affecting the Building.

#### Section 1.03 - Term.

The initial term (the "Initial Term") of this Lease shall be for a period of Ten (10) Lease Years (the "Initial

of this lease document. By signing this lease both Tenant and Landlord agrees to the terms and conditions as set forth in Exhibit D.

**Section 1.04 - Option.**

Provided Tenant is open and operating and is not otherwise in Default (hereafter defined), Tenant shall have the option of extending this Lease Two (2) additional periods of Five (5) Lease Years (the "Option Terms"), commencing on midnight on the date on which the Initial Term expires, upon the same terms, covenants, conditions and provisions of this Lease. Minimum Rent during the Option Terms shall not increase more than 3.0% per annum over the Minimum Rent for the immediately preceding year. The granting of the Option Term shall be null and void should Tenant be in Default upon either the last day of the Initial Term, or the date of exercise of the Option Terms by Tenant. In order to exercise the Option Terms, Tenant shall provide Landlord with written notice at least Nine (9) months prior to the date on which the Initial Term or the current Option Term expires. Notwithstanding anything herein to the contrary, Tenant agrees that the right to extend this Lease pursuant to this Section 1.04 is personal to Tenant and may be available to any assignee or successor-in-interest to Tenant with the approval of Landlord. For purposes of this Lease, the word "Term" shall mean the Initial Term and, if validly exercised, the Option Term, collectively.

**ARTICLE II  
RENT**

**Section 2.01 - Minimum Rent.**

Commencing on the Term Commencement Date and continuing during the entire Term of this Lease, Tenant shall pay annual "Minimum Rent" for the Premises payable to Landlord, without demand, deduction, set-off or counterclaim, in equal installments (the "Monthly Minimum Rent") in advance, on or before the first (1st) day of each month, as follows:

Lease Year(s)	Annual Minimum Rent	Monthly Minimum Rent	Minimum Rent per Sq. Ft.
1	\$67,118.00	\$5,593.17	\$18.50
2	\$69,131.54	\$5,760.96	\$19.06
3	\$71,205.49	\$5,933.79	\$19.63
4	\$73,341.65	\$6,111.80	\$20.22
5	\$75,541.90	\$6,295.16	\$20.82
6	\$77,808.16	\$6,484.01	\$21.45
7	\$80,142.40	\$6,678.53	\$22.09
8	\$82,546.67	\$6,878.89	\$22.75
9	\$85,023.07	\$7,085.26	\$23.44
10	\$87,573.77	\$7,297.81	\$24.14

The first installment of Minimum Rent shall be paid Two Months after 120 days of lease execution, or upon receipt of certificate of occupancy whichever comes first. If the Term Commencement Date occurs on other

**Section 2.02 - Intentionally Omitted**

**Section 2.03 - Intentionally Omitted**

**Section 2.04 - Intentionally Omitted**

**Section 2.05 - Payments by Tenant.**

Throughout the Term of this Lease, Tenant shall pay to Landlord, without demand, deductions, set-offs or counterclaims, the rent, which is hereby defined as the sum of the Minimum Rent, and all Additional Rent, when and as the same shall be due and payable hereunder. Unless otherwise stated, all sums of money or charges payable to Landlord from Tenant by this Lease, other than Minimum Rent, are defined as "Additional Rent" and are due with minimum rent on a monthly basis, without any deductions, set-offs or counterclaims, and failure to pay such charges carries the same consequences as Tenant's failure to pay Minimum Rent. All payments and charges required to be made by Tenant to Landlord hereunder shall be payable in coin or currency of the United States of America, at the address indicated herein. No payment to or receipt by Landlord of a lesser amount than that then amount required to be paid hereunder shall be deemed to be other than on account of the earliest amount of such obligation then due hereunder. No endorsement or statement on any check or other communication accompanying a check for payment of any amounts payable hereunder shall be deemed an accord and satisfaction, and Landlord may accept such check in payment without prejudice to Landlord's right to recover the balance of any sums owed by Tenant hereunder. In the event Landlord bills Tenant for any charge hereunder and within ninety (90) days of receipt of the same Tenant does not provide Landlord with notice that it disputes such charge, then Tenant waives any further right to dispute such charge and that charge shall automatically become an account stated between Landlord and Tenant.

**Section 2.06 - Security Deposit.**

Waived.

**Section 2.07 - Late Charge.**

In the event any sums required hereunder to be paid are not received by Landlord on or before the date the same are due, or within five (5) days thereafter, then, Tenant shall immediately pay, as Additional Rent, a service charge equal to the greater of One Hundred Dollars (\$100.00), or five percent (5%) of the past due sum for each successive month such amount remains unpaid. In addition, interest shall accrue on all past due sums at an annual rate equal to the greater of one and one-half percent (1½%) per month, or three percent (3%) in excess of the prime rate of interest announced from time to time by Bank One, Chicago, or its successor institution, but not in excess of the maximum legal rate. Such interest shall also be deemed Additional Rent.

**Section 2.08 - Returned Checks.**

In the event that Tenant's check for rents and charges is returned for any reason, Tenant agrees to pay Landlord the sum of Seventy Five Dollars (\$70.00) as a handling charge in addition to any applicable late charge

**ARTICLE III  
PREPARATION OF PREMISES**

**Section 3.01 – Improvements And Alterations.**

All costs associated with interior and exterior improvements to the Premises (the "Tenant Improvements") shall be the obligation of tenant at 100%. Tenant, at its sole cost and expense, shall pay the balance of Tenant Improvement costs directly to the contractor after the completions of each phase and a copy of which shall be provided to the Landlord. Tenant shall inspect the Premises and Tenant shall accept the Premises in the condition in which they are tendered subject to any items identified in a punch list which is developed after a walk-through by Landlord and Tenant subsequent to the completion of the construction of the Tenant Improvements. Tenant shall make all further changes, alterations, decorations, additions or improvements in or to the Premises as it may deem necessary, subject however, to the prior written consent of Landlord, which shall not unreasonably withheld, conditioned or delayed. Any and all such alterations and improvements approved by Landlord shall be paid for by Tenant, shall be made in good and workmanlike manner and of quality equal to the original construction, and shall be in compliance with all applicable permits and authorizations, building and zoning laws and all other laws, ordinances and regulations. All such alterations and improvements so made (including without limitation, all partitions, fixtures, floor coverings and equipment excepting medical equipment, office furniture/furnishings and personal items owned by Tenant located within the Building) shall automatically become the property of Landlord without expense to Landlord, and may not be removed from the Premises without the prior written approval of Landlord; provided, however, that Landlord may, by written notice to Tenant, require Tenant, at Tenant's sole cost and expense, to remove any and all improvements, alterations, additions, wiring or fixtures installed or made by Tenant on or to the Premises and to repair any damages to the Premises caused by such removal.

Tenant agrees to indemnify, hold harmless and defend Landlord from any loss, cost, damage or expense, including attorneys' fees, arising out of any claims relating to work done or materials supplied to Premises at Tenant's request or on Tenant's behalf, except as otherwise provided in this Lease.

**Section 3.02 - Delivery Date.**

(a) Tenant agrees to begin its work under Section 3.03 on the date this Lease is signed by both Landlord and Tenant. Tenant agrees to diligently perform Tenant's Work to completion. Under no circumstances shall Landlord be liable to Tenant in damages for any delay in commencing or completing the Premises, or for a total failure to complete same or for a failure to deliver same.

(b) Tenant hereby expressly agrees that the entry or occupancy of the Premises by Tenant or Tenant's agents or contractors prior to the date herein fixed for the Term Commencement Date shall be governed by and shall be subject to all of the terms and provisions of this Lease, and Tenant shall observe and perform all its obligations under this Lease, including, without limitation, its obligation to pay charges for temporary utilities, insurance, and other charges pursuant to the provisions of Exhibit C, but specifically excluding any obligations to pay Minimum and Additional Rent, until the Term Commencement Date.

**Section 3.03 - Tenant's Work.**

unlawful or create an unsound or dangerous condition or adversely affect the structural soundness of the Premises or the Building, and/or would interfere with the use and enjoyment of any adjoining space in the Building, then, in the event Landlord determines that Landlord and Tenant are unable to agree upon design drawings and/or working drawings, each of Landlord and Tenant shall have the option, upon ten (10) days' written notice to the other party to correct the situation. Failure to compliance declare this Lease null and void and of no further force and effect, in which event this Lease shall terminate. All work performed by Tenant shall be subject to Landlord's prior written approval and shall be in accordance with good construction practices, all applicable laws, codes, ordinances, regulations, and insurance requirements and Landlord's reasonable rules and regulations. No material deviations from the final plans and specifications, once approved by Landlord, shall be permitted. Landlord's review of Tenant's plans and specifications shall not constitute the assumption of any responsibility by Landlord for their accuracy or sufficiency, and shall in no event create an express or implied confirmation that Tenant's design and/or working drawings have been prepared in accordance with the requirements of applicable laws, codes, ordinances and regulations. Further, Landlord shall have no responsibility or liability for any loss or damage to any property belonging to Tenant as a result of Tenant's Work. Tenant agrees to pay for all the utilities used or consumed in the Premises by Tenant during construction. Tenant shall maintain and keep the premises clean at all times during construction. Tenant and their agents shall obtain all certificates and approvals which may be necessary so that a certificate of occupancy for the Premises may be issued. Copies of all such certificates shall be delivered to Landlord prior to Tenant commencing Tenant's Work. Upon the issuance of the certificate of occupancy, a copy thereof shall be immediately delivered to Landlord. Tenant shall ready the Premises for the opening of Tenant's business by the Term Commencement Date.

#### Section 3.04 - Alterations by Tenant.

(a) Tenant may not make any exterior or structural alterations to the Premises without the prior written consent of Landlord. In addition, Tenant shall not make any interior alterations, except for alterations to the decor of the Premises provided such alterations affect color or merchandising aspects of the interior only, without giving prior written notice to Landlord and Landlord giving Tenant its written consent therefore, which consent shall not be unreasonably withheld, conditioned or delayed. Any such alterations shall be performed in a good and workmanlike manner and in accordance with applicable legal and insurance requirements and the terms and provisions of this Lease.

(b) In the event that any mechanic's lien is filed against the Premises or Building as a result of any work or act of Tenant, Tenant, at its expense, shall discharge or bond off the same within ten (10) days from the filing thereof. If Tenant fails to discharge said mechanic's lien, Landlord may bond or pay without inquiring into the validity of merits of such lien and all sums so advanced shall be paid to Landlord as Additional Rent with 10% penalty.

(c) Prior to the commencement of any work by Tenant, Tenant shall require that every contractor obtain public liability and workers' compensation insurance, and shall deliver duplicate originals of all certificates of such insurance to Landlord.

(d) If, in an emergency, it shall become necessary to make repairs required to be made by Tenant, Landlord may reenter the Premises and proceed to have such repairs made and pay the costs thereof. Tenant shall

**Section 3.06 – Intentionally Omitted.**

**Section 3.07 - Title to Improvements.**

Title to the Premises and all other improvements which are now or shall hereafter be made, erected, constructed, installed or placed, on, above, or below the Premises shall be deemed vested in Landlord during the Term and thereafter. Tenant agrees to execute and deliver to Landlord such deeds, assignments or other instruments of conveyance as Landlord may reasonably deem necessary to confirm Landlord's sole ownership of and fee simple title to the same.

**Section 3.08 – Intentionally Omitted.**

**Section 3.09 – As Is.**

Tenant has inspected the Premises and otherwise investigated and determined the feasibility of development, at its expense, including, without limitation, having conducted such engineering, environmental, and mechanical studies of the Premises as it deemed necessary, and found it acceptable. TENANT SHALL RELY EXCLUSIVELY ON ITS INSPECTION IN PROCEEDING WITH ITS LEASE HEREUNDER AND NOT ON ANY WARRANTY OR REPRESENTATION OF LANDLORD OR ANY OF LANDLORD'S AGENTS, IT BEING UNDERSTOOD THAT LANDLORD MAKES NO WARRANTY OR REPRESENTATION AND THAT TENANT TAKES AND ACCEPTS THE PREMISES "AS IS".

**ARTICLE IV.  
CONDUCT OF BUSINESS**

**Section 4.01 - Use and Trade Name.**

(a) The Premises shall be used and occupied for the following purpose only, and for no other purpose whatsoever: Interventional Vascular Access Outpatient Medical Practice and Related Medical Use under the name of Nephrology Associates of Northern Illinois, P. C. only.

(b) If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business or other activity carried on in the Premises, or if a failure to procure such a license or permit might or would in any way adversely affect Landlord or the Building, then Tenant, at Tenant's expense, shall duly procure and thereafter maintain such a license or permit and submit the same for inspection by Landlord. Tenant, at Tenant's expense, shall, at all times, comply with the requirements of each such license or permit.

(c) Tenant shall operate its business from the Premises under the following trade name only and under no other trade name: Nephrology Associates of Northern Illinois, P. C. Tenant covenants, warrants and agrees that it has the absolute, undisputed right to use the trade name Nephrology Associates of Northern Illinois, P. C. in the state of Illinois with holding record of good standing from Illinois Secretary of State and shall provide a copy of such letter of good standing to Landlord. Tenant agrees to indemnify, defend and hold harmless Landlord, and

#### **Section 4.02 - Operation of Business.**

Tenant shall open for business to the public on or after the Term Commencement Date and during the entire Term of this Lease continuously, conduct its regular business operation on business days during normal business hours.

#### **Section 4.03 - Utilities.**

Tenant, at its expense, shall arrange for and pay all costs of the charges for all utilities and services provided or used in or at the Premises, commencing with the Term Commencement Date and throughout the Term of this Lease. Tenant shall pay directly to the public utility companies the cost of any installation not included in Landlord's Work of any and all such utility services. In the event that Landlord supplies or pays for any such utilities, then as Additional Rent, Tenant shall reimburse Landlord for the same. In the event, for any reason whatsoever, any particular utility is not separately metered, then, and in that event, Tenant shall be responsible for its proportionate share of such utility based upon the formula that Landlord, in its reasonable discretion, deems appropriate. Tenant agrees to indemnify and hold harmless Landlord from and against any and all claims arising from the installation and maintenance of such utility services and from all costs and charges for utilities consumed on or by the Premises. Landlord shall not be liable to Tenant for damages or otherwise (i) if any utilities shall become unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (ii) for any interruption in any utility service (including, but without limitation, any heating, ventilation or air conditioning) caused by the making of any necessary repairs or improvements or by any cause beyond Landlord's reasonable control, and the same shall not constitute a default, termination or an eviction.

#### **Section 4.04 - Signage.**

Tenant shall install and maintain one (1) sign affixed to the front of the suite in a location, size and style designated by Landlord, subject to the prior written approval of Landlord. Additional signage requires approval from landlord per Exhibit D. Notwithstanding Landlord's approval and/or the terms of this Lease, Tenant's sign shall conform to all applicable legal and insurance requirements and limitations. Subject to the foregoing, Tenant shall pay for all costs in connection with such sign and shall be responsible for the cost of proper installation and removal thereof and any damage caused to the Premises. No additional signs, which can be seen from the exterior of the Premises, shall be installed or displayed in, on or about the Premises without the prior written consent of Landlord. Any interior signs must be tasteful and shall be prepared in a professional manner (not hand-lettered). Any sign or display visible from the exterior of the Premises which does not meet the above criteria may be removed at any time by Landlord without incurring any liability therefor.

#### **Section 4.05 - Tenant's Warranties.**

Tenant warrants, represents, covenants and agrees to and with Landlord, that throughout the Term hereof it shall: (i) keep the Premises used by Tenant in a neat and clean condition, (ii) pay, before delinquent, any and all insurances, taxes, assessments and public charges imposed upon Tenant's business or fixtures, and pay when due all fees of similar nature, (iii) observe all reasonable rules and regulations established by Landlord for tenants in the Building, (iv) observe all restrictive covenants of record which are applicable to the Building. (v) not use the parking

designated to carry, and not commit or suffer to be committed any nuisance or other act or thing which may disturb the quiet enjoyment of any other occupant or tenant of the Building.

**Section 4.06 - Legal Requirements.**

Tenant shall at its own expense, comply with all laws, orders, ordinances and with directions of public officers thereunder, with all applicable Board of Fire Insurance Underwriters regulations and other requirements and with all notices from Landlord's mortgagee respecting all matters of occupancy, condition or maintenance of the Premises, whether such orders or directions shall be directed to Tenant or Landlord, and Tenant shall hold Landlord harmless from any and all costs or expenses on account thereof. Tenant shall procure and maintain all licenses and permits legally necessary for the operation of Tenant's business and allow Landlord to inspect them on request.

**Section 4.07 - Competition.**

Tenant shall not directly or indirectly, without the prior written consent of Landlord, which consent Landlord may withhold in Landlord's sole and absolute discretion, solicit, take away or divert business or their business partners, associates, employees or contractors from any businesses operation in the Building.

**Section 4.08 - Hazardous Materials.**

Except in the ordinary course of Tenant's business and in compliance with all applicable environmental laws, each of Landlord and Tenant agrees that it will not use, install, permit, hold, release or dispose of any Hazardous Material (defined hereafter) on, under or at the Premises or the Building and that it will not use or permit the use of the Premises or any other portion of the Building as a treatment, storage or disposal (whether permanent or temporary) site for any Hazardous Material. Each of Landlord and Tenant further agrees that it will not cause or allow any asbestos to be incorporated into any improvements or alterations which it makes or causes to be made to the Premises. Each of Landlord and Tenant hereby holds the other harmless from and indemnifies the other against any and all losses, liabilities, damages, injuries, costs, expenses, fines, penalties, and claims of any and every kind whatsoever (including, without limitation, court costs and attorneys' fees) which at any time or from time to time may be paid, incurred or suffered by, or asserted against the other for, with respect to, or as a direct or indirect result of (i) a breach by each such party of the foregoing covenants, or (ii) to the extent caused or allowed by each such party or any agent, contractor, employee, invitee or licensee of each such party, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, onto or into the Premises, the Building, the atmosphere, or any watercourse, body of water or groundwater, of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other Federal, state, local or other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Material). For purposes of this Lease, "Hazardous Material" means and includes any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, the Toxic Substances Control Act, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or

available under this Lease or at law or in equity, to re-enter the Premises and remove all persons and property therefrom.

If Landlord elects to relocate Tenant as provided herein, this Lease shall automatically be amended to provide that the term "Premises" as used in this Lease shall refer to the New Premises and not to the premises originally leased to Tenant under this Lease and, except as modified in this paragraph, all terms, covenants and conditions of this Lease shall apply with full force and effect to the New Premises throughout the remainder of the Term of this Lease as if the New Premises had originally been leased to Tenant in this Lease. If requested by either party, the other party shall execute and deliver an amendment to this Lease consistent with this paragraph confirming the location of the New Premises and such other matters related to the New Premises or this Lease as may reasonably be required by the requesting party.

If Landlord elects to relocate Tenant as provided herein, Landlord at its sole expense shall improve the New Premises with Tenant's Improvements.

#### ARTICLE V. COMMON AREA

##### Section 5.01 - Definition.

The term "Common Areas" shall mean the interior and exterior areas and facilities within the Building, which are: (i) not leased to a tenant, or (ii) by nature not leasable to a tenant for the purpose of the sale of merchandise or the rendition of services to the general public. Common Areas shall include but shall not be limited to all parking areas and facilities, roadways, driveways, entrances and exits, truck service ways, utilities, retention ponds or basins located within or outside the Building, retaining and exterior walls, sidewalks, open and enclosed malls, outside courts, landscaped and planted areas, stairways, elevators, service corridors, service areas, loading docks, hallways, public restrooms, community rooms or areas, roofs, equipment, signs and any special services provided by Landlord for the common or joint use and benefit of all tenants or other occupants of the Building, their employees, customers and invitees.

##### Section 5.02 - Use.

During the Term of this Lease Tenant is granted, subject to Landlord's rules and regulations promulgated by Landlord from time to time, the nonexclusive license to permit its customers and invitees to use Common Areas. Notwithstanding anything contained in this Lease to the contrary, Landlord shall have the right, at any time and from time to time, without notice to or consent of Tenant, to change the size, location, elevation and nature of any of the Common Areas (including the right to construct, remove, or demolish any improvements or buildings), or any part thereof, including, without limitation, the right to locate and/or erect thereon kiosks, structures and other buildings and improvements of any type. Common Areas shall be subject to the exclusive control and management of Landlord, and Landlord shall have the right, at any time and from time to time, to establish, modify, amend and enforce reasonable rules and regulations with respect to the Common Areas and the use thereof. Tenant agrees to abide by and conform with such rules and regulations on notice thereof and to cause its permitted concessionaires, invitees and licensees and its and their employees and agents to do the same.

and expenses incurred in operating, managing, repairing, replacing, maintaining, insuring, City/County Taxes, equipping, general lighting, and other services to the Building which are attributable to the Common Areas of the Building ("Common Area Expenses"), it being agreed between the parties that the method of establishing the amounts so attributable to the Building shall be at the sole discretion of Landlord. Notwithstanding the foregoing, Tenant's proportionate share of Common Area Expenses commences on lease execution is set at an annual rate of \$6.00 PSF for the first lease year with annual escalation of 3.5% and not to exceed the rate of 10%. The manner in which said payment shall be used shall be within the sole reasonable discretion and control of Landlord. Common Area Expenses shall include, but not be limited to, the following costs and expenses: (i) electricity (Emergency lighting), water, sewer and other utility charges (including surcharges) of whatever nature to maintain "Common Areas", (ii) building personnel costs, including, but not limited to, salaries, wages, employment taxes, fringe benefits and other direct and indirect costs of engineers, superintendents, watchmen, porters and any other building personnel, (iii) costs of service and maintenance contracts, including, but not limited to, chillers, boilers, controls, windows, janitorial and general cleaning, security services, and management fees to maintain "Common Areas" (iv) all other maintenance and repair expenses (including those payable by Landlord under Section 6.01 hereof) and supplies which may be deductible for such calendar year in computing Federal income tax liability, (v) any other costs and expenses incurred by Landlord in operating the Building, (vi) the cost of any additional services not provided to the Building at the Term Commencement Date but thereafter provided by Landlord in the prudent management of the Building, (vii) the cost of any capital improvements which are made by Landlord to benefit the Building occupants (viii) deposits into reserve accounts for capital improvements, (ix) the expenses associated with costs, repair, replacement and maintenance of the roofs, curbs, gutters, sidewalks and paved areas of the Building, (x) landscaping costs, (xi) snow and ice removal costs, (xii) any expenses due under any declarations or reciprocal easement and operating agreements, including, but not limited to, the REA, and (xiii) Landlord's customary additional administrative fee to be paid to Landlord in connection with the Building.

## ARTICLE VI REPAIRS AND MAINTENANCE

### Section 6.01 - Landlord's Obligations.

Landlord shall keep in good repair the sewer and water lines outside the Premises and the structural supports of the Premises.

### Section 6.02 - Tenant's Obligations.

(a) Except as stated in Section 6.01, Tenant, at its expense, shall (i) keep in good order, condition and repair of their space and every part thereof, including, without limiting the generality of the foregoing, all plumbing and sewage facilities within or serving its area, including free flow up to the common sewer line, all electrical and lighting systems, facilities and equipment within or serving its area; all fixtures, ceilings, doors, windows, plate glass, suite fronts, interior walls and interior surfaces of exterior walls; and any repairs required due to illegal entry or burglary of the Premises, (ii) install and maintain such fire protection devices as may be required by any governmental body or insurance underwriter for the Building, (iii) provide trash storage and removal services regardless of the location of any storage and removal facilities, except that if Landlord, in its sole discretion, shall

replacements required to be made by Tenant hereunder promptly and adequately upon at least ten (10) days written notice thereof from Landlord, Landlord may, in addition to any other remedy Landlord may have, but shall not be required to, make or complete said maintenance, repairs or replacements and Tenant shall pay the cost and expense thereof, plus a charge of fifteen percent (15%) thereof, to Landlord upon demand as Additional Rent.

**ARTICLE VII.  
REAL ESTATE TAXES**

**Section 7.01 - Liability.**

Included in Common area expenses.

**Section 7.02 - Intentionally Omitted.**

**ARTICLE VIII.  
INSURANCE**

**Section 8.01 - Landlord's Obligations.**

(a) Landlord shall obtain and maintain during the Term of this Lease, fire and extended coverage insurance, insuring against all reasonable perils and liabilities, for one hundred percent (100%) of the replacement value of the Building. Such insurance shall be issued by an insurance company licensed to do business in the jurisdiction in which the Building is located.

(b) Landlord shall obtain and maintain during the Term of this Lease, comprehensive general liability insurance covering the Common Areas, which policy is to be in the minimum amount of Two Million Dollars (\$2,000,000.00) with respect to any one accident, and in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to property damage.

**Section 8.02 - Intentionally Omitted.**

**Section 8.03 - Tenant's Obligations.**

(a) Tenant, at Tenant's sole cost and expense, shall obtain and maintain for the Term of this Lease, insurance policies providing the following coverage: (i) Tenant's fixtures, equipment, furnishings, merchandise and other contents in the Premises, for the full replacement value of said items regardless of cause or peril, (ii) one (1) full year Minimum Rent and business income coverage, (iii) all perils included in the classification "all-risk property insurance coverage" under insurance industry practices in effect from time to time in the jurisdiction in which the Building is located, (iv) plate glass insurance, (v) comprehensive general liability insurance naming Landlord and any mortgagee as additional insured, which policy is to be in the minimum amount of Two Million Dollars (\$2,000,000.00) with respect to any one person/accident, and in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to property damage. Tenant shall also obtain and maintain for the Term of this Lease, insurance policies providing the following coverage: (i) Tenant's fixtures, equipment, furnishings, merchandise and other contents in the Premises, for the full replacement value of said items regardless of cause or peril, (ii) one (1) full year Minimum Rent and business income coverage, (iii) all perils included in the classification "all-risk property insurance coverage" under insurance industry practices in effect from time to time in the jurisdiction in which the Building is located, (iv) plate glass insurance, (v) comprehensive general liability insurance naming Landlord and any mortgagee as additional insured, which policy is to be in the minimum amount of Two Million Dollars (\$2,000,000.00) with respect to any one person/accident, and in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to property damage.

**Section 8.04 - Covenants to Hold Harmless.**

(a) Landlord and Tenant each hereby release and waive all rights of subrogation against the other, its officers, directors, employees and agents from any and all liability or responsibility for any loss or damage to property covered by valid and collectible fire insurance with standard and extended coverage endorsement, or required to be carried hereunder, even if such fire or other casualties shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

**Section 8.05 - Limitation of Liability.**

Except with respect to any damages resulting from the gross negligence of Landlord, Tenant, or either party's agents or employees, neither Landlord nor Tenant shall be liable to the other party, its agents, employees or customers, for any damage, loss, compensation, accident or claims whatsoever.

**ARTICLE IX.  
DESTRUCTION OF PREMISES**

**Section 9.01 - Continuance of Lease.**

In the event the Premises shall be partially or totally destroyed by fire or other casualty insured under the provisions of Section 8.01 above, so as to become partially or totally untenantable, then the damage to the Premises shall be promptly repaired, unless Landlord shall elect not to rebuild or repair as hereafter set forth. Except in the case of termination Minimum Rent shall be abated in proportion to the amount of the Premises rendered untenantable until so repaired. In no event shall Landlord be required to repair or replace Tenant's merchandise, trade fixtures, furnishings or equipment. If more than fifty percent (50%) of the Premises or of the floor area of the Building shall be damaged or destroyed by fire or other casualty, then Landlord may elect that the Building and/or the Premises, as the case may be, be repaired or rebuilt or, at its sole discretion, terminate this Lease by giving written notice to Tenant of its election to so terminate, such notice to be given within ninety (90) days after the occurrence of such damage or destruction. If Landlord is required or elects to repair or rebuild the Premises as herein provided, Tenant shall repair or replace its merchandise, trade fixtures, furnishings and equipment in a manner and to at least a condition equal to that immediately prior to its damage or destruction.

**Section 9.02 - Reconstruction; Rent Abatement.**

If all or any portion of the Premises is damaged by fire or other casualty and this Lease is not terminated in accordance with the above provision, then all insurance proceeds however recovered shall be made available for payment of the cost of repair, replacing and rebuilding. Landlord shall use the proceeds from the insurance as set forth herein to repair or rebuild the Premises to its condition as on the Delivery Date, and Tenant shall, using the proceeds from the insurance provided for in Section 8.03, repair, restore, replace or rebuild that portion of the Premises constituting Tenant's Work as defined herein together with any additional improvements installed by Tenant, such that the Premises shall be restored to its condition as of immediately prior to the occurrence of such casualty. All of the aforesaid Tenant's insurance proceeds shall be deposited in escrow and shall be disbursed as

**ARTICLE X.  
CONDEMNATION**

**Section 10.01 - Eminent Domain.**

If twenty-five percent (25%) or more of the Premises shall be taken or condemned by any competent government authority, then either party may elect to terminate this Lease by giving notice to the other party not more than thirty (30) days after the date of which such title shall vest in the authority. If the parking facilities are reduced below the minimum parking requirements imposed by the applicable authorities and the applicable authorities will not waive such requirement in light of such taking or condemnation, Landlord may elect to terminate this Lease by giving Tenant notice within one hundred twenty (120) days after such taking. In the case of any taking or condemnation, whether or not the Term of this Lease shall cease and terminate, the entire award shall be the property of Landlord; provided, however, Tenant shall be entitled to any award as may be allowed for fixtures and other equipment which under the terms of this Lease would not have become the property of Landlord and equitable relocation costs; further provided, that any such award to Tenant shall not be in diminution of any award to Landlord.

**ARTICLE XI.  
ASSIGNING, SUBLETTING AND ENCUMBERING LEASE**

**Section 11.01 - Assigning, Subletting and Encumbering Lease.**

(a) Tenant shall not without Landlord's prior written consent, (i) assign or otherwise transfer, or mortgage or otherwise encumber, this Lease or any of its rights hereunder, (ii) sublet the Premises or any part thereof, or permit the use of the Premises or any part thereof by any persons other than Tenant or its agents, or (iii) permit the assignment or other transfer of this Lease or any of Tenant's rights hereunder by operation of law. Any attempted or purported transfer, assignment, mortgaging or encumbering of this Lease or any of Tenant's interest hereunder and any attempted or purported subletting or grant of a right to use or occupy all or a portion of the Premises in violation of the foregoing sentence shall be null and void and shall not confer any rights upon any purported transferee, assignee, mortgagee, subTenant or occupant.

(b) In the event Tenant desires to assign or transfer this Lease, or sublet (or permit occupancy or use of) the Premises, or any part thereof, Tenant shall give Landlord sixty (60) days prior written notice of Tenant's intention to so assign or transfer or sublet all or any part of the Premises. For thirty (30) days following receipt of said notice, Landlord shall have the right, exercisable by sending written notice to Tenant, to refuse to permit such assignment, sublet or transfer. In the event Tenant is in Default hereunder, Tenant hereby assigns to Landlord the rent due from any subtenant of Tenant and hereby authorizes each such subtenant to pay said rent directly to Landlord. The consent by Landlord to any assignment, transfer or subletting to any party shall not be construed as a waiver or release of Tenant under the terms of any covenant or obligation under this Lease, nor shall the collection or acceptance of rent from any such assignee, transferee, subtenant or occupant constitute a waiver or release of Tenant of any covenant or obligation contained in this Lease, nor shall any such assignment, transfer or subletting be construed to relieve Tenant from giving Landlord said thirty (30) days notice or from obtaining the consent in writing of Landlord to any further assignment, transfer or subletting.

**ARTICLE XII  
SUBORDINATION AND FINANCING**

**Section 12.01 – Subordination.**

This Lease and Tenant's tenancy hereunder shall be subject and subordinate at all times to the lien of any mortgage or deed of trust now or hereafter placed upon the interest of Landlord and the Premises, and to any renewals, modifications, consolidations, replacements or extensions thereof. The foregoing provision shall be self-operative and no further instrument shall be required to effect such subordination, but Tenant agrees to execute and deliver such instruments as may be desired by Landlord or by any mortgagee or trustee subordinating this Lease to the lien of any present or future mortgage or deed of trust, or as may be otherwise required to carry out the intent of this Section. Tenant also agrees that any mortgagee or trustee may elect to have this Lease a prior lien to its mortgage or deed of trust, and in the event of such election, and upon notification by such mortgagee or trustee to Tenant to that effect, this Lease shall be deemed prior in lien to the said mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said mortgage or deed of trust.

**Section 12.02 – Attornment.**

If, and so long as this Lease is in full force and effect, then at the option of the mortgagee: (a) this Lease shall remain in full force, notwithstanding (i) a default under the mortgage by Landlord, (ii) failure of Landlord to comply with this Lease, (iii) a defense to which Tenant might be entitled against Landlord under this Lease, or (iv) any bankruptcy or similar proceedings with respect to Landlord, (b) if any such mortgagee shall become possessed of the Premises, Tenant shall be obligated to such mortgagee to pay to it the rentals and other charges due hereunder and to thereafter comply with all the terms of this Lease, and (c) if any mortgagee or purchaser, at a private or public sale shall become possessed of the Premises, Tenant shall, without charge, attorn to such mortgagee or purchaser as its landlord under this Lease. Tenant agrees that in the event Landlord is in default under this Lease, any mortgagee or trustee under a deed of trust of Landlord's interest in the Premises shall be permitted (but not required) to enter the Premises for the purpose of correcting or remedying such default, and Tenant agrees to accept performance by such mortgagee or trustee in lieu of performance by Landlord. Tenant further agrees that, from and after written notice from Landlord of the name and address of any mortgagee or trustee, Tenant will contemporaneously deliver notice to any such mortgagee or trustee of a default by Landlord under this Lease. Notwithstanding any provision of this Lease, Tenant agrees that no termination of this Lease or abatement or reduction or rent or any other amounts under this Lease shall be effective unless and until such mortgagee or trustee has received notice and fails within thirty (30) days of the later of (i) the date on which Landlord's cure period expires to cure the default of Landlord in question, or if the default cannot be cured within said thirty (30) days, fails to commence and diligently prosecute the cure of such default or (ii) the date on which such lender received such notice.

**Section 12.03 – Financing.**

In the event the construction lender, land Landlord or the permanent lender for the Building requires, as a condition to financing, modifications to this Lease, provided such modifications are reasonable, do not adversely affect Tenant, do not materially alter the approved working plans and do not increase the rent and other sums to be paid hereunder. Landlord shall submit to Tenant a written amendment with such required modifications and if

**Section 12.05 - Unrelated Business Taxable Income.**

If at any time and from time to time during the term of this Lease, Landlord is advised by its counsel or counsel to a tax exempt member of the managing member of Landlord that any provision of this Lease, including without limitation the provisions relating to the payment of Rent and Additional Rent, or the absence of any provision might give rise to unrelated business taxable income within the meaning of sections 512 of the Internal Revenue Code of 1986, as amended, or the regulations issued thereunder, or may jeopardize the tax exempt status of any member in Landlord or any member in a limited liability company that is a member in Landlord, or may prevent any such partner from obtaining such tax-exempt status, then this Lease may be unilaterally amended by Landlord in such manner to meet the requirements specified by counsel for Landlord and Tenant agrees that it will execute all documents or instruments necessary to effect such amendments, provided that no such amendment shall result on an estimated basis in Tenant having to pay in the aggregate more on account of its occupancy of the Premises than it would be required to pay under the terms of this Lease, or having to receive fewer services or services of lesser quality than it is presently entitled to receive under this Lease.

**ARTICLE XIII  
DEFAULTS**

**Section 13.01 - Events of Default.**

If any one or more of the following events occur, said event or events shall hereby be classified as a "Default":

(a) If Tenant fails to pay Minimum Rent, Additional Rent or any other charges required to be paid by Tenant when same shall become due and payable, and such failure continues for ten (10) days after written notice from Landlord;

(b) If Tenant shall fail to perform or observe any terms and conditions of this Lease other than the obligation to pay rent as set forth in Section 13.01(a), and such failure shall continue for thirty (30) days after written notice from Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Tenant is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such default shall be deemed to have been cured if Tenant commences such performance within said thirty (30) day period and thereafter diligently undertakes to complete the same;

(c) If Tenant refuses to take possession of the Premises at the Delivery Date, or fails to open its doors for business on the Term Commencement Date as required herein, vacates the Premises and permits the same to remain unoccupied and unattended or substantially ceases to carry on its normal activities in the Premises;

(d) If Tenant is a corporation, if any part or all of its stock representing effective voting control of Tenant shall be transferred to a party other than an affiliate of Tenant so as to result in a change in the present effective voting control of Tenant and such change is not consented to in writing by Landlord, which consent shall not be unreasonably withheld, conditioned or delayed;

(g) If a receiver or trustee shall be appointed under state law for Tenant or any guarantor of Tenant's obligations hereunder, for all or any portion of the property of either of them, and such receivership or trusteeship shall not be set aside within thirty (30) days after such appointment;

(h) If any execution, levy, attachment or other legal process of law shall occur upon Tenant's goods, fixtures, or interest in the Premises; or,

(i) If Tenant shall be given two (2) notices of Default under Section 13.01(a), (b); (c), or (d) within any consecutive twelve (12) month period, notwithstanding any subsequent cure of the Default identified in such notices.

#### Section 13.02 - Landlord's Remedies.

Should a Default occur, Landlord may pursue any or all of the following:

(a) Landlord may terminate this Lease by giving five (5) days written notice of such termination to Tenant, whereupon this Lease shall automatically cease and terminate and Tenant shall be immediately obligated to quit the Premises. Any other notice to quit or notice of Landlord's intention to reenter the Premises is hereby expressly waived. If Landlord elects to terminate this Lease, everything contained in this Lease on the part of Landlord to be done and performed shall cease without prejudice, subject, however, to the right of Landlord to recover from Tenant all rent and any other sums accrued up to the time of termination or recovery of possession by Landlord, whichever is later, plus all other losses or damages to such default.

(b) Landlord may terminate Tenant's right to possession without terminating this Lease. Upon any termination of Tenant's right to possession (regardless of whether the Lease shall be terminated), Tenant shall surrender possession and vacate the Premises immediately, and remove Tenant's property as provided herein and deliver possession of the Premises to Landlord. Tenant hereby grants to Landlord full and free license to enter into the Premises in such event with or without process of law, and to repossess Landlord of the Premises as of Landlord's former estate, and to expel or remove Tenant and, at Tenant's expense, any and all property therefrom, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction, forcible entry or detainer, or conversion of property, and without relinquishing Landlord's rights to rent or any other rights given to Landlord hereunder, or by law.

If the Landlord elects to terminate Tenant's right to possession only without terminating the Lease, Landlord may, at Landlord's option, enter into Premises, remove Tenant's signs and other evidence of tenancy, and take and hold possession thereof without such entry and possession terminating this Lease or releasing the Tenant, in whole or in part, from Tenant's obligations to pay the rent reserved herein and Tenant's other obligations hereunder for the full Term.

(c) Landlord may proceed to recover possession of the Premises under and by virtue of the provisions of the laws of the jurisdiction in which the Building is located, or by such other proceedings, including reentry and possession, as may be applicable.

alterations, repairs or replacements in the Premises as Landlord, in its sole judgment, considers advisable and necessary for the purpose of reletting the Premises, and the making of such alterations, repairs or replacements shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord shall in no event be liable in any way whatsoever for failure to relet the Premises, or in the event that the Premises are relet, for failure to collect the rent under such reletting, and in no event shall Tenant be entitled to receive the excess, if any, of such net rent collected over the sums payable by Tenant to Landlord hereunder.

(e) If Tenant shall fail to pay any monthly installment of rent pursuant to the terms of this Lease, or any Additional Rent due under this Lease, when each such payment is due, for two (2) consecutive months, or three (3) times in any period of six (6) consecutive months, then Landlord may, by giving written notice to Tenant, exercise any of the following options as a condition of Tenant's curing such Default: (i) declare the rent reserved under this Lease for the next six (6) months (or at Landlord's option for a lesser period) to be due and payable within ten (10) days of such notice; or (ii) require an additional security deposit to be paid to Landlord within ten (10) days of such notice, in an amount not to exceed six (6) months rent. Landlord may invoke any of the options provided for herein at any time during which Default remains uncured.

(f) If Tenant shall be in Default, Landlord shall have the option, upon ten (10) days written notice to Tenant, to cure said Default for the account of and at the expense of Tenant. No such notice shall be required for emergency repairs.

(g) Any damage or loss of rent sustained by Landlord may be recovered by Landlord, at Landlord's option, at the time of the reletting, or in separate actions, from time to time, as said damage shall have been made more easily ascertainable by successive reletting, or at Landlord's option in a single proceeding deferred until the expiration of the Term of this Lease (in which event Tenant hereby agrees that the cause of action shall not be deemed to have accrued until the date of expiration of said Term) or in a single proceeding prior to either the time of reletting or the expiration of the Term of this Lease.

(h) Any and all property of Tenant which may be removed from the Premises by Landlord pursuant to the authority of this Lease or by law may be handled, removed or stored in a commercial warehouse or otherwise by Landlord, at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property, for so long as the same shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not removed from the Premises when required or any of Tenant's property removed from the Premises by Landlord and stored which is not retaken from storage by Tenant within thirty (30) days shall be conclusively deemed to have been forever abandoned by Tenant, and Landlord may dispose of the same in such manner as Landlord shall choose, but such disposal shall not relieve Tenant of the obligation to reimburse Landlord for the cost of removal, storage and disposition of such property.

(i) Nothing contained herein shall prevent the enforcement of any claim either party may have against the other for anticipatory breach of any of the covenants or provisions hereof. Each party shall have the right of injunction and the right to invoke any remedy allowed at law or in equity. Mention in this Lease of any particular remedy shall not preclude either party from any other remedy, in law or in equity.

**Section 13.04 - Default by Landlord.**

Landlord shall in no event be charged with a default hereunder unless Landlord shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after written notice thereof from Tenant; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such default shall be deemed to have been cured if Landlord commences such performance within said thirty (30) day period and thereafter diligently undertakes to complete the same.

**ARTICLE XIV.  
BANKRUPTCY OR INSOLVENCY**

**Section 14.01 - Tenant's Interest Not Transferable.**

Neither Tenant's interest in this Lease, nor any interest therein of Tenant nor any estate hereby created in Tenant, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law.

**Section 14.02 - Intentionally Omitted.**

**Section 14.03 - Tenant's Obligation to Avoid Creditors' Proceedings.**

Tenant or Tenant's Guarantor, if any, shall not cause or give cause for the institution of legal proceedings seeking to have Tenant or Tenant's Guarantor, if any, adjudicated bankrupt, reorganized or rearranged under the bankruptcy laws of the United States, and shall not cause or give cause for the appointment of a trustee or receiver for the assets of Tenant or Tenant's Guarantor, if any, and shall not make any assignment for the benefit of creditors, or become or be adjudicated insolvent. The allowance of any petition under the bankruptcy law, or the appointment of a trustee or receiver of Tenant or Tenant's Guarantor, if any, or its assets, shall be conclusive evidence that Tenant caused, or gave cause therefore, unless such allowance of the petition, or the appointment of a trustee or receiver, is vacated within thirty (30) days after such allowance or appointment. Any act described in this Section 14.03 shall be deemed a material breach of Tenant's obligation hereunder, and upon such breach by Tenant, Landlord may, at its option and in addition to any other remedy available to Landlord, terminate this Lease and all rights of Tenant hereunder, by giving to Tenant notice in writing of the election of Landlord to so terminate.

**Section 14.04 - Application of Bankruptcy Proceeds.**

Notwithstanding anything to the contrary contained in this Article XIV, in the event, for any reason whatsoever, the interest of Tenant in this Lease is subject to assignment or sale by the Bankruptcy Court, then, and in that event, all proceeds of such sale or assignment shall be paid to Landlord and not to Tenant nor to the bankruptcy estate.

**Section 14.05 - Intentionally Omitted.**

**ARTICLE XVI  
DELAYS**

**Section 16.01 - Delays.**

If Landlord or Tenant is delayed from performing any of their respective obligations during the Term of this Lease because of acts of God or other cause beyond their control, then the period of such delays shall be deemed added to the time herein provided for the performance of any such obligation and the defaulting party shall not be liable for losses or damages caused by such delays; provided, however, that this Article shall not apply to the payment of any sums of money required to be paid by Tenant hereunder or any obligation of Landlord or Tenant that can be satisfied by the payment of money. Subject to the foregoing, time is of the essence with respect to all obligations to be performed by Tenant pursuant to the terms of this Lease.

**ARTICLE XVII  
END OF TERM**

**Section 17.01 - Return of Premises.**

Upon the expiration or termination of this Lease, Tenant shall quit and surrender the Premises to Landlord, in good order, broom clean, normal wear and tear and acts of God excepted. Subject to the other terms of this Lease, Tenant shall, at its expense, remove all property of Tenant, all alterations to the Premises not wanted by Landlord and repair damage caused by such removal and return the Premises to the condition in which they were prior to the installation of the article so removed.

**Section 17.02 - Holding Over.**

If Tenant shall hold possession of the Premises after the expiration or termination of this Lease, at Landlord's option (i) Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month at 150% the Minimum Rent and additional rent in effect during the last Lease Year immediately preceding such holdover, and otherwise subject to all of the terms and conditions of this Lease, or (ii) Landlord may exercise any other remedies it has under this Lease or at law or in equity including an action for wrongfully holding over.

**ARTICLE XVIII  
COVENANT OF QUIET ENJOYMENT**

**Section 18.01 - Covenant of Quiet Enjoyment.**

Landlord covenants that if and so long as Tenant pays in full all the rent and all other charges provided for herein and performs all of its obligations provided for herein, Tenant shall at all times during the Term hereof peaceably have, hold and enjoy the Premises, without any interruption or disturbance from Landlord, or anyone claiming through or under Landlord, subject to the terms hereof, and any mortgages to which this Lease is subordinate.

forth. This Lease may be amended or added to only by an agreement in writing signed by the parties hereto or their respective successors in interest.

**Section 19.02 – Notice.**

No notice or other communications given under this Lease shall be effective unless the same is in writing and is delivered in person or mailed by registered or certified mail, return receipt requested, first class, postage prepaid, or delivered via over-night courier, addressed: (1) if to Landlord, attention: General Counsel at the address set forth on page 1 of this Lease, or to such other address as Landlord shall designate by giving notice thereof to Tenant, or (2) if to Tenant, at the address set forth on page 1 of this Lease or such other address as Tenant shall designate by giving notice thereof to Landlord. Any such notice, statement, certificate, request or demand shall, in the case of registered or certified mailing, be deemed to have been given on the date mailed as aforesaid in any post office or branch post office regularly maintained by the United States Government, and in the case of delivery by nationally recognized overnight courier service, shall be deemed to have been given upon the date of delivery to an authorized agent of such courier service, except in each case for notice of change of address or revocation of a prior notice, which shall only be effective upon receipt.

**Section 19.03 - Applicable Laws.**

It is the intent of the parties hereto that all questions and/or disputes with respect to the construction of this Lease and the rights and the liabilities of the parties hereto shall be determined in accordance with the laws of the State in which the Building is located. Any and all such disputes shall be filed either in a court of competent jurisdiction in the jurisdiction in which the Building is located.

**Section 19.04 – Successors.**

This Lease shall bind and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

**Section 19.05 - Limitation on Tenant's and Landlord's Personal Liability.**

There shall be no personal liability on either Tenant or Landlord, or their respective officers, partners, members, employees, shareholders, agents beneficiaries, or any successor in interest with respect to any provisions of this Lease, or amendments, modifications or renewals hereof. Tenant shall look solely to the then owner's equity in the Premises for the satisfaction of any remedies of Tenant in the event of a breach by Landlord of any of its obligations hereunder.

**Section 19.06 – Broker.**

Each party agrees to indemnify and hold the other harmless against any claims for brokerage or other commission arising by reason of a breach by such party of this representation and warranty. Landlord covenants and agrees to pay the commission to the Broker, pursuant to separate agreement.

of this Lease, the former Tenant thereunder shall become and remain liable as Landlord hereunder until a further transfer. No holder of a mortgage or deed of trust to which this Lease is, or may be subordinate, shall be responsible in connection with the security deposited hereunder, unless such mortgagee or holder of such deed of trust of Landlord shall have actually received the security deposited hereunder.

**Section 19.08 - Relationship of the Parties.**

The terms of this Lease shall not be interpreted to mean that Landlord and Tenant are partners or joint ventures.

**Section 19.09 - Intentionally Omitted**

**Section 19.10 - Waiver of Jury Trial.**

Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on or in respect of any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant hereunder, Tenant's use or occupancy of the Premises and/or any claim of injury or damage.

**Section 19.11 - Invalidity of Particular Provisions.**

If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**Section 19.12 - Strict Performance.**

No failure by either party to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Lease to be kept, observed or performed by the other party, and no failure by Tenant or Landlord, as applicable, to exercise any right or remedy consequent upon a breach of any such term, covenant, agreement, provision, condition or limitation of this Lease, shall constitute a waiver of any such breach or of any such term, covenant, agreement, provision, condition or limitation.

**Section 19.13 - Promotion Costs; Tenants' Association.**

Landlord or Landlord's designated agent shall have the exclusive management, direction and control of all advertising, promotion and public relations for the Building. All personnel and any consultants or service organizations engaged by Landlord in connection therewith shall be under the exclusive supervision of Landlord and Landlord shall have the sole authority to employ and discharge the same.

**Section 19.14 - Intentionally Omitted**

**Section 19.17 - Intentionally Omitted**

**Section 19.18 - Effect of Captions.**

The captions or legends in this Lease are inserted for convenient reference or identification of the particular paragraphs. They are in no way intended to describe, interpret, define or limit the scope, extent or interest of this Lease, or any paragraph or provision thereof.

**Section 19.19 - Recording.**

Tenant shall not record this Lease, or a memorandum or so-called "short form" of this Lease, without the prior written consent of Landlord.

**Section 19.20 - Confidentiality.**

Tenant covenants to not disclose any part of this Lease to anyone other than its attorneys, accountants, employees, or lenders who need to know of its content in order to perform their duties for Tenant.

**Section 19.21 - Time is of the Essence.**

Time is of the essence in each and every instance hereunder with respect to the covenants, undertakings and conditions to be performed hereunder.

**Section 19.22 - Attorneys' Fees.**

Either party shall reimburse the other party for all reasonable attorneys' fees and other expenses incurred by the prevailing party in successfully enforcing any of the obligations under this Lease or in any litigation or negotiation in which either party shall, without its fault, become involved through, on account of, or by reason of this Lease, or arising out of the relationship between Tenant and Landlord hereunder.

**Section 19.23 - Damages.**

Notwithstanding anything to the contrary contained in this Lease, Tenant acknowledges and agrees that neither Tenant nor Landlord shall be liable for any consequential, indirect, speculative or punitive damages in connection with any claim made by the other party hereunder.

**Section 19.24 - Intentionally Omitted.**

**Section 19.25 - Preparation of Lease.**

Notwithstanding any rule of construction or interpretation, or otherwise, this Lease, nor any portion thereof, shall not be construed more strongly against the party who prepared it.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease Agreement to be executed effective the day and year first above written.

**LANDLORD:**

Woodgrove Professional Center, Inc.,  
an Illinois general partnership  
7425 Janes Ave., Suite 200  
Woodridge, IL 60517  
630-852-0267 (O)  
630-852-0554 (F)

By: Woodgrove Professional Center, Inc.,  
an Illinois general partnership

its sole member

By: \_\_\_\_\_

Name: Mahmood Choudry, Ph.D.

Title: Manager

**TENANT:**

Nephrology Associates of Northern Illinois, P. C.  
855 Madison Ave.  
Oak Park, IL 60302  
708-386-1000

By:

\_\_\_\_\_  
Name: Brian O'Dea, CFO

By:

\_\_\_\_\_  
Name: Dr. Michael Carbon, COO

**EXHIBIT A**

**SITE PLAN**

**[See Attached]**

**EXHIBIT A-1**  
**FIRST FLOOR LEASE PLAN**  
[see Attached]

**EXHIBIT A-2**

**LEASE PLAN**

**[See Attached]**

**EXHIBIT B**  
**Corrected Minimum Rent**  
**[See Attached]**

**EXHIBIT C**  
**TENANT'S WORK**  
**[See Attached]**

**EXHIBIT D**

**Final Letter of Intent (LOI) Dated March 2, 2007**

**[See Attached]**

Dec.13. 2007 12:23PM

No.7926 P. 1



# Fax

<b>To:</b> Jim Cichowski	<b>From:</b> Lindy Nakaerts
<b>Fax:</b> 866-694-0425	<b>Pages:</b> 3 (including cover page)
<b>Phone:</b>	<b>Date:</b> 12/13/07
<b>Re:</b> Woodridge Lease	<b>CC:</b>

Urgent    For Review    Please Comment    Please Reply    Please Recycle

• **Comments:**

Jim,

Here is the executed page of the lease for Janes Ave., and the Exhibit page. This is the only Exhibit with anything on it, the others are blank.

630.289.6153 mobile   630.388.6896 office   630.388.7674 fax

Dec.13. 2007 12:23PM

No.7926 P. 2

12/13/2007 11:05 6388528554

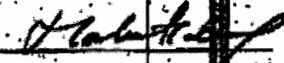
PHYSICIANS OFFICE

PAGE 62/82

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease Agreement to be executed effective the day and year first above written.

LANDLORD:

Woodgrove Professional Center, Inc.,  
an Illinois corporation  
7425 James Ave., Suite 200  
Woodridge, IL 60517  
630-852-0267 (O)  
630-852-0334 (F)

By: 

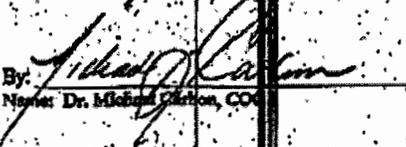
Name: Mahmood Chowry, Ph.D.  
Title: Manager

TENANT:

Nephrology Associates of North Illinois, Inc.,  
an Illinois corporation  
854 Madison Ave.  
Oak Park, IL 60302  
708-386-1000

By: 

Name: Brian O'Dea, CFO

By: 

Name: Dr. Michael Garton, COO

### ADDENDUM TO EXHIBIT C

As a supplement to the attached plans and specifications, and to the fullest extent not covered therein, Landlord and Tenant hereby agree as follows:

1. All heating, air conditioning, ventilating, electrical, plumbing and mechanical systems in the Building and in the Premises will be in good operating condition and broom swept clean.
2. Landlord will designate two (2) parking spaces, along the south face of unit D, for creating a new access side walk to the new tenant access door, to be installed by Tenant.
3. Landlord shall provide to Tenant one (1) electric panel and 200 amps of power at 480 volt. Panel shall be available in the common area 1<sup>st</sup> floor electrical closet.
4. Landlord will allow an automatic front entrance to be installed at Tenant's expense and subject to Landlord's approval of actual door and construction plans, which approval shall not be unreasonably withheld, conditioned or delayed.
5. Tenant may install one (1) new entrance on the south face of the building for private Medi Car and ambulance access to the Premises subject to Landlord's approval of actual door and construction plans, which approval shall not be unreasonably withheld, conditioned or delayed.
6. Landlord and Tenant agree that all curbing, new side walk and aluminum and glass partitions for the new entrance will match the existing to maintain current aesthetics and compliance with current ADA requirements.
7. Tenant may install one (1) exterior, gas powered power generator next to the existing electrical transformers near the northeast corner of the Building, subject to Landlord's approval of the plans and specifications therefor, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant may use the existing electrical conduit to bring the electrical line into the main electrical room on the lower level.
8. Tenant may install one (1) roof top compressor unit and the required condensate piping and electrical line for this unit, subject to Landlord's approval of the plans and specifications therefor, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord acknowledges that Tenant requires a low temperature room in which to conduct their procedures and the supplemental air conditioning unit is necessary to achieve the lower temperature levels. Tenant will be responsible for all maintenance, replacement and electrical parts to run this compressor unit plus any additional parts.

February 1, 2017

Bill Brennan  
Nephrology Associates of Northern Illinois, Inc.  
120 W. 22<sup>nd</sup> Street  
Oak Brook, IL 60523



Via E-mail: [bbrennan@nephdocs.com](mailto:bbrennan@nephdocs.com)

**RE: Nephrology Associates of Northern Illinois, Inc.  
At Woodgrove Professional Center  
7425 Janes Avenue  
Woodridge, IL 60517**

Dear Mr. Brennan;

Please find below a proposal to reflect all points that will be the basis for the renewal of the lease for Suite 101 in the Woodgrove Professional Center.

1. **Tenant:** Nephrology Associates of Northern Illinois, Inc.  
120 W. 22<sup>nd</sup> Street  
Oak Brook, IL 60523
2. **Premises:** 7425 Janes Ave., Suite 101  
Woodridge, IL 60517
3. **Square Feet:** A BOMA study was conducted in April of 2015 by GEA Architects and it was found that the actual rentable square footage of the space is 4,206 Square Feet
4. **Ownership/Management:** John M. Seelander  
Pogo Properties, LLC  
7425 Janes Ave., Suite 201  
Woodridge, IL 60517
5. **Lease Term:** Sixty (60) month term will begin on September 1, 2017 and end on August 31, 2022.
6. **Initial Net Rent:** Rent will be \$19.00 per square foot equivalent to \$6,659.50 per month and \$79,914.00 per year. Rent will be subject to a three (3) percent annual escalation starting on the 12<sup>th</sup> month and annually thereafter. Operating Expenses and taxes will be trued up annually to reflect the actual costs.
7. **Operating Expenses:** Below is an illustration of the most recent Operating Expenses and are based on 2016 expenses:  
  
CAM's and Insurance - \$5.18 SF  
Real Estate Taxes - \$3.69 SF

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7425 Janes Avenue - Suite 203 - Woodridge, IL - 60517 - Phone 630-515-8831 - Fax 630-515-0510

- 8. **Landlord Improvements :** Landlord agrees to provide an allowance of \$6,000 towards refurbishment of the space. Said allowance shall be available to Tenant upon signing of the amended lease. If not used by tenant by January 1<sup>st</sup>, 2018 their right to this allowance will end.
- 9. **Option to Extend** Landlord will provide Tenant One (1) 5 year options to renew. Minimum Rent during the Option Terms shall not increase more than 3.0% per annum over the Minimum Rent for the immediately preceding year.
- 10. **Assignment & Sublease** Tenant shall have the right to assign or sublet all or part of the premises at any time with Landlord's consent, which shall not be unreasonably withheld or delayed. No consent shall be required for an assignment or sublet to any subsidiary, affiliate, or related company to the Tenant.
- 11. **Real Estate Commission:** It is represented that neither the Tenant nor the Landlord is represented by a real estate broker and no commissions will be paid on this lease.
- 12. **Response Date:** This proposal is valid until Friday, February 10<sup>th</sup>, 2017

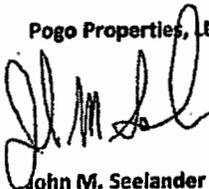
This letter is not intended to be a binding agreement but the basis for negotiation. There shall be no binding agreement until a lease or lease extension is executed and delivered by the Landlord and the Tenant. Proposal is being provided with confidentiality and must not be shared with any other parties.

If everything meets with your understanding and approval, please sign and date below and return this proposal to our office or by fax to 630-725-4981. Upon receipt of the signed offer, we will prepare a lease and begin the tenant improvement process.

We look forward to working with you. Please feel free to call me at (630) 515-8831 with any questions regarding this proposal.

Sincerely,

Pogo Properties, LLC



John M. Seelander

CC: Lindy Nakaerts – Source One Solutions – [lindy@sosi2.com](mailto:lindy@sosi2.com)

Agreed and Accepted this 10<sup>th</sup> day of February, 2017  
*Bill Bruner*  
 Neurology Associates of Northern Illinois, LTD

By:

File Number

0614945-6



**To all to whom these Presents Shall Come, Greeting:**

*I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that*

DUPAGE VASCULAR CARE LLC, HAVING ORGANIZED IN THE STATE OF ILLINOIS ON FEBRUARY 15, 2017, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A DOMESTIC LIMITED LIABILITY COMPANY IN THE STATE OF ILLINOIS.



Authentication #: 1705501660 verifiable until 02/24/2018  
Authenticate at: <http://www.cyberdriveillinois.com>

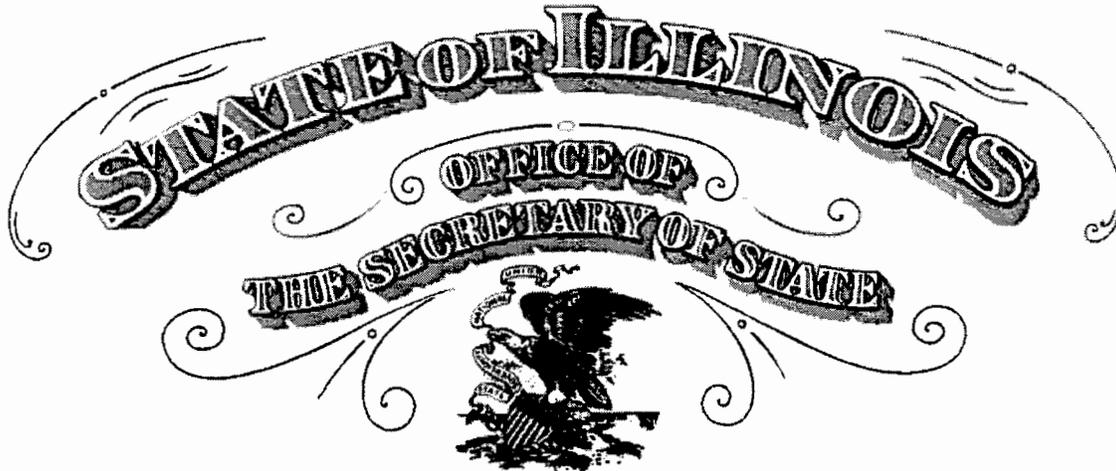
**In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 24TH day of FEBRUARY A.D. 2017 .**

*Jesse White*

SECRETARY OF STATE

File Number

5112-723-4



**To all to whom these Presents Shall Come, Greeting:**

*I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that*

NEPHROLOGY ASSOCIATES OF NORTHERN ILLINOIS, LTD., A DOMESTIC CORPORATION, INCORPORATED UNDER THE LAWS OF THIS STATE ON APRIL 01, 1977, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE BUSINESS CORPORATION ACT OF THIS STATE RELATING TO THE PAYMENT OF FRANCHISE TAXES, AND AS OF THIS DATE, IS IN GOOD STANDING AS A DOMESTIC CORPORATION IN THE STATE OF ILLINOIS.



Authentication #: 1707202504 verifiable until 03/13/2018  
Authenticate at: <http://www.cyberdriveillinois.com>

**In Testimony Whereof, I hereto set  
my hand and cause to be affixed the Great Seal of  
the State of Illinois, this 13TH  
day of MARCH A.D. 2017 .**

*Jesse White*

SECRETARY OF STATE

Nephrology Associates of  
Northern Illinois, Ltd.



DuPage Vascular  
Care, LLC

## Nephrology Associates of Northern Illinois, LTD

120 W 22<sup>nd</sup> Street · Oak Brook, IL 60523 · Phone 630-573-5000 · Fax 630-368-0331

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April 6, 2017

Ms. Kathryn J. Olson, Chair  
Illinois Health Facilities and Services Review Board  
525 W. Jefferson Street, 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Olson:

As a representative of both DuPage Vascular Care, LLC and Nephrology Associates of Northern Illinois, Ltd. I, Brian J. O'Dea, give authorization to the Health Facilities and Services Review Board and the Illinois Department of Public Health to access documents necessary to verify the information submitted including, but not limited to: official records of IDPH or other state agencies, the licensing or certification records of other states, and the records of nationally recognized accreditation organizations.

I further verify that, as neither entity owns a healthcare facility, neither entity has had an adverse action in the past three years.

I hereby certify this is true and based upon my personal knowledge under penalty of perjury and in accordance with 735 ILCS 5/1-109.



Brian J. O'Dea



CON Line	Woodridge	Clinical	Nonclinical	% Clinical
Modernization Contracts	Parking		1,000	0.0%
Modernization Contracts	Patient entry / drop off		-	0.0%
Modernization Contracts	Shared space	85,000		100.0%
Modernization Contracts	Sprinkler system			0.0%
Modernization Contracts	Examination / Multipurpose room	200		100.0%
Modernization Contracts	Patient dressing			0.0%
Modernization Contracts	Procedure room	27,500		100.0%
Modernization Contracts	Pre-Op and Recovery			0.0%
Modernization Contracts	Stretcher holding			0.0%
Modernization Contracts	Equipment storage			0.0%
Modernization Contracts	Clinic sink/bed pan washer	7,000		100.0%
Modernization Contracts	Scrub sink	3,000		100.0%
Modernization Contracts	Medical vacuum & O2 Systems		70,000	0.0%
Modernization Contracts	Ceiling tile	1,000		100.0%
Modernization Contracts	Tenant separation	5,000		100.0%
Modernization Contracts	HVAC		80,000	0.0%
Modernization Contracts	Clean/soiled room separation		1,000	0.0%
Modernization Contracts	Linen storage			0.0%
Modernization Contracts	Anesthesia work area			0.0%
Modernization Contracts	Staff locker / changing room / toilet / shower			0.0%
Modernization Contracts	Staff locker / changing room / toilet / shower		25,000	0.0%
Modernization Contracts	Emergency power		2,500	0.0%
Modernization Contracts	Generator		70,000	0.0%
Modernization Contracts	Moveable or Other Equipment	80,000	20,000	80.0%
Modernization Contracts	Permitting	3,000	6,000	33.3%
Modernization Contracts	Construction management	6,000	21,500	21.8%
		-----	-----	
		\$217,700	\$297,000	42.3%
Contingencies		25,378	34,622	42.3%
Architectural/Engineering Fees	Architectural design & state plan review	10,000	30,000	25.0%
Consulting & Other Fees	Quality Program (accreditation)	-	26,370	0.0%
FMV Leased Space	FMV Leased Space	163,137	261,137	38.5%
Start-up costs	Close facility for Modernization (30 days)	-	41,700	0.0%

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Total Cost		\$416,215	\$690,829	37.6%
Total Cost (psf)		\$195.54	\$332.53	\$263.20
Total Modernization Contracts		\$217,700	\$297,000	\$514,700
Modernization Contracts (psf)		\$102.28	\$142.96	\$122.37
Cash & Securities		\$253,078	\$429,692	\$682,770
Lease (FMV)		\$163,137	\$261,137	\$424,274
Total Cost		\$416,215	\$690,829	\$1,107,044

## **Woodridge IL ASC Conversion Review Assessment 9/29/16**

The center in Woodridge was designed 2007 and based on the 2003 International Building Code (IBC) in effect at that time. The Current Building Code appears to be the 2012 International Building Code (IBC). There is a 2015 version of this code, but we don't see any indication that the city / county will be moving to that edition in the near future. This assessment is based on the 2012 IBC.

ASC licensed facilities in Illinois must comply with Title 77: PUBLIC HEALTH, CHAPTER 1: DEPARTMENT OF HEALTH, SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES, PART 205 AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS. This outlines the various requirements for an ASC in Illinois and also refers to the requirements in NFPA 101 the Life Safety Code. Based on a review of these documents the following items will need to be addressed.

This clinic will likely also be reviewed by CMS for Deemed Status for Medicare. CMS refers to the requirements of the 2000 Life Safety Code and the 2014 edition of the Guidelines for Design and Construction of Hospitals and Outpatient Facilities (Guidelines) by the Facilities Guideline Institute. This assessment has reviewed these Guidelines and have noted any concerns as applicable.

The State of Illinois also requires a Certificate of Need (CON) to be approved before the State will provide an architectural review of the center design. The ASC Licensure process by the state is also dependent upon the completion and approval of both the CON and State Architectural and facility life safety requirements being completed. A "Needs Assessment" and other documented justification information must be presented to CON Board, along with the application.

**CON applicant must provide the following:**

- a) Application Submittal
- b) Indicate background of the applicant;
- c) Evidence of site ownership/lease
- d) Project costs and sources of funds/financing
- e) Outline Cost-space requirements
- f) Outline the impact on access to health care services if the applicant obtains a CON permit
- g) Alternatives to the project considered by the applicant
- h) Explain the purpose of the project (i.e., how the project will improve health outcomes in the service area)
- i) "Needs Assessment" Requirement
  - a. Identify the scope of services being sought
  - b. Identify the target population to be served with a specific geographic area
  - c. Show projected patient volume
  - d. Justify the number of operating rooms requested
  - e. Address the impact on existing surgery centers, including the submission of a safety net impact statement that addresses charity care and Medicaid patient need;
  - f. Show that the proposed service is not available in the target area or that existing facilities have restrictive admissions policies
  - g. Include certified referral letters from physicians addressing the number of patients they plan to refer to the ASC if granted a CON permit.

**Timeline:** Preliminary information regarding CON requirements has been received and it can take between 6-8 months to complete the CON application process (This timeline includes data/documentation preparation requirements as well as application processing time).

### Facility Design/Review:

#### **Parking Requirements:**

- The facility is required to have four parking spaces for each procedure room, "routinely used for surgical procedures", plus one space for each staff member. Documented verification will need to be provided. Cost included are for the engineering calculation and documentation needed to demonstrate adequate parking is available at the center
- **Estimated Costs for Changes: \$1,000**

#### **Patient Entry / Drop Off Requirements:**

- Meets requirements.
- **Estimated Costs for Changes: \$N/A**

#### **Shared Spaces:**

- **Waiting Room: This area is required to have a public toilet.** The center does not have a dedicated public toilet. This center is located on the third floor of a multi-tenant building, and at the time it was designed, there were public toilets available. Verification that there are public toilets available from the public corridor, which should meet the intent of this requirement. **The final determination of this requirement will occur during the State Architectural Review process.** For purposes of this assessment, it is assumed that a tenant shared public toilet is available and meet the requirements. No costs have to been included in this assessment for adding a public toilet at the center. **If the State Reviewer does not agree to the exception on the use of the shared public toilet, it could result in the center not being convertible.**
- **Estimated Costs for Changes: N/A**

#### **Sprinkler System:**

- Meets requirements.
- **Estimated Costs for Changes: \$N/A**

#### **Examination / Multipurpose Room:**

- **Floor plans must be submitted for review, and signage changed from the "Nurse Consult Room to Examination/ Multipurpose Room."** No physical changes to the room are needed. Costs included are for the revision of the signage of the current Consult Room.
- **Estimated Costs for Changes: \$200**

#### **Patient Dressing:**

- The requirements include a Patient Toilet. In this clinic the Patient Toilet is down a hallway toward the waiting room. We believe this meets the intent of this requirement.
- **Estimated Costs for Changes: \$N/A**

#### **Procedure Room Requirements:**

- **Room Dimensions: Meets requirements**
- **Procedure Room Sink:** The sink in the procedure room must be removed and the countertop needs to be replaced.
- **Estimated Costs for Changes: \$2,500**
- **Ceiling:** The ceiling in the procedure room must be changed to "monolithic", meaning that it will need to be changed from the current washable ceiling tiles to a gypsum board ceiling. This will require all the lights and HVAC diffusers to be changed to types that work with a monolithic ceiling system (*see additional comments below about HVAC system*).
- Costs for the replacement of the ceiling and the removal of the sink with replacement countertop in the Procedure Room have been included.
- **Estimated Costs for Changes: \$20,000 - \$25,000**

**Pre-Op and Recovery:**

- **State Requirement:** Meets requirements.  
2014 Guidelines – Meets requirements.
- **Estimated Costs for Changes:** \$N/A

**Stretcher Holding:**

- **This clinic does not have a designated area for a stretcher to park.** The recommendation is to include within the Functional Program Narrative, required as part of the State Licensure Application process, that stretchers will be stored in the Recovery/Prep area. That is readily accessible from the restricted corridor, as it is a short walk from the procedure room to retrieve a stretcher. There is no delay when it is necessary to retrieve a stretcher, so therefore additional stretcher storage is not necessary. For purposes of this assessment, it is assumed that the State will allow for the exception outlined in the Functional Narrative.
- **No costs have been included at this time.**
- **Estimated Costs for Changes:** N/A

**Equipment Storage Room:**

- Meets requirements.
- **Estimated Costs for Changes:** \$N/A

**Clinic Sink/Bed Pan Washer:**

- **Clinic Sink:** This center does not have a clinic sink. To meet the requirement, the addition of a clinic sink in the Soiled Utility Room is required. Some of the existing casework in this room will need to be modified to make room for the clinical sink.
- **Bed Pan Washer:** Based the original drawings from when the center was built, a bed pan washer was installed in the Patient Toilet, but this should be verified.
- For purposes of this assessment, the costs associated with adding the Clinical Sink to the Soiled Utility have been included.
- **Estimated Costs for Changes:** \$5,000 - \$7,000

**Scrub Sink:**

- **The current requirements are for the scrub sink to located “near the entrance” to the procedure room.** The scrub sink for this clinic is across the hall from the door going into the Procedure Room. It is believed this could meet the intent of this requirement.
- **2014 CMS Guidelines – Requires that each OR have a Scrub Sink “next to the entrance”.** As discussed above, the current sink location is across the hall and we will need to review this location with the Deemed Status reviewer to determine if this location is acceptable. Moving the scrub sink to be “next to the door” will require the removal of some casework in the Procedure Room, moving the procedure room door over and making an alcove for the sink. We will also have to change the door swing of the trash room. This should be discussed with the Deemed Status reviewer before making any changes.
- For purposes of this assessment, it is believed that the location of the scrub sink will meet the intent of the requirement for both the State and CMS Inspectors. At this time no costs for relocating the scrub sink are being included in this assessment.
- **Estimated Costs for Changes:** \$0

**Medical Vacuum / O2 Systems / Medical Air:**

- **Vacuum System:**
  - **2014 CMS Guidelines – Vacuum is required.** Space for a Vacuum system will need to be located and a Vacuum system installed. **This this is a multi-tenant building so we might be able to find space in a building utility room that might have room for the installation of this vacuum equipment.** Proposed solution within the center is to reduce the size of the Physician and/or Site Manager Office to make room for this equipment.
- **Vacuum Outlets:** The current requirements are for the Procedure Room to have three vacuum outlets.
- **Oxygen Outlet:**
  - **2014 CMS Guidelines – An additional Oxygen outlet will need to be added to the Procedure Room.**
- For purposes of this assessment, costs are being included for the cost of the Vacuum System equipment, the creation of space to house the vacuum system, and to add the required outlets for both the Vacuum and Oxygen Systems.
- **Estimated Costs for Changes:** \$60,000 - \$70,000

#### Ceiling Tiles:

- **2014 CMS Guidelines – The ceilings in the following listed rooms will need to be changed to washable ceiling tiles.** The ceiling tiles being removed in the Procedure Room meet this requirement and some of the tiles may be able to be relocated and utilized in these areas, thus creating some cost savings.
  - Procedure Passage
  - Clean Work Area
  - Soiled Work Area
  - Clean Supplies
- For purposes of this assessment costs for some additional ceiling tiles have been included.
- **Estimated Costs for Changes: \$1,000**

#### Tenant Separation:

- **2000 Life Safety Codes – The current codes require that an Ambulatory Surgical Center Occupancy be separated from other tenants by a one-hour fire wall.** About half of the demising walls for this project were new walls and these were called out on the construction drawings to be built as one-hour fire walls that meet this requirement. For the remaining portions of the demising walls, which are about 55 linear feet of existing wall, there were no provisions during construction to provide this rating on these walls. Inspection of separation walls will be required to determine what, if anything, needs to be done to upgrade these walls to the required one-hour rating.
- For budgeting purposes some cost estimates are include assessment (Modification of 1 Wall) included.
- **Estimated Costs for Changes: \$0 - \$5,000 if upgrade is required**

#### X-Ray View Box or Image Viewing System/Monitor:

- **2014 CMS Guidelines: Requirements show the need for an X-Ray View Box to be located in the Procedure Room.** This could be met with a simple view box, but the box would not have an operational use for the center as film x-ray is not utilized. A Flat Screen Monitor with a computer, and access to a PACS type or image storage system may also be acceptable to meet this requirement. For purposes of this assessment, as costs are minimal, costs for an X-Ray view box have been included in this assessment for purposes of meeting the requirement. During State review, the Center's current electronic PAX system will be outlined, and if the State accepts the system as meeting the requirement no costs will be incurred.
- **Estimated Costs for Changes: \$200**

#### HVAC:

- **The original center was designed around Class "A" requirements. These clinics will be licensed for procedures more in line with Class "B" rooms, and the overall requirements have changed.** The entire HVAC system for the clinic will need to reviewed and revised to meet these requirements (many of which are also required by other current codes that did not apply when it was originally built). This impacts the patient care areas and, in particular, the two Procedure Rooms. The units serving the Procedure Rooms provide the current required air changes, but not the required fresh air changes nor the required filtration. Also, revisions are needed to change to gypsum board ceilings (noted above) and to provide the required low return air for proper air distribution within the Procedure Rooms. This helps create and maintain the sterile field in the center of the room. Cost for modifications to the HVAC and Air Distribution Systems have been included in this assessment.
- **Estimated Costs for Changes: \$70,000 - \$80,000**

#### Clean/Soiled Room Separation:

- **2014 CMS Guidelines: There is an open pass-through window between these rooms, which does not meet current requirements.** The two areas must be "separated," and the proposed solution is to install a plate of glass in this window opening to enable "separation".
- Cost for the glass panel to meet the separation requirements have been included in this assessment.
- **Estimated Costs for Changes: \$1,000 (window)**

**Linen Storage:**

- A designated storage area for Clean Linens is required within the Surgical Suite. The proposed solution is to outline in the Functional Program that clean linens are stored in the Clean Supplies area or in designated storage cabinets.
- 2014 CMS Guidelines – Designation of a location where dirty linens are stored is required. Proposed solution is to outline in the Functional Narrative that dirty linen will be stored in hampers in the Soiled Work Area.
- For purposes of this assessment, no changes are anticipated for clean or soiled linen storage.
- **Estimated Costs for Changes: \$N/A**

**Anesthesia Work Area:**

- Not required for a "Class B ASF". Should be stated in the Functional Program.
- **Estimated Costs for Changes: \$N/A**

**Staff Locker / Changing Room / Toilet / Shower:**

- Staff Locker/Changing Room:** The current requirements might be interpreted to indicate that separate male and female rooms may be required but this is not clear. This center has a unisex locker area, with a dressing booth with a privacy curtain. The current requirements also indicate that the staff lockers / dressing "...shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the surgical suite can change and move directly into the sterile area..." The configuration of these areas does not provide this arrangement and are located somewhat remote from the surgical suite. It is proposed to address this deficiency by requesting an "Exception" in our Function Program by indicating that the one-way arrangement is not applicable to how small clinics function. If the State Plan Reviews hold to strict adherence to these requirements, then further renovations to renovate some areas impacting perhaps about 100sf to create a connection into the surgical area.
- **Staff Toilet:** The current requirements include a staff toilet in the requirements for the lockers and thus implies they are to be in the same area. This center has a dedicated staff toilet that is part of the locker room. As with the locker room, within the Functional Program it will need to indicate that unisex staff facilities are adequate for such a small clinic with limited staff.
  - **Shower:** The current requirements do not appear to require a shower. This clinic does not have a shower.
  - 2014 CMS Guidelines – Meets requirements with the exception of the required shower. If required, a shower could be added to the dressing area by taking the needed area for the shower from the Lounge / Conference Room.
  - "Exceptions" will be requested from the State and CMS for the shower, and the use of unisex locker, changing room, and toilet. Although the State does not require a shower, but CMS does require one, it is proposed for budgeting purposes to include costs for adding a shower to this clinic.
  - **Estimated Costs for Changes: \$20,000 - \$25,000**

**Emergency Power:**

- This clinic was designed for the installation of a future emergency generator and the wiring was done to meet the emergency requirements for an ASC in place at that time. There will need to be some electrical system upgrades to meet some changes in the current codes. In other jurisdictions that allow for Class "B" ASC the Center has been allowed to meet the emergency requirements with on board UPS backup and don't need an emergency generator. The state requirements specifically indicate an ASC "that do not administer inhalation anesthetics in any concentration, or that have no patients requiring electrical life-support equipment, shall be permitted to use a battery system for emergency power. A grounding report will need to be commissioned to verify that grounding system meets the current code requirements.
- Costs are being included in this assessment for the grounding report. **Note: Medical Equipment with equipped battery backup may need to be reviewed for possible required upgrades. These costs are not reflected in this report.**
- **Estimated Costs for Changes: \$2,500 – commission grounding report**

**Estimated Costs for ASC Development Summary**

- **Construction Improvements (ONLY): \$183,400 – 220,400\***
    - \* Construction costs require Contractor Bids using Architectural Drawings to completed accurately –Estimates are purposely higher than actual bidding results for budgeting purposes
  - **Architectural Design & State Plan Review: \$35,000\*\***
  - **Construction Management: \$20,000-\$25,000\*\***
  - **Permitting: \$8,000**
  - **Estimated Total of Facility Modifications: : \$246,400 - \$288,400\***
- \*\* Architectural and Construction Management Fees will need to be reassessed when full scope of work to be completed is determined.

**Other ASC Conversion Fees: These fees are still being reviewed and determined.**

- **CON Application Fees: \$2,500 (Does not include any legal services required to complete application)**
- **ASC Licensure Fees: \$500**
- **Accreditation Agency Fees: \$10,000**
- **Estimated Total of "Other" ASC Conversion Costs: \$13,000**

**Noteworthy Comments:**

**State Fire Marshall (Life Safety Code):** The facility will require a State Fire Marshall inspection for compliance with Life Safety Codes (LSC). This facility was designed to LSC requirement. However, the State Fire Inspector may have more stringent requirements than that of the Local Fire Inspector that passed the facility back when it was built. Therefore, additional Fire Safety work to the facility may be required and the above costs could increase.

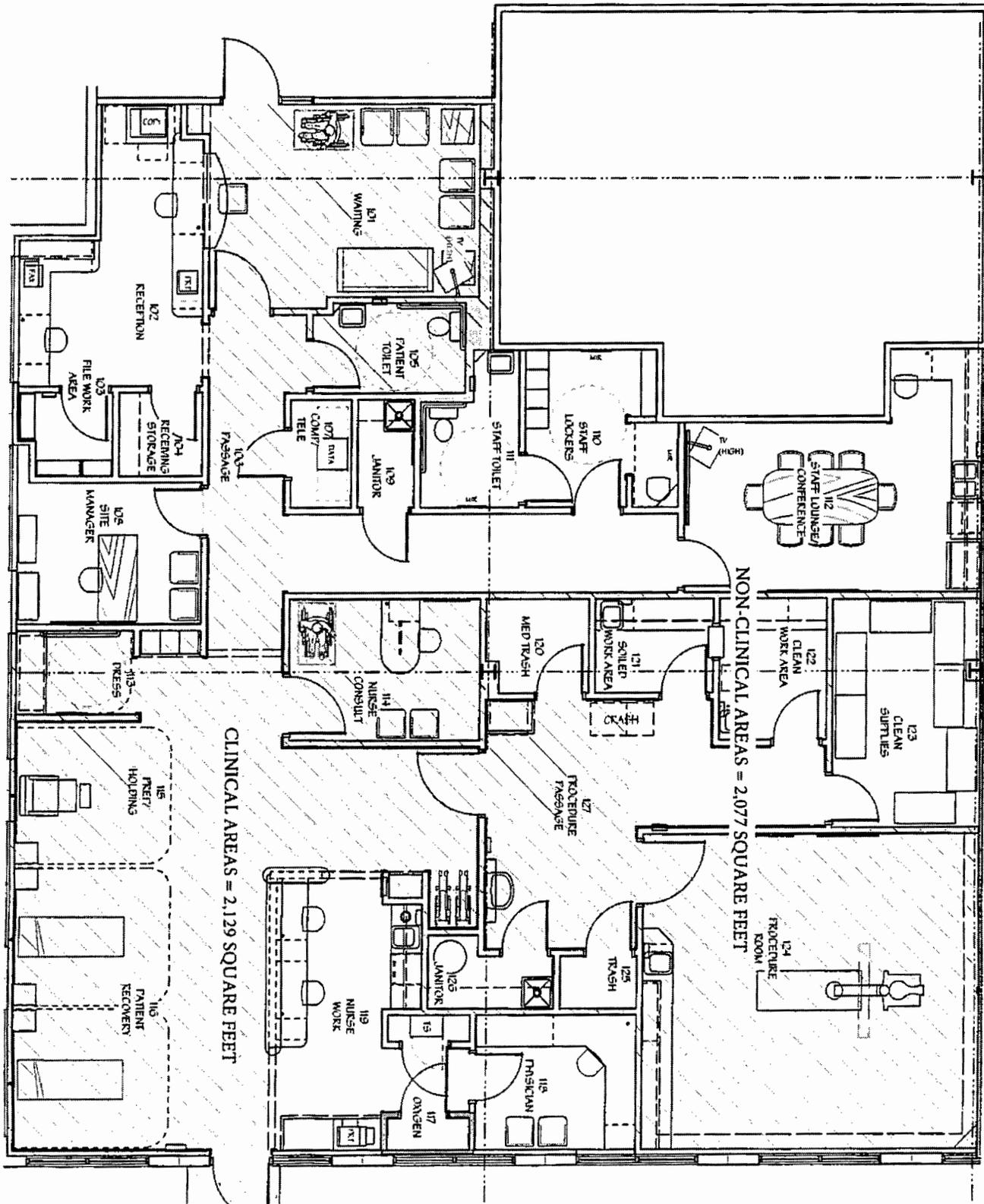
**Center Operational Down-Time:** Due to modifications required to the Procedure Room, there will likely be a need to close the center for period of time (3-4 weeks). (Closure time will be determined when construction plan is developed). Where possible, work will be completed during nights and weekends.

DuPage Vascular Care LLC

CON Line	Description	Clinical	Nonclinical	Total	% Clinical
Modernization Contracts	Parking		1,000	1,000	0.0%
Modernization Contracts	Patient entry / drop off		-	-	0.0%
Modernization Contracts	Shared space	85,000	-	85,000	100.0%
Modernization Contracts	Sprinkler system		-	-	0.0%
Modernization Contracts	Examination / Multipurpose room	200	-	200	100.0%
Modernization Contracts	Patient dressing		-	-	0.0%
Modernization Contracts	Procedure room	27,500	-	27,500	100.0%
Modernization Contracts	Pre-Op and Recovery		-	-	0.0%
Modernization Contracts	Stretcher holding		-	-	0.0%
Modernization Contracts	Equipment storage		-	-	0.0%
Modernization Contracts	Clinic sink/bed pan washer	7,000	-	7,000	100.0%
Modernization Contracts	Scrub sink	3,000	-	3,000	100.0%
Modernization Contracts	Medical vacuum & O2 Systems	-	70,000	70,000	0.0%
Modernization Contracts	Ceiling tile	1,000	-	1,000	100.0%
Modernization Contracts	Tenant separation	5,000	-	5,000	100.0%
Modernization Contracts	HVAC	-	80,000	80,000	0.0%
Modernization Contracts	Clean/soiled room separation		1,000	1,000	0.0%
Modernization Contracts	Linen storage		-	-	0.0%
Modernization Contracts	Anesthesia work area		-	-	0.0%
Modernization Contracts	Staff locker / changing room / toilet / shower		-	-	0.0%
Modernization Contracts	Staff locker / changing room / toilet / shower		25,000	25,000	0.0%
Modernization Contracts	Emergency power		2,500	2,500	0.0%
Modernization Contracts	Generator		70,000	70,000	0.0%
Modernization Contracts	Moveable or Other Equipment	80,000	20,000	100,000	80.0%
Modernization Contracts	Permitting	3,000	6,000	9,000	33.3%
Modernization Contracts	Construction management	6,000	21,500	27,500	21.8%
		<u>217,700</u>	<u>297,000</u>	<u>514,700</u>	
Modernization Contracts pdf		\$ 102.28	\$ 147.96	\$ 112.87	
Contingencies	Contingencies	25,378	34,622	60,000	42.3%
Architectural/Engineering Fees	Architectural design & state plan review	10,000	30,000	40,000	25.0%
Consulting and Other Fees	Quality Program (accreditation & deemed status)	-	26,370	26,370	0.0%
FMV Leased Space	FMV Leased Space	163,137	261,137	424,274	38.5%
Start up costs	Close facility for Modernization (30 days)	-	41,700	41,700	0.0%
		<u>416,215</u>	<u>690,829</u>	<u>1,107,044</u>	<u>37.6%</u>
Total Cost		\$ 195.54	\$ 332.53	\$ 263.21	
FMV Leased Space	FMV Leased Space	\$ (163,137)	\$ (261,137)	\$ (424,274)	
Cash & Securities		253,078	429,692	682,770	

**Cost Space Requirements**

<b>Area</b>	<b>Cost (\$)</b>	<b>GSF Existing</b>	<b>GSF Proposed</b>	<b>GSF New Const.</b>	<b>GSF Modernized</b>	<b>GSF As Is</b>	<b>GSF Vacated Space</b>
<b>Reviewable</b>							
Ambulatory Surgery	\$416,215		2,129		2,129		
<b>Total Clinical</b>	\$416,215		2,129		2,129		
<b>Non-Reviewable</b>							
Administrative	\$690,829		2,077		2,077		
<b>Total Non-Clinical</b>	\$690,829		2,077		2,077		
<b>Total</b>	<b>\$1,107,044</b>		<b>4,026</b>		<b>4,026</b>		



## **Background of the Applicant, 20 ILCS 3960/2**

DuPage Vascular Care and Nephrology Associates of Northern Illinois (“NANI”) both possess the qualifications, background, and character necessary, as well as possess the financial resources to adequately provide proper services for the community.

Neither DuPage Vascular Care or NANI own or operate any healthcare facilities, in Illinois or elsewhere. Thus, no adverse actions have been taken against any facility owned and/or operated by either co-applicant in the three years prior to this application, as evidenced by the certification accompanying this, Attachment 11.

Further incorporated into the certification is the authorization necessary for both the Illinois Health Facilities and Services Review Board (“HFSRB”) and the Illinois Department of Public Health (“IDPH”) the access records necessary to verify this information.

NANI has been providing care in the field of nephrology for over 45 years, since the field of nephrology was just developing. Many years ago, some of the physicians associated with NANI began operating some of the first outpatient dialysis centers in the country. Since that time, NANI has added locations and doctors all around the Chicago area and throughout northern Indiana and continued its commitment to providing care to those suffering from end-stage renal disease and requiring dialysis.

With a specific focus on wanting to provide care for patients closer to their homes, the founders of the West Suburban Kidney Center created a new model for dialysis that later became NANI. The care was provided outside of the hospital in a safe medical environment closer to patients’ homes and within the communities in which their patients lived. That is a part of NANI’s past and, with the approval of this Ambulatory Surgical Treatment Center (“ASTC”), it hopes a part of its future.

**Purpose of the Project, 77 Ill. Admin. Code 1110.230(a)(1)-(4)**

The purpose of this project is to ensure the residents of the community and the patients historically served by NANI will continue to have access to the vascular care surgical procedures they need. This is, quite literally, a matter of life and death.

There have been changes in reimbursement that have fundamentally altered the reimbursement models available for vascular access procedures driving those procedures to be done in either hospitals or surgery centers. As will be addressed more fully below when explaining the alternatives that were considered (see 77 Ill. Admin. Code 1110.230(c), Attachment 13), the performance of these procedures in an ASTC setting is substantially more cost-effective than in hospitals, allows for a dedicated staff well versed and trained in the needs of patients with compromised vascular systems, and who are receiving treatment for end-stage renal disease.

Absent a project like this, many providers will simply cease providing vascular access surgical procedures and, as has already begun, many will leave the marketplace. This ASTC is designed to continue to serve those NANI patients who have come to depend on quality care to facilitate their ability to receive dialysis and to ensure availability of care for those whose current providers elect to cease the provision of these services. Establishment of this single-specialty ASTC will improve the healthcare available within this community, it will improve the well-being of the patients it serves, and it will increase the access to available care for those in the surrounding communities who unexpectedly find themselves in need.

The market area, as defined by regulation, is 45 minutes from the location at which the ASTC will be established. This, technically, includes a substantial part of the Chicagoland area. However, historically, ESRD patients seek care close to home and within their immediate communities. This trend is something that NANI realized when it originally entered the marketplace and a principle that is still core to its corporate values.

When you consider the prevalence of multiple dialysis stations and vascular access centers within what might otherwise be considered "overlapping" marketplaces, this becomes evident. The welfare of the patient remains the core priority for those in this industry and the ability to coexist has always been key to this industry. This will remain the case. While the ASTC will be available for those in need, the expectation is the primary clientele served will be those already served by NANI in this immediate area and those who find their access to these surgical services otherwise and unexpected compromised.

It is untenable to believe these procedures, which are frequent and often time sensitive, can be sufficiently provided for in a hospital setting. These are not high-reimbursement procedures which means they will often fall back in scheduling priorities and the delay, not to mention the inconvenient timing, can have significant impact on patients who are otherwise challenged with existing comorbidities. Establishing this surgery center, focused on the vascular access needs of the community, solves that problem and ensures there is available care for those in need.

The available historical treatment data accompanying this application, evidences the historical, current, and future need for these services and the ASTC setting reflects the most economical environment in which these patients can receive this necessary care.

**Alternatives, 77 Ill. Admin. Code 1110.230(c)**

**1. Exit the Marketplace**

This is the alternative for which many providers are opting, and it is unfortunate. Maintaining vascular access is quite literally a matter of life or death for many individuals and the changes in reimbursement have made previously utilized processes of performing these procedures at a combination of hospitals, practices, surgery centers, and vascular access centers no longer feasible. The reimbursement change seems driven to relocate these procedures to ASTCs and hospital surgical suites which, while certainly having benefits regarding the management of complications and limitation of infections, makes the continued maintenance of the predecessor model an impossibility.

This alternative was rejected because the hundreds of patients dependent upon NANI to provide these surgical procedures and those others whose providers have elected to exit the marketplace will be in need of this care and NANI and DuPage Vascular Care are committed to its provision.

**2. Utilize a Hospital Surgical Suite**

This is a legitimate option, but it produces two challenges that prove to reflect the fatal flaws to this alternative. These procedures are intensely necessary for the patients needing vascular access, but they are not high-reimbursement. As a result, both anecdotally and actually, NANI physicians have experienced routine challenges performing procedures for their patients in a hospital setting because other procedures receive priority. The result is too many procedures delayed, rescheduled, or scheduled at times that are fundamentally inconvenient for patient and practitioner. Moreover, the hospital setting results in increased cost, making it a less attractive alternative.

For those reasons, this alternative was rejected.

**3. Rely on Available Capacity at Other Surgery Centers**

This alternative has one of the same issues as relying on hospital based surgical suites, specifically that a for-profit surgical center is likely to be incentivized by higher-reimbursement procedures. Moreover, the majority of surgery centers in the area focus upon 14 other identified categories of service for an ASTC rather than general procedures (and certainly vascular procedures). The comorbidities and complexities of patients requiring this care are better served as a patient population by a staff and facility committed to this type of care.

For this reason, this alternative was rejected.

#### **4. Project as Proposed**

The project, as proposed, reflects the most cost-effective, patient-centered, comprehensive means of ensuring access to quality care for patients in need. It was designed to meet the needs of an existing patient population with sufficient capacity for further meeting the needs of the surrounding community. For these reasons, this is the alternative that was selected.

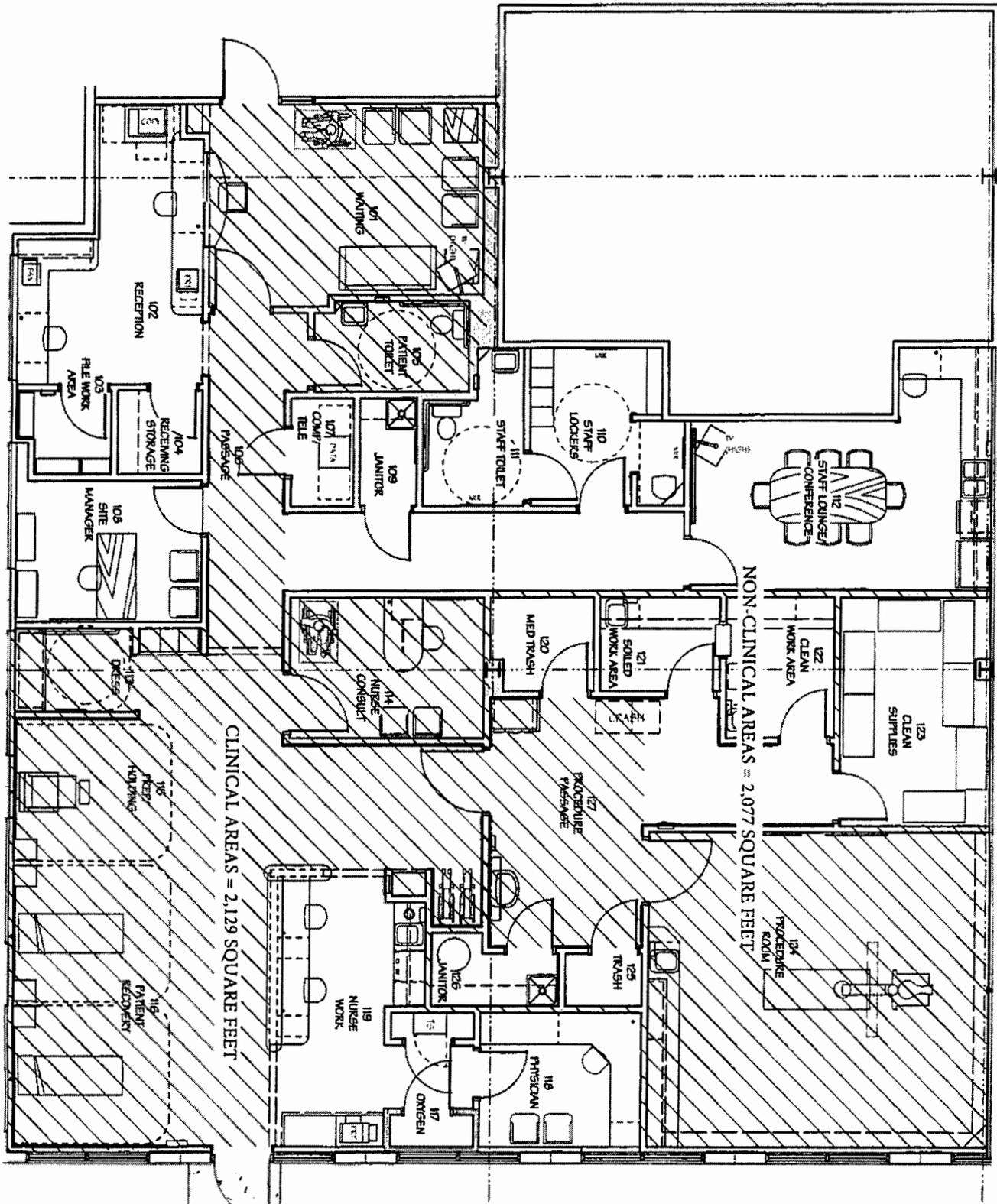
**Size of Project, 77 Ill. Admin. Code 1110.234**

**Size of Project**

<b>Service</b>	<b>BGSF</b>	<b>State Standard</b>	<b>Difference</b>	<b>Standard Met?</b>
ASTC	2129	1,660-2,220	N/A	Yes

This project involves building out what has previously acted as a vascular access center to allow it to come into compliance with standards that will allow it to be licensed as an Ambulatory Surgical Treatment Center ("ASTC"). One procedure room is envisioned, and the proposed size is within the established state standard. A smaller room might yield additional and unnecessary challenges for patient care since the individual patients who will be benefiting from this surgery center all have existing health care issues sufficient to require surgical facilitation of vascular access. The design of the facility and the separation between clinical and non-clinical space is designed to maximize patient benefit while being respectful and appreciative of the applicable government standards.

This project expects to be found to be in compliance with the established State standard.



**Project Services Utilization, 77 Ill. Admin. Code 1110. Appendix B**

The annual utilization expected of an ASTC is 1,500 hours of utilization per surgical or procedure room. Given the single room proposed for this facility, it makes the target goal for evidencing utilization 1,500. Based upon historical utilization and proposed patient volume, the facility should meet the state standard by its second year of operation.

**Utilization**

	<b><u>Service</u></b>	<b><u>Historical Utilization (Treatments)*</u></b>	<b><u>Projected Utilization</u></b>	<b><u>State Standard</u></b>	<b><u>Met Standard?</u></b>
Year 1	ASTC	1323	80%	> 1500 Hours	Yes
Year 2	ASTC	1492	90%	> 1500 Hours	Yes

\* Average Procedure Time is 73 Minutes

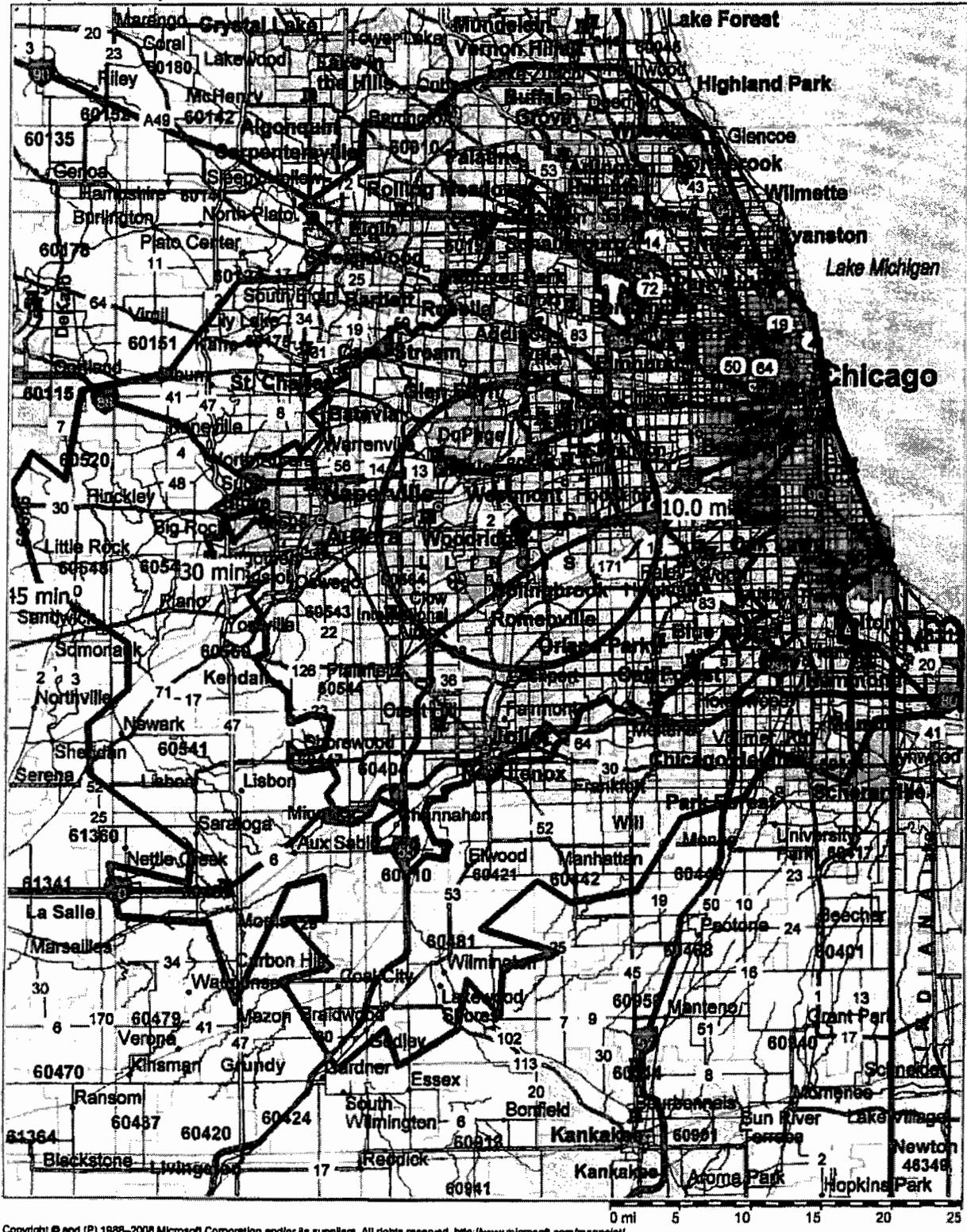
**Geographic Service Area, 77 Ill. Admin. Code 1110.1540(c)**

There is no formula need determination for the number of ASTCs and the number of surgical/treatment rooms in a geographic service area under the rules established by the HFSRB. We verify that the primary purpose of this project is to provide necessary health care to the residents of the geographic service area ("GSA") in which this ASTC will be located. The focus will be on providing vascular access procedures to the resident within the area immediately surrounding the ASTC as evidence by the listing of zip codes of patients served by this practice.

Listed below, in accordance with 77 Ill. Admin. Code 1110.1540(c)(2)(A), is the GSA consisting of all zip code areas that are located within 45 minutes multi-directional travel time (under normal driving conditions) of the proposed site of the ASTC.

That 45 minute drive time area and those zip codes are listed below. We've also included the 10-mile radius which is reflected in the proposed rules, yet to be enacted, but seems reflective of the direction the HFSRB intends to take in consideration of these projects.

MapPoint Map 10 mile radius, 30 & 45 minute travel contours 7425 Janes Ave, Wood...



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<u>ZIP Code</u>	<u>Country/Region</u>	<u>Population: total (2007) by ZIP Code</u>
60410	United States	10394
60512	United States	3440
60538	United States	17166
60506	United States	61495
60542	United States	14695
60539	United States	0
60543	United States	32650
60503	United States	8779
60505	United States	64730
60502	United States	17586
60404	United States	17385
60586	United States	41208
60431	United States	19759
60544	United States	26348
60435	United States	51228
60403	United States	15704
60446	United States	28447
60585	United States	16865
60564	United States	51950
60504	United States	31702
60555	United States	14777
60563	United States	33041
60540	United States	44106
60490	United States	16974
60565	United States	44030
60440	United States	60908
60532	United States	28878
60432	United States	23662
60441	United States	35494
60491	United States	29954
60517	United States	31546
60515	United States	27520
60516	United States	33675
60559	United States	26008
60439	United States	21593
60561	United States	24109
60527	United States	28548
60514	United States	9684
60521	United States	19178
60558	United States	11945
60185	United States	35278
60190	United States	11154
60187	United States	64065
60188	United States	43992
60139	United States	32598
60133	United States	38829

60108 United States	23123
60172 United States	25865
60193 United States	40116
60137 United States	39513
60148 United States	52294
60157 United States	2958
60101 United States	38735
60191 United States	14157
60143 United States	9922
60007 United States	34607
60523 United States	9394
60181 United States	31362
60126 United States	45966
60162 United States	7831
60163 United States	4916
60164 United States	21045
60106 United States	23175
60666 United States	0
60173 United States	11578
60008 United States	22619
60487 United States	22859
60467 United States	24284
60462 United States	37919
60463 United States	13486
60445 United States	25408
60464 United States	10332
60480 United States	5200
60465 United States	17563
60457 United States	12736
60455 United States	15282
60525 United States	30693
60526 United States	12623
60458 United States	13648
60501 United States	10882
60513 United States	18426
60534 United States	9960
60482 United States	10316
60415 United States	13606
60459 United States	26717
60803 United States	22436
60453 United States	53325
60456 United States	4185
60638 United States	54048
60402 United States	57981
60652 United States	37044
60632 United States	85858
60154 United States	15770

60155 United States	8011
60104 United States	19583
60165 United States	4910
60160 United States	21930
60153 United States	25678
60141 United States	238
60546 United States	15088
60130 United States	15010
60305 United States	11098
60707 United States	41489
60131 United States	18303
60176 United States	11521
60171 United States	10048
60304 United States	17017
60301 United States	2008
60302 United States	30985
60804 United States	81992
60623 United States	113167
60644 United States	57681
60624 United States	44942
60608 United States	83243

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Moreover, taking into consideration the patient origin information, by zip code, for all of the patients served by NANI at this location for the last 12-month period, this should constitute sufficient verification that at least 50% of admissions will be residents of the GSA.

Zip Code	Patients
06762	1
07740	1
29301	3
34105	1
34207	2
45190	2
46327	1
60101	12
60103	6
60104	1
60107	3
60108	18
60119	2
60123	1
60126	6
60130	12
60133	9
60134	2
60137	29
60139	26
60148	37
60153	17
60154	14
60155	5
60162	6
60163	3
60172	4
60174	2
60181	15
60185	29
60186	2
60187	12
60188	18
60189	15
60190	3
60191	1
60302	17
60305	1
60402	22
60404	2
60429	1
60435	7
60439	24
60440	101
60441	4
60446	27
60455	5
60480	2
60490	20
60491	1
60501	6
60502	1
60503	5
60504	9
60505	7

Zip Code	Patients
60506	2
60510	9
60513	6
60514	5
60515	30
60516	30
60517	35
60520	2
60521	2
60523	5
60525	36
60526	6
60527	32
60532	35
60534	3
60536	6
60540	28
60542	1
60543	1
60544	33
60554	2
60555	14
60558	1
60559	30
60560	2
60561	33
60563	36
60564	31
60565	44
60585	9
60586	27
60607	4
60608	1
60612	8
60618	3
60620	1
60621	1
60623	2
60624	23
60625	2
60628	1
60629	2
60632	4
60634	2
60638	2
60639	16
60644	64
60647	3
60651	56
60707	3
60804	25
61350	1
62553	1
92505	3
<b>Total</b>	<b>1323</b>

**Service Demand, 77 Ill. Admin. Code 1110.1540(d)**

**Historical Referrals**

Enclosed is a physician referral letters that attests to a total 1,323 treatments that have been historically referred for the services that will be provided at this ASTC and which would, upon HFSRB approval, be referred to this licensed ASTC, in each of the coming two years. Included with the referral letter are the patient originations by zip code and the verification from the referring physician that these patients and procedures have not been utilized to justify any other CON application.

## **Nephrology Associates of Northern Illinois, LTD**

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120 W 22<sup>nd</sup> Street • Oak Brook, IL 60523 • Phone 630-573-5000 • Fax 630-368-0280

March 31, 2017

Ms. Kathryn J. Olson, Chair  
Illinois Health Facilities and Services Review Board  
525 W. Jefferson Street, 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Olson:

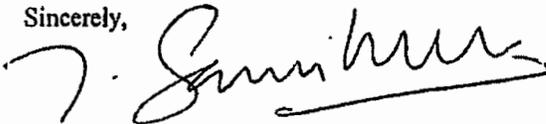
I am writing on behalf of my practice, Nephrology Associates of Northern Illinois, LTD, in support of the proposed DuPage Vascular Care Center. Over the past 12 months, our nephrologists have referred 1,323 procedures to the current facility. The attached table lists the zip codes of residence for these patients.

If the Health Facilities and Services Review Board were to approve the establishment of the proposed DuPage Vascular Care Surgery Center, I would anticipate referring 1,390 procedures to DuPage Vascular Care Center in each of the two years following project completion. Projected patient volume shall come from the proposed geographic service area of DuPage Vascular Care Center.

I can also verify that these patient referrals have not been used to support another pending or approved Certificate of Need application.

The information in this letter is based upon my personal knowledge and is true and correct to the best of my knowledge.

Sincerely,



Samir Kumar, M.D.

OuPage Vasuclar Care LLC

Zip Code	Patients
06762	1
07740	1
29301	3
34105	1
34207	2
45150	2
46327	1
60101	12
60103	6
60104	1
60107	3
60108	18
60119	2
60123	1
60126	6
60130	12
60133	9
60134	2
60137	29
60139	26
60148	37
60153	17
60154	14
60155	5
60162	6
60163	3
60172	4
60174	2
60181	15
60185	29
60186	2
60187	12
60188	18
60189	15
60190	3
60191	1
60302	17
60305	1
60402	22
60404	2
60429	1
60435	7
60439	24
60440	101
60441	4
60446	27
60455	5
60480	2
60490	20
60491	1
60501	6
60502	1
60503	5
60504	9
60505	7

Zip Code	Patients
60506	2
60510	5
60513	6
60514	5
60515	30
60516	30
60517	35
60520	2
60521	2
60523	5
60525	36
60526	6
60527	32
60532	35
60534	3
60536	6
60540	28
60542	1
60543	1
60544	33
60554	2
60555	14
60558	1
60559	30
60560	2
60561	33
60563	36
60564	31
60565	44
60585	9
60586	27
60607	4
60608	1
60612	8
60618	3
60620	1
60621	1
60623	2
60624	23
60625	2
60628	1
60629	2
60632	4
60634	2
60638	2
60639	16
60644	44
60647	3
60651	56
60707	3
60804	25
61350	1
62553	1
92505	3
<b>Total</b>	<b>1323</b>

**Treatment Room Need Assessment, 77 Ill. Admin. Code 1110.1540(f)**

UTILIZATION					
	DEPT./ SERVICE	HISTORICAL UTILIZATION (PATIENT DAYS) (TREATMENTS) ETC.	PROJECTED UTILIZATION	STATE STANDARD	MET STANDARD?
YEAR 1	ASTC	1,323	80%	>1500 hours	Yes
YEAR 2	ASTC	1,492	90%	>1500 hours	Yes

The number of 1,323 predicted treatments are derived from patients and procedures envisioned emanating directly from current patients and individuals receiving care from NANI physicians and are reflected in the physician referral letters. The average procedure time of 73 minutes was derived from evaluating already maintained documentation (attached below) tracking patient procedures. With an envisioned 252 days open to perform procedures and 8 hours each day, the resulting 1,323 procedures would result in 1,609.65 hours (or 80%) of the available 2016 hours the surgical suite could be utilized. Modest growth is predicted due to the likelihood of other vascular access providers abandoning the marketplace, thus the likelihood of reaching 90% utilization (or 1492 procedures) prior to the completion of year 2 seems reasonable and quite achievable.

Woodridge AC  
Admit Date Range in January, 2017

	ARRIVAL vs SCHEDULE	TIME AVERAGE in MINUTES										TOTAL CASE TIME
		CHECKIN TO ASSESSMENT	ASSESSMENT TO PROC 1	PROC 1 DURATION	PROC 2 DURATION	PROC 3 DURATION	ALL PROCS TIME					
Angiography	-36	15	31	9							9	188
Angioplasty	-56	21	29	20	10						21	111
HD Catheter Exchange	-15	4	34	13							13	90
HD Catheter Removal	-35	24	21	4							4	64
Thrombectomy	-42	32	30	55	7						65	154
	-43	19	29	16	9						17	123
Angiography	-32	17	35	11							11	90
Angioplasty	-35	17	38	18							18	120
Endovascular Stent Implantation	-39	28	38	60	59						60	181
HD Catheter Exchange	-53	28	39	16	45						16	109
HD Catheter Placement	-45	52	41	17	1						12	149
HD Catheter Removal	-29	11	33	3							3	64
Office Visit	-34	5	0	24							24	29
Thrombectomy	-50	25	65	36	10						39	184
Vascular Mapping	-28	9	27	31							31	77
	-38	21	39	21	35						21	121
	-84	21	37	8							8	87
Angiography	-35	13	39	18							18	118
Angioplasty	-32	13	40	48	54						43	137
Endovascular Stent Implantation	-36	13	42	19							19	109
HD Catheter Exchange	-45	6	40	12							12	90
HD Catheter Placement	-25	10	-13	8							8	63
HD Catheter Removal	-44	17	0	7							7	24
Office Visit	-40	13	55	36	18						47	140
Thrombectomy	-41	16	39	20							20	87
Vascular Mapping	-39	13	33	19	42						19	103
	-39	18	35	20	32						20	116
<b>CENTER AVERAGE</b>												
<b>NATIONAL AVERAGE</b>	-17	26	48	21	19	40	21	19	40	21	21	127

Center Average in minutes	
Assessment to Procedure	35
Procedure Duration	20
Room turn	18
Total Procedure time	73

**Service Accessibility, 77 Ill. Admin. Code 1110.1540(g)**

There is no doubt that other surgery centers will exist within the identified GSA that are not being utilized at the Board's identified target utilization level and that this application will be negative on this criteria. That is not unexpected.

However, the best assessment of that issue relates not to the utilization of other facilities but of whether or not these facilities could be utilized to meet the needs of patients in the community requiring regular and ongoing vascular access procedures. As discussed in the alternatives section, these patients require regular access to care that is fundamentally necessary to maintaining their health and wellbeing. Being dependent upon a hospital or facility with a focus that goes beyond vascular access introduces the risk that these procedures, based upon the high Medicaid population and lower reimbursement model than other specialties, will risk being 'bumped' for more profitable procedures.

The fundamental changes in the reimbursement model for these procedures is going to require a redesign of this aspect of care and the ASTC is the far more cost effective option when compared to a hospital surgical suite. Accordingly, the demand for these services is going to be substantially higher where the availability of facilities designated or designed to perform these procedures is not. Accordingly, we will invite the Board members to look past the question of whether or not capacity exists at other facilities and to evaluate the core question of whether there is a need for this project and whether or not it will increase access to necessary care for a vulnerable patient population. We believe the answers to all of these inquiries is yes that this project warrants approval.

**Unnecessary Duplication / Maldistribution, 77 Ill. Admin. Code 1110.1540(h)**

There are sufficiently numerous individuals requiring dialysis and seeking care for end stage renal disease that there is a substantial need for these services that does not seem likely to reduce. Moreover, historically, many providers have been able to coexist in serving their patient populations, each reserved to smaller geographic areas. This is often because of the attending medical challenges facing these patients and the obstacles created by substantial travel. As evidenced in the attached articles, the need for access to this care is of fundamental importance, and this is not a time to decrease access to this care for this patient population. That is the motivation behind this project.

The core question is whether there are facilities that have the capability of meeting the needs of this patient requiring regular and ongoing vascular access procedures in the immediate area of the proposed site. The answer is no. As discussed in the alternatives section, these patients require regular access to care that is fundamentally necessary to maintaining their health and wellbeing. Being dependent upon a hospital or facility with a focus that goes beyond vascular access introduces the risk that these procedures, based upon the high Medicaid population and lower reimbursement model than other specialties, will risk being 'bumped' for more profitable procedures.

The fundamental changes in the reimbursement model for these procedures is going to require a redesign of this aspect of care and the ASTC is the far more cost effective option when compared to a hospital surgical suite. Accordingly, the demand for these services is going to be substantially higher where the availability of facilities designated or designed to perform these procedures is not. Accordingly, we will invite the Board members to look past the question of whether or not capacity exists at other facilities and to evaluate the core question of whether there is a need for this project and whether or not it will increase access to necessary care for a vulnerable patient population. We believe the answers to all of these inquiries is yes that this project warrants approval.

None of the existing surgery centers are designed for or dedicated to serving this patient population, making the likelihood of maldistribution minimal.

## Dedicated outpatient vascular access center decreases hospitalization and missed outpatient dialysis treatments

R Mishler<sup>1</sup>, JJ Sands<sup>2</sup>, NJ Ofsthun<sup>2</sup>, M Teng<sup>2</sup>, D Schon<sup>1</sup> and JM Lazarus<sup>2</sup>

<sup>1</sup>Arizona Kidney Disease and Hypertension Center, Phoenix, Arizona, USA and <sup>2</sup>Fresenius Medical Care North America, Lexington, Massachusetts, USA

Dedicated outpatient vascular access centers (VAC) specializing in percutaneous interventions (angiography, thrombectomy, angioplasty and catheter placement) provide outpatient therapy that can obviate the need for hospitalization. This paper reports the impact of one VAC staffed by interventional nephrologists on vascular access-related hospitalization and missed outpatient dialysis treatments. We performed a retrospective analysis of vascular access-related hospitalized days and missed vascular access-related outpatient dialysis treatments from 1995 to 2002 in 21 Phoenix Arizona Facilities (5928 cumulative patients) and 1275 cumulative Fresenius Medical Care North America (FMCNA) facilities (289 454 cumulative patients) to evaluate the impact of the introduction of a VAC in Phoenix. Vascular access-related hospitalized days/patient year and missed dialysis treatments/patient year declined from 1997 to 2002 across all access types. The decline was greater in Phoenix and coincided with the creation of a VAC in 1998. By 2002, there were 0.57 fewer hospitalized days/patient year and 0.29 fewer missed treatments/patient year than in the national sample ( $P < 0.01$ ). In 2002, the relative risk for vascular access hospitalized days was 0.38 (95% confidence interval (CI) 0.27–0.5) ( $P < 0.01$ ) and for vascular access-related missed outpatient dialysis treatments was 0.34 (95% CI 0.24–0.49) ( $P < 0.01$ ) in Phoenix vs FMCNA after adjustment for age, gender, diabetic status duration of dialysis and access type. VAC development was associated with a significant decrease in vascular access-related hospitalization and missed outpatient dialysis treatments. Further studies are necessary to demonstrate this effect in other communities.

*Kidney International* (2006) **69**, 393–398. doi:10.1038/sj.ki.5000066

KEYWORDS: dialysis access; vascular access center; hemodialysis; interventional nephrology; arteriovenous fistula; polytetrafluoroethylene graft

Correspondence: R Mishler, AKDHC ASC, 3320 N Second Street, Phoenix, Arizona 85012, USA. E-mail: rmishler@pol.net

Received 10 November 2004; revised 14 August 2005; accepted 15 September 2005

Hemodialysis access failure remains a major source of morbidity and hospitalization for end stage renal disease (ESRD) patients. ESRD patients undergo more than one access procedure per patient year, with annual costs estimated at greater than \$1.5 billion.<sup>1</sup> Access failure is second only to cardiovascular disease as a cause of hospitalization and in 2001 accounted for 40% of ESRD patient hospitalizations.<sup>2</sup> The frequent need for emergent procedures strains the healthcare delivery system and its dialysis facilities, hospitals, surgical units and interventional radiology suites. Patients requiring access interventions are frequently placed on supplemental operating room schedules or have to wait up to 48–72 h for procedures. This often results in missed dialysis treatments or catheter placement to allow emergent dialysis. In recognition of these problems, groups throughout the US and Europe have explored other delivery models to streamline vascular access care.

One approach to improving vascular access intervention has been the development of dedicated outpatient vascular access center (VAC).<sup>3,4</sup> These centers specialize in percutaneous interventions (angiography, thrombectomy, angioplasty and catheter placement). Some centers also provide surgical access creation and revision. Many of the interventionists in these centers are nephrologists who have been trained in endovascular techniques.<sup>5</sup> The safety and efficacy of the procedures performed in these outpatient centers is well documented in the literature.<sup>6–9</sup> However, there are little published data on the impact of these centers on vascular access-related hospitalization, missed dialysis treatments or the cost of care. The purpose of this paper is to evaluate the impact of a dedicated outpatient VAC in Phoenix, AZ on vascular access care delivery, hospitalization and missed outpatient dialysis treatments.

### RESULTS

Phoenix patients were more likely to be older, Caucasian, diabetic and have AV fistula (AVF) or central venous catheters (CC) than the national Fresenius Medical Care North America (FMCNA) cohort (Tables 1 and 2). There was no significant difference in mean vascular access-related

**Table 1 | Patient demographics**

Year	Patient demographics											
	Patient age (Mean ± s.d.)			% Male gender			% Caucasian			% Diabetic		
	Phoenix	FMCNA	P	Phoenix	FMCNA	P	Phoenix	FMCNA	P	Phoenix	FMCNA	P
1995	60.3 ± 15.1	58.9 ± 15.6	<0.01	51.7	51.5	NS	73.7	56.4	<0.01	50.6	44.7	<0.01
1996	60.9 ± 15.1	59.2 ± 15.6	<0.01	52.0	51.5	NS	78.0	56.7	<0.01	52.1	46.6	<0.01
1997	61.3 ± 14.9	59.5 ± 15.5	<0.01	51.4	51.8	NS	80.8	56.8	<0.01	52.7	48.3	<0.01
1998	60.9 ± 15.4	59.9 ± 15.5	<0.01	51.6	52.2	NS	84.0	56.9	<0.01	54.4	49.6	<0.01
1999	61.4 ± 15.2	60.2 ± 15.6	<0.01	54.8	52.7	NS	86.1	57.2	<0.01	54.9	50.6	<0.01
2000	62.2 ± 15.4	60.4 ± 15.5	<0.01	55.0	52.9	NS	86.1	56.4	<0.01	55.6	51.7	<0.01
2001	62.5 ± 15.2	60.6 ± 15.5	<0.01	55.6	53.2	<0.05	86.8	56.5	<0.01	57.6	53.3	<0.01
2002	62.2 ± 15.2	60.8 ± 15.5	<0.01	57.4	53.4	<0.01	89.0	56.8	<0.01	56.7	54.4	<0.05

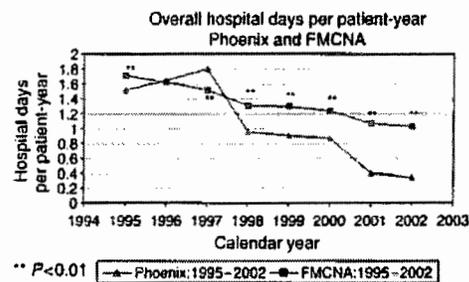
NS, not significant.

**Table 2 | Access type (%)**

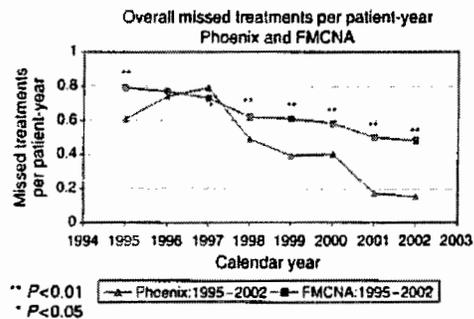
Year	Access type (%)						P
	Phoenix			FMCNA			
	AV fistula	AV graft	Central catheter	AV fistula	AV graft	Central catheter	
1995	24.1	44.4	31.5	22.4	61.6	16.0	<0.01
1996	23.6	40.3	36.0	21.5	58.7	19.8	<0.01
1997	25.0	39.7	35.3	21.5	55.9	22.5	<0.01
1998	26.7	41.3	32.1	22.8	52.3	25.0	<0.01
1999	29.6	41.9	28.5	24.5	48.7	26.9	<0.01
2000	32.6	37.1	30.3	27.0	45.2	27.8	<0.01
2001	37.2	32.4	30.4	29.3	41.7	28.9	<0.01
2002	40.7	29.1	30.2	31.5	39.1	29.3	<0.01

hospitalized days per patient year from 1995 to 1997 or mean missed outpatient hemodialysis treatments per patient year (1996–1998) between Phoenix (AZ) patients and the national sample. Vascular access-related hospitalized days per patient year and missed outpatient hemodialysis treatments per patient year then gradually declined in both groups. This decline was greater in the Phoenix area, resulting in significantly fewer missed vascular access-related FMCNA outpatient dialysis treatments per patient year and hospitalized days per patient year than seen in the national cohort (Figures 1 and 2). AVF prevalence increased in Phoenix and the FMCNA cohort, beginning in 1997 and 1998 and continuing through 2002. This increase was more pronounced in Phoenix than the national FMCNA cohort (Table 2). Dialysis catheter use was higher in Phoenix than in the national cohort throughout the study period. This difference gradually declined (31.5% catheters in Phoenix vs 16% nationally in 1995; 30.2% catheters in Phoenix vs 29.3% catheters nationally in 2002) due to a marked increase in catheter use in the national cohort and a modest decline in catheter use in Phoenix during this time period (Table 2).

Decreases in hospitalized days and missed vascular access-related FMCNA outpatient dialysis treatments however were evident in all access types, but were more pronounced in Phoenix, resulting in significantly fewer vascular access-related missed outpatient treatments per patient year and hospitalized days per patient year for AVF, AV graft, and CC



**Figure 1 | Vascular access-related hospitalized days per patient-year.**



**Figure 2 | Vascular access-related missed dialysis treatments per patient-year.**

patients than in the national FMCNA cohort (Table 3). These changes coincided with the creation of the VAC in 1998 and accelerated in 2000 with the full accreditation of the Ambulatory Surgery Center (ASC).

Declines in vascular access-related hospitalization were also apparent on a facility-specific basis, resulting in 0.64 fewer vascular access-related hospitalized days per patient year in 2001 and 0.57 fewer vascular access-related hospitalized days per patient year in 2002 than in the national sample (Table 4). Similarly, missed vascular access-related FMCNA outpatient dialysis treatments per patient year were significantly lower in Phoenix (AZ) facilities than in the

**Table 3 | Vascular access-related hospitalized days and vascular access-related missed dialysis treatment with breakdown by access type**

Calendar year	Overall hosp. days/patient-year			Overall missed rx/patient-year		
	Phoenix	FMCNA	P-value	Phoenix	FMCNA	P-value
<b>AV fistula patients</b>						
1995	0.62	0.64	NS	0.2	0.28	<0.05
1996	0.77	0.56	<0.01	0.32	0.26	NS
1997	0.48	0.59	<0.05	0.18	0.27	<0.01
1998	0.41	0.5	<0.05	0.17	0.24	<0.05
1999	0.23	0.53	<0.01	0.12	0.25	<0.01
2000	0.6	0.51	<0.05	0.25	0.24	NS
2001	0.12	0.43	<0.01	0.06	0.2	<0.01
2002	0.09	0.45	<0.01	0.04	0.21	<0.01
<b>AV graft patients</b>						
1995	1.71	1.94	<0.01	0.66	0.9	<0.01
1996	1.66	1.8	NS	0.81	0.85	NS
1997	2.03	1.59	<0.01	0.94	0.76	<0.01
1998	1.05	1.34	<0.01	0.56	0.63	NS
1999	1.08	1.31	<0.01	0.46	0.62	<0.01
2000	0.75	1.27	<0.01	0.36	0.58	<0.01
2001	0.49	1.11	<0.01	0.2	0.52	<0.01
2002	0.32	1.05	<0.01	0.14	0.49	<0.01
<b>Catheter patients</b>						
1995	2.23	3.52	<0.01	1.08	1.65	<0.01
1996	2.41	3.07	<0.01	1.11	1.47	<0.01
1997	2.73	2.95	<0.05	1.26	1.37	NS
1998	1.52	2.5	<0.01	0.74	1.17	<0.01
1999	1.58	2.41	<0.01	0.67	1.12	<0.01
2000	1.56	2.29	<0.01	0.69	1.07	<0.01
2001	0.77	2.03	<0.01	0.34	0.92	<0.01
2002	0.83	1.96	<0.01	0.38	0.92	<0.01

NS, not significant.

**Table 4 | Vascular access-related hospitalized days per patient-year**

Calendar year	VA hospitalization days per patient-year				
	N Fac	Mean ± s.d.	N Fac	Mean ± s.d.	P-value
1995	13	1.44 ± 0.94	492	1.98 ± 1.76	0.0689**
1996	13	1.57 ± 0.91	540	1.97 ± 2.49	0.1590**
1997	15	1.62 ± 1.02	621	1.82 ± 1.65	0.4907**
1998	14	1.13 ± 0.63	695	1.54 ± 1.51	0.0325
1999	14	0.93 ± 0.74	757	1.48 ± 1.67	0.0165
2000	16	0.92 ± 0.85	836	1.35 ± 1.44	0.0684**
2001	17	0.55 ± 0.52	932	1.19 ± 1.28	<0.01
2002	17	0.57 ± 0.49	989	1.14 ± 1.30	<0.01

\*\*P-value > 0.05 means that the means in two populations are not significantly different at 0.05 significance level.

national sample (0.31 fewer missed treatments/patient year in 2001 and 0.29 fewer missed treatments/patient year in 2002) (Table 5). Poisson models demonstrated a markedly lower relative risk of experiencing vascular access-related hospital days and vascular access-related missed outpatient dialysis treatments in Phoenix compared to the FMCNA sample in

**Table 5 | Vascular access related missed dialysis treatments per patient-year**

Calendar year	VA missed treatments per patient-year				
	N Fac	Mean ± s.d.	N Fac	Mean ± s.d.	P-value
1995	13	0.58 ± 0.45	492	0.95 ± 0.88	0.0689**
1996	13	0.78 ± 0.51	540	0.93 ± 0.85	0.1590**
1997	15	0.78 ± 0.52	621	0.88 ± 0.83	0.4907**
1998	14	0.57 ± 0.42	695	0.73 ± 0.71	0.0325
1999	14	0.46 ± 0.32	757	0.69 ± 0.74	0.0165
2000	16	0.45 ± 0.43	836	0.64 ± 0.72	0.0684**
2001	17	0.26 ± 0.24	932	0.57 ± 0.64	<0.01
2002	17	0.26 ± 0.23	989	0.55 ± 0.67	<0.01

\*\*P-value > 0.05 means that the means in two populations are not significantly different at 0.05 significance level.

both the unadjusted and adjusted models (adjusted for age, gender, diabetic status, duration of dialysis, and dialysis access type). These declines began in 1998–2000 and increased significantly in 2001 and 2002. By 2002 the relative risk for vascular access-related hospital days was 0.4 (95% confidence interval (CI) 0.29–0.54) (unadjusted model) and 0.38 (95% CI 0.27–0.5) (adjusted model) and the relative risk for missed vascular access-related FMCNA outpatient dialysis treatments was 0.37 (95% CI 0.27–0.51) (unadjusted model) and 0.34 (95% CI 0.24–0.49) (adjusted model) in Phoenix compared to the FMCNA national cohort ( $P < 0.01$ ) (Tables 6 and 7).

**DISCUSSION**

Arizona Kidney Disease and Hypertension Center (AKDHC), a large nephrology practice in Phoenix, Arizona, started operating a VAC within the walls of a hospital in 1998. In January 2000, the practice opened an Ambulatory Surgery Center (ASC) focused on the creation and maintenance of vascular access for hemodialysis patients. The center primarily serves the patients in Fresenius Dialysis facilities in the metro Phoenix area and some rural areas of Arizona, and is the provider of choice for vascular access intervention for all AKDHC patients in the FMCNA units in Arizona. Two nephrologists were trained as interventionists and they perform the procedures. A vascular surgeon within the group creates and modifies the accesses. The physicians of AKDHC are also the medical directors for FMCNA in the state of Arizona, and are responsible for quality oversight in these facilities.

Prior to the operation of the VAC in 1998, referrals for vascular access care were dispersed among several hospitals and several different interventionists and surgeons within the Phoenix metropolitan area. This was largely determined by insurance requirements and, as a result, referral patterns changed frequently. Focus and comprehensive access care were often lacking. It was not unusual that a given hospital might not have a competent interventionist on staff. The VAC was initially constructed within the walls of an existing hospital. This step improved the ability to obtain focused care for many patients' vascular access problems. Barriers still

**Table 6 | Poisson models of vascular access-related hospitalized days (Phoenix vs FMCNA)**

	Unadjusted model				Adjusted <sup>a</sup> model			
	Relative risk (ref. FMCNA=1.0)	95% CI		P-value	Relative risk (ref. FMCNA=1.0)	95% CI		P-value
		LL	UL			LL	UL	
1995	0.89	0.69	1.14	0.36	0.91	0.69	1.21	0.52
1996	1.07	0.84	1.36	0.58	0.93	0.71	1.22	0.60
1997	1.47	1.16	1.86	<0.01	1.42	1.08	1.86	0.01
1998	0.71	0.55	0.92	0.01	0.62	0.46	0.84	<0.01
1999	0.72	0.56	0.93	0.01	0.64	0.48	0.86	<0.01
2000	0.70	0.53	0.92	0.01	0.86	0.64	1.17	0.35
2001	0.37	0.27	0.49	<0.01	0.38	0.27	0.53	<0.01
2002	0.40	0.29	0.54	<0.01	0.38	0.27	0.53	<0.01

<sup>a</sup>Adjusted variables: age, gender, race, diabetes status, duration of dialysis and dialysis access.  
LL, lower level; UL, upper level.

**Table 7 | Poisson models of vascular access-related missed dialysis treatments (Phoenix vs FMCNA)**

	Unadjusted model				Adjusted <sup>a</sup> model			
	Relative risk (ref. FMC)	95% CI		P-value	Relative risk (ref. FMC)	95% CI		P-value
		LL	UL			LL	UL	
1995	0.74	0.58	0.95	0.02	0.67	0.51	0.88	<0.01
1996	0.87	0.69	1.09	0.24	0.82	0.64	1.07	0.14
1997	1.21	0.96	1.52	0.11	1.13	0.87	1.46	0.36
1998	0.76	0.59	0.97	0.03	0.64	0.48	0.85	<0.01
1999	0.68	0.53	0.88	<0.01	0.64	0.48	0.84	<0.01
2000	0.69	0.53	0.90	0.01	0.83	0.61	1.12	0.22
2001	0.33	0.25	0.45	<0.01	0.36	0.26	0.50	<0.01
2002	0.37	0.27	0.51	<0.01	0.34	0.24	0.49	<0.01

<sup>a</sup>Adjusted variables: age, gender, race, diabetes status, duration of dialysis and dialysis access.  
LL, lower level; UL, upper level.

existed because the hospital in which the center resided did not participate in all available healthcare plans and, therefore, focused care was unavailable for many patients. Since the accreditation of the ASC, limitations due to insurance coverage have largely been eliminated. As the ASC is owned by the AKDHC practice, contracts with third party payors are usually negotiated to include physician services as well as ASC facility services. In some instances, 'carve out' contracts with third party payors have been negotiated to accommodate vascular access care within the ASC.

The data reflecting the Phoenix VAC experience represent the first published data to specifically address the impact of a VAC on hospitalization and missed outpatient dialysis treatments. The demonstrated reductions of approximately >0.6 hospital days/patient year and decreased missed treatments of >0.3/patient year represent the effects of intense focused vascular access care in a large metropolitan area as well as rural areas of Arizona. It also illustrates the impact of coordinated access care provided by interventional nephrologists initially in a hospital-based VAC and subsequently in an ASC. This coordination of care is facilitated by the dual responsibilities of the nephrologists as medical directors of the FMCNA dialysis facilities and as interventionists in the VAC.

The reported decrease in missed vascular access related FMCNA outpatient dialysis treatments and hospitalization

across all access types has a profound potential impact on clinical outcomes and the cost of dialysis care. Missed dialysis treatments result in a significant increase in mortality risk (14% increase in the relative mortality risk from one missed treatment/month).<sup>10</sup> The reduction of 0.6 hospital day per patient per year represents a potential savings of approximately \$300 million to \$750 million per year when applied across 250 000 hemodialysis patients, assuming \$2000–5000 expenses per hospital day. Outpatient vascular placement is vastly less expensive (up to \$9000 less per procedure) than inpatient surgery or surgery performed in the hospital outpatient setting under the Hospital Outpatient Prospective Payment System. Similarly, other outpatient access procedures such as thrombectomy and angioplasty are much less costly in ASC than in the hospital inpatient or outpatient setting.<sup>11,12</sup> Unfortunately, the majority of hemodialysis patients in the United States do not have vascular access care provided in this manner.

The FMC-NA outcomes likely represent values that might be expected in most areas of the US. The demonstrated decrease in hospitalization and missed outpatient dialysis treatments associated with introduction of a VAC represents an opportunity to improve clinical outcomes, while decreasing the cost of access-related complications. It is also clear evidence of the potential to improve vascular access care when nephrologists assume the prime responsibility for

vascular access management. Some of the demonstrated decrease in hospitalization and missed vascular access-related FMCNA outpatient dialysis treatments may be attributable to increases in the rates of AVF prevalence in Phoenix.<sup>13,14</sup> This in itself is a laudable accomplishment<sup>15,16</sup> and does not negate the role of the VAC. The Phoenix center was utilized to coordinate an AVF creation program based on preoperative imaging and outpatient AVF creation by a dedicated vascular surgeon. It is also used to evaluate and correct problems resulting in poorly maturing AVFs. Significant decreases in vascular access-related hospitalization and missed outpatient hemodialysis treatments, however, were seen in AVF, AV graft and catheter patients. By 2002, there was a 62% lower relative risk of vascular access hospitalized days and a 66% lower risk of vascular access-related missed treatments in Phoenix compared to the FMCNA national cohort, despite adjustments for age, gender, diabetic status duration of dialysis, and access type. This impact across the full spectrum of dialysis access and patient demographics points to the effect of improvements in vascular access care delivery rather than only a change in the relative prevalence of AVF and CCs.

Vascular access-related hospitalization and missed outpatient dialysis treatments also declined in the FMCNA national cohort, although less so than in Phoenix. We believe that these changes in the control group reflect the results of K/Dialysis Outcome Quality Initiative<sup>17</sup>-driven increased national interest in vascular access outcomes and the national trend toward the use of percutaneous interventions for access failure.<sup>1</sup> Increased attention and focus on vascular access (Hawthorne effect) that coincided with creation of the VAC likely accounted for some of the reported improvements. These improvements also may have been accomplished through focused efforts using other models, including hospital-based programs or programs led by an interventional radiologist or vascular surgeon in conjunction with a nephrology group. These data however show that the creation of a VAC with care provided by interventional nephrologists is one route for decreasing vascular access-related hospitalization. The fact that these types of improvements have not frequently been reported in other communities suggests that the development of a dedicated VAC is an important element that can catalyze and deliver improved vascular access care. The data also reveal a continued reliance on catheters for access in approximately 30% of the population. This is similar to the national data and highlights the need for further efforts to replace catheters with alternative access both in Phoenix and nationally.

This paper has several limitations. This paper reports data on missed vascular access-related FMCNA outpatient dialysis treatments, vascular access-related hospital admissions and hospitalized days, and does not include thrombosis and procedure rates. It is possible that the decline in hospital admissions and hospitalized days masks an increase in procedure rates. Although there is no evidence to suggest an increase in procedure rates or thrombosis, the available

data do not allow us to make a definitive statement. This is an important question that will require a future study specifically designed to address these questions. Despite this limitation, we believe that the decline in hospitalization and missed outpatient treatments has significant potential benefits. These data also cannot rule out the possibility of other potential confounding factors such as the role of managed care. However, this appears unlikely due to the diminished role of managed care programs over the past 5-8 years and the preponderance of Medicare patients in the overall population (both in Phoenix and nationally). The unusually high number of hospital days for the AVF group in Phoenix in 2000 remains unexplained. Review of the data however revealed that three patients each accounted for over 30 hospital days, and together those three patients accounted for 124 of 188 (66%) of the Phoenix group's hospital days (data not shown). Lastly, no formal claims analysis was performed. Further studies including formal claims analysis are necessary to further clarify the financial ramifications of the development and use of outpatient VACs.

In conclusion, the development of a dedicated VAC staffed by interventional nephrologists was associated with a significant decrease in vascular access-related hospitalizations and vascular access-related FMCNA missed outpatient dialysis treatments across all access types. These data represent the experience at one center in one region of the US. Further studies reporting the clinical and economic impact of VACs in other regions are necessary to demonstrate the wider applicability of this approach.

#### MATERIALS AND METHODS

We performed a retrospective analysis of vascular access-related hospitalizations, hospitalized days and missed outpatient dialysis treatments from 1995 to 2002 for all FMC Dialysis facilities in the Phoenix (Arizona area) as well as all FMCNA dialysis units within the US. This included data from 21 Arizona Facilities (5928 cumulative patients) and 1275 cumulative FMCNA facilities (289 454 cumulative patients). Data were obtained from the FMCNA Data Warehouse. This database captures patient demographics and outcomes including all patient hospitalizations, hospitalized days and missed outpatient dialysis treatments, defined as treatments that were not performed as scheduled in a FMC outpatient dialysis facility. International Classification of Diseases (ICD)-9 codes are entered by dialysis unit personnel to identify the cause of admissions or missed dialysis treatments.

Missed outpatient dialysis treatments were defined as outpatient dialysis treatments that were not performed as scheduled in a FMCNA outpatient dialysis facility due to vascular access-related complications as defined by specific ICD-9 codes. All missed hemodialysis treatments, whether expected (e.g., because of hospitalization) or unexpected (e.g., because of noncompliance), and all permanent discharges (e.g., because of transplantation or death), together with diagnoses coded according to the ICD, Ninth Revision, Clinical Modification, were recorded to complete the daily reconciliation of prescribed and administered treatments. These required fields must be completed upon the patients' return in order for outpatient dialysis to be performed.

The following primary and secondary diagnostic codes were utilized to identify vascular access-related hospitalizations and missed outpatient dialysis treatments: ICD-9 codes 996.1, 996.3, 996.6, 996.62, 996.7, 996.73, 996.74 and 997.2. The numbers of missed outpatient dialysis treatments per patient-year and hospitalized days per patient-year were computed for the Phoenix Arizona area and compared to the national FMCNA cohort. Statistical analysis was performed using SAS 9.1; SAS Institute, Cary, NC, USA. Data were expressed as mean  $\pm$  s.d. Parametric (*t*-test) and nonparametric tests (Wilcoxon's test) were used. Poisson analyses of vascular access-related hospital length of stay and missed dialysis treatments were performed using PROC GENMOD (SAS 9.1; SAS Institute, Cary, NC, USA). A *P*-value lower than 0.05 was considered significant.

#### Financial disclosures

The AKDHC Surgery Center is wholly owned by the Arizona Kidney Disease and Hypertension Center (AKDHC), a large nephrology practice in Phoenix, Arizona, as an extension of the practice. Fresenius Medical Care North America owns and operates outpatient dialysis facilities in Phoenix and throughout the US. AKDHC physicians are employed as medical directors for specific dialysis facilities in Arizona by FMCNA. In this capacity, they function as independent contractors. FMCNA's subsidiary US Vascular Access Holdings develops, owns or operates vascular access centers within the US. FMCNA and/or its subsidiaries has no past or present ownership, investment in or direct financial relationship with the AKDHC Surgery Center.

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## Clinical and Economic Value of Performing Dialysis Vascular Access Procedures in a Freestanding Office-Based Center as Compared with the Hospital Outpatient Department among Medicare ESRD Beneficiaries

Al Dobson,\* Audrey M. El-Gamil,\* Matthew T. Shimer,\* Joan E. DaVanzo,\*  
Arlis Q. Urbanes,† Gerald A. Beathard,‡ and Terry Foust Litchfield†

\*Dobson DaVanzo & Associates, LLC, †Lifeline Vascular Access, a DaVita Healthcare Partners® affiliate, and ‡Lifeline Vascular Access a DaVita Healthcare Partners® affiliate and Clinical Professor of Medicine at the University of Texas Medical Branch

### ABSTRACT

Dialysis vascular access (DVA) care is being increasingly provided in freestanding office-based centers (FOC). Small-scale studies have suggested that DVA care in a FOC results in favorable patient outcomes and lower costs. To further evaluate this issue, data were drawn from incident and prevalent ESRD patients within a 4-year sample (2006-2009) of Medicare patients (USRDS) on cases who receive at least 80% of their DVA care in a FOC or a hospital outpatient department (HOPD).

Using propensity score matching techniques, cases with a similar clinical and demographic profile from these two

sites of service were matched. Medicare utilization, payments, and patient outcomes were compared across the matched cohorts ( $n = 27,613$ ).

Patients treated in the FOC had significantly better outcomes ( $p < 0.001$ ), including fewer related or unrelated hospitalizations (3.8 vs. 4.4), vascular access-related infections (0.18 vs. 0.29), and septicemia-related hospitalizations (0.15 vs. 0.18). Mortality rate was lower (47.9% vs. 53.5%) as were PMPM payments (\$4,982 vs. \$5,566).

This study shows that DVA management provided in a FOC has multiple advantages over that provided in a HOPD.

Maintaining healthy vascular access is critical to ensuring the efficacy of hemodialysis treatments and overall patient quality of life. Clinical practice guidelines and research have identified the types of dialysis vascular access (DVA) patients should receive to achieve optimal outcomes (1). Proper care during and after vascular access placement can reduce complications and overall utilization.

In recent years, patients have typically received DVA management services in either a freestanding office-based center (FOC) or the hospital outpatient department (HOPD). The literature suggests that DVA management can be optimized when patients receive care in a FOC, as this setting can provide the "highest quality medical care at the lowest possible cost." HOPDs are multipurpose facilities and have issues associated with DVA care, includ-

ing delayed treatments, unnecessary hospitalizations, unnecessary use of temporary catheters, and excessive cost (2).

To date, there have been only a few regional and small-scale studies that compare Medicare payments and outcomes of receiving DVA management services in a FOC versus an HOPD. The purpose of this study was to conduct a retrospective cohort study using 4 years of Medicare claims data (2006-2009) from the United States Renal Data System (USRDS). USRDS is a national data system funded directly by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) in conjunction with the Centers for Medicare & Medicaid Services (CMS). The USRDS database contains all healthcare utilization and Medicare payment claims for end-stage renal disease (ESRD) patients, as well as select clinical information, including ESRD-specific laboratory values, patient functional status, and comorbidities.

This study compares Medicare payments and outcomes for patients who received DVA procedures in a FOC with those who received DVA care in the HOPD for a defined episode of care. This study also investigates the impact of physician specialty

Address correspondence to: Audrey El-Gamil, Dobson DaVanzo & Associates, LLC, 440 Maple Avenue East, Suite 203, Vienna, VA 22180. Tel.: 703-260-1764, Fax: 703-636-0130, or e-mail: audrey.el-gamil@dobsondavanzo.com.  
*Seminars in Dialysis*—Vol 26, No 5 (September-October) 2013 pp. 624-632  
DOI: 10.1111/sdi.12120  
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and care processes on patient outcomes within this context. Patients are matched using a propensity score model that controls for observable selection bias across sites of service.

Propensity score matching techniques are widely used in observational studies when randomized controlled trials (RCTs) are not available, able to be generalized to the population, or are unethical or impractical to administer (3). Literature suggests that applying this technique to observational studies is sufficient to remove observable selection bias among treatment and comparison groups and can result in findings that mimic RCTs (4–7).

## Methods

### Study Design and Population

The study sample was drawn from all incident and prevalent ESRD patients with Medicare fee-for-service coverage between 2006 and 2009. The design is a retrospective cohort study of Medicare claims data informed by published literature and ongoing communication with a clinical advisory committee. The clinical advisory committee was consulted to develop a patient episode framework, inform and validate all analytic assumptions, and to provide clinical interpretation of data results. Quantitative analyses are based on the USRDS datasets, which contain all healthcare utilization and Medicare payments for ESRD patients, as well as selected clinical information, including ESRD-specific laboratory values (i.e., body mass index (BMI), HbA1C, albumin, and creatinine), functional status, and comorbidities.

Through rigorous propensity score matching techniques, study group patients who received DVA-related care in a FOC were matched to comparison group patients with a similar clinical and demographic profile who received DVA-related care in an HOPD. Medicare utilization, payments, and patient outcomes were compared across the matched cohorts.

### Data Collection

A single episode of care was created from the data for each patient that captured all DVA and dialysis-related services, and all related or unrelated hospitalizations over the span of the study period (2006–2009). An episode started with the first DVA-related service during the study period and ended either with patient death, or the end of the study period. Episodes included claims across all settings, including inpatient and outpatient hospitals, skilled nursing facilities, inpatient rehabilitation facilities, home health agencies, long-term care hospitals, physicians, hospices, and durable medical equipment.

Patient episodes were administratively defined by the site of service in which at least 80% of the patient's DVA-related services were provided: either a FOC (identified as a physician's office in the

claims), or the HOPD, including all outpatient settings (i.e., outpatient hospital, emergency room, dialysis center, and state/local public health clinic). FOC is identified by the physician's office site of service in the Medicare claims (site of service 11). HOPD is identified by sites of service 22, as well as other hospital-based sites of service, including 23, 65, or 71. Given the equipment and staff requirements to perform vascular access services, we assume that all relevant services performed in the physician's office are FOCs.

Patients were clinically defined within each cohort by the first type of DVA service within the episode. This clinical definition attempted to identify incident from prevalent ESRD patients based on the first service they received. Services were placed into two groups: 1) placement services, defined as the creation of a fistula or a graft, vessel mapping, or catheter placement prior to any dialysis treatment (incident ESRD patients), and 2) maintenance services, defined as receiving dialysis treatments prior to any DVA-related service such as a placement or treatment service (prevalent patients).

Patient pathways were identified in each episode to track the receipt of specific DVA services across settings and over time using a hierarchical design. As many DVA services consist of multiple separate procedures billed on the same claim, the hierarchy distinguished between the primary (most relevant) service and the ancillary service. Pathways were unique to each individual and allow for comparison of treatments and outcomes across patient cohorts. The use of hierarchical pathways allowed for the identification of whether each service was a maintenance or anticipatory service (angioplasty or angiogram—performed to maintain the health and function of the access site) or a resuscitative service (salvage procedure performed once the access became dysfunctional). Table 1 presents the hierarchy for identifying DVA services within the patient episode, the codes used to identify them, and whether they were identified as an anticipatory or resuscitative service. Consistent with the USRDS methodology, procedures were identified using CPTs, MS-DRGs, and ICD-9s, as appropriate. Despite the use of a hierarchical pathway to identify the services, all access procedures provided during the study period are captured in the analysis.

There were three types of outcomes for which the study and comparison groups were compared. The primary outcome was selected clinical indicators, including number of infections due to dialysis vascular device, implant and graft (CPT 99662), septicemia-related hospitalizations (MS-DRGs 416, 575, 576 prior to October 2007; 870–872 after October 2007), and related (MS-DRGs: 682–685 prior to October 2007; 316–317 after October 2007; ICD-9s: 585, 586) and unrelated hospitalizations. The second outcome was the all-cause mortality rate. Finally, the third outcome was average PMPM Medicare payment for DVA-related care (including and excluding dialysis treatments and drugs).

TABLE I. Hierarchy for identifying patient pathways in episode

Hierarchical Rank	Description (CPT Codes)	Service Type
1	Creation of fistula (36821, 36818, 36819, 36820, or 36825) Creation of graft (36830)	Treatment
2	Catheter placement (36558)	Resuscitative
3	Catheter exchange (36581)	Treatment
4	Thrombectomy (36870)	Resuscitative
5	Cannulation & injection (36005) Scan of arteries (93931, 93930, 93970, 93971) Vessel mapping (G0365)	Treatment
6	Catheter removal (36589)	Treatment
7	Arteriogram of extremity (75710)	Treatment
8	Stent placement (37205 & 75960)	Treatment
9	Arterial/venous angioplasty (35475 & 75962, 35476 & 75978, G0393, G0392) Angiogram (36145, 36147, 75790, 75791)	Anticipatory
10	Hospitalization	Treatment
11	Dialysis (90935-90947)	Treatment
12	Aranesp (J0882) Epopen (J0885, J0886, Q4081) TPA (J2997)	Treatment

### Statistical Analyses

A two-step process was used to match patients who received DVA services in the FOC with those who received care in the HOPD.

First, many-to-many matching of patients was carried out across cohorts on a series of variables that directly impact how patients receive care and how Medicare determines payments. These include whether the patient first received placement or maintenance services within the episode; whether the patient had a confirmed fistula or graft during the episode to ensure that outcomes are not due to a disproportionate use of catheters as the primary access type within a given setting; the date from first DVA-related service during study period (within 30 days); whether the patient was a new Medicare enrollee (used to calculate hierarchical condition categories—HCC—scores as a measure of patient severity); and the metropolitan statistical area (MSA) of the patient's residence to control for geographic differences in Medicare payments and practice patterns. HCCs are used in the Medicare Advantage program to determine per member-per month payments based on historical utilization. For rural patients, the first number of their ZIP code was used instead. By matching patients on the start of their dialysis in the study period within 30 days, the Medicare payments are adjusted for medical inflation cost.

Second, following the initial match, propensity score techniques were used to refine the match of patients across settings. This statistical method is used to reduce observable selection bias between the two cohorts and is used in this study to isolate the impact of site of service on all three types of patient

outcomes. The propensity score indicated the probability of a patient receiving care in the FOC, based on the patient's demographic and clinical characteristics.

A propensity score for each patient was calculated based on patient demographic characteristics, clinical characteristics, and functional status variables. Patient demographic characteristics included age; gender; race; years since first ESRD service; dual eligibility for Medicare and Medicaid; and smoking and alcohol and drug dependence. Clinical characteristics included comorbidities; history of a transplant; laboratory values for BMI, HbA1c, albumin, and creatinine at start of dialysis; HCC score; and whether the patient historically received care from: 1) a nephrologist and/or 2) a dietician. Functional status was based on the patient's ability to ambulate or transfer, and whether the patient needed assistance with the activities of daily living. All matching variables, except the confirmed access type, were defined and identified by USRDS.

Patients were matched one-to-one within 0.2 standard deviations of the logit function that determined their propensity score, consistent with the caliper width traditionally used in the literature (8). The rigor of the matching techniques isolated the effect of site of service from other observable causal effects. Patients who were not able to be matched were excluded from the analysis.

Following the matching process, patient outcomes were compared across cohorts and descriptive statistics on nonmatching variables were calculated to identify potential drivers of the outcomes. Two main drivers of interest were the distribution of episodes within the care setting by the physician specialty that performed the majority of the patient's DVA-related services and the impact of receiving maintenance/anticipatory services on outcomes. The impact of anticipatory care is conducted across all patients (not just the matched cohorts) to better understand if increases in anticipatory services are related to decreases in patient outcomes, regardless of where care is received. Prevalence of anticipatory care is defined as the ratio of anticipatory services to the total number of anticipatory, resuscitative, and catheter placement services. The sum of resuscitative and catheter placement services is used instead of the total number of treatments provided to isolate the services provided to maintain access health as opposed to all DVA-related care. That is, the number of angioplasties and angiograms received divided by the total number of angioplasties and angiograms, thrombectomies, and catheter placement services.

### Results

#### Patient Characteristics of Matched Cohorts

A total of 27,613 patients were matched across each cohort ( $n = 55,226$ ), representing approximately 10 percent of all ESRD patients contained

in the USRDS claims during the study period. Following the propensity score match, patient demographic characteristics were very similar across cohorts for variables included in the match or propensity score (Table 2). Both patient cohorts

had an average age of 61 years and a comparable proportion of patients who are White (56%) and dual-eligible (41%). Furthermore, patients are matched on clinical laboratory values at the time of dialysis (BMI, HbA1c, albumin, and creatinine),

TABLE 2. Patient characteristics of matched cohorts for variables included in propensity score matching

Matching and propensity score variables	FOC (n = 27,613)	HOPD (n = 27,613)	Difference* (FOC - HOPD)	95% confidence interval
<i>Demographic characteristics</i>				
Average age	61.0	60.5	0.5*	(0.2, 0.8)
Female	46.1%	47.3%	-1.2%**	(-2.1%, -0.4%)
<i>Race/ethnicity</i>				
Asian	3.7%	3.9%	-0.2%	(-0.2%, 0.2%)
Black	38.6%	39.2%	-0.6%	(-0.9%, 0.2%)
Native American	1.3%	1.2%	0.1%	(-0.1%, 0.2%)
White	56.1%	55.3%	0.8%	(-0.3%, 0.8%)
Other races	0.3%	0.3%	0.0%	(-0.1%, 0.1%)
Dual-eligible	40.8%	41.3%	-0.5%	(-1.3%, 0.3%)
Had transplant	11.4%	12.0%	-0.6%**	(-1.2%, -0.1%)
Years since first ESRD service	2.5	2.6	-0.1***	(-0.1, 0.0)
New medicare enrollees <sup>b</sup>	53.6%	53.6%	0.0%	(-0.8%, 0.8%)
<i>Clinical characteristics at start of episode</i>				
HCC Score—New medicare enrollee	1.00	1.00	0.00	(-0.01, 0.01)
HCC Score—Community risk	4.36	4.38	-0.02	(-0.07, 0.03)
HCC Score—Institutional risk	4.06	4.08	-0.02	(-0.06, 0.02)
Average BMI	28.6	28.6	0.0	(-0.2, 0.2)
Average HbA1c (%)	7.34	7.45	-0.11	(-0.45, 0.28)
Average albumin value (g/dl)	3.13	3.13	0.00	(-0.02, 0.02)
Average creatinine value (mg/dl)	6.38	6.35	0.03	(-0.05, 0.11)
Patient under care of dietician	10.7%	11.3%	-0.6%	(-1.3%, 0.3%)
Patient under care of nephrologist	64.9%	64.8%	0.1%	(-1.1%, 1.3%)
<i>Comorbidities &amp; functional status</i>				
Congestive heart failure	34.4%	34.5%	-0.1%	(-1.2%, 1.0%)
Atherosclerotic heart disease	22.2%	21.8%	0.4%	(-0.6%, 1.3%)
Other cardiac disease	17.1%	16.7%	0.4%	(-0.4%, 1.3%)
Cerebrovascular disease, CVA, TIA	10.4%	9.8%	0.6%	(-0.1%, 1.3%)
Peripheral vascular disease	14.2%	13.8%	0.4%	(-0.4%, 1.2%)
History of hypertension	85.2%	85.4%	-0.2%	(-1.0%, 0.7%)
amputation	3.2%	3.1%	0.1%	(-0.2%, 0.6%)
Diabetes, currently on insulin	35.1%	34.9%	0.2%	(-0.9%, 1.3%)
Diabetes, on oral medications	14.2%	14.0%	0.2%	(-0.6%, 1.0%)
Diabetes, without medications	5.6%	5.5%	0.1%	(-0.4%, 0.7%)
Diabetes retinopathy	8.2%	8.3%	-0.1%	(-0.7%, 0.6%)
Chronic obstructive pulmonary disease	7.9%	7.0%	0.9%**	(0.3%, 1.5%)
Tobacco use (current smoker)	4.8%	4.7%	0.1%	(-0.4%, 0.6%)
Malignant neoplasm, cancer	6.8%	7.0%	-0.2%	(-0.9%, 0.3%)
Toxic nephropathy	0.4%	0.4%	0.0%	(-0.1%, 0.1%)
Alcohol dependence	1.2%	1.0%	0.2%	(-0.1%, 0.4%)
Drug dependence	1.0%	0.9%	0.1%	(-0.1%, 0.3%)
Inability to ambulate	6.6%	7.1%	-0.5%**	(-1.0%, 0.1%)
Inability to transfer	3.1%	3.5%	-0.4%***	(-0.9%, -0.1%)
Needs assistance with daily activities	11.8%	11.9%	-0.1%	(-0.8%, 0.7%)
Institutionalized	7.3%	6.9%	0.4%	(-0.2%, 1.0%)
Institutionalized—Assisted living	0.6%	0.6%	0.0%	(-0.1%, 0.2%)
Institutionalized—Nursing home	7.1%	6.7%	0.4%	(-0.2%, 1.0%)
Institutionalized—Other institution	0.5%	0.3%	0.2%	(0.0%, 0.3%)
Nonrenal congenital abnormality	0.2%	0.2%	0.0%	(-0.2%, 0.0%)
No comorbidities	1.9%	2.0%	-0.1%	(-0.4%, 0.2%)
<i>Access type</i>				
Confirmed fistula/graft during episode <sup>b</sup>	71.6%	71.6%	0.0%	(-0.8%, 0.8%)
Confirmed catheter, but no confirmed fistula/graft during episode <sup>b</sup>	28.4%	28.4%	0.0%	(-0.8%, 0.8%)

Totals do not add due to rounding.

\*Difference represents the percentage point difference of FOC minus HOPD.

<sup>b</sup>Matching variable prior to propensity score matching.

\*Statistically significant at  $p < 0.001$ .

\*\*Statistically significant at  $p < 0.01$ .

\*\*\*Statistically significant at  $p < 0.05$ .

access type, and comorbidities. The only statistically significant difference between the two groups was the proportion of patients who were female (46.1% for FOC patients vs. 47.3% for HOPD patients, 95% Confidence Interval of the difference [CI] -2.1%, -0.4%); the proportion who had received renal transplants (11.4% for FOC patients vs. 12.0% for HOPD patients, CI -1.2%, -0.1%) and the number of years since first ESRD service (2.5 years for FOC patients vs. 2.6 years for HOPD patients; CI -0.1, 0.0). While the years since first ESRD service are statistically significant, the results are not clinically significant. Furthermore there is a slightly higher rate of COPD among FOC patients and a lower inability to transfer than HOPD patients.

#### Outcomes across Matched Cohorts

Matched patients who received their DVA services in a FOC had an average Medicare per member-per month (PMPM) payment (including dialysis treatments and drugs) that was \$584 lower than those who received care in the HOPD (\$4,982 vs. \$5,566, CI -\$694, -\$473). This represents an average annual difference in Medicare payment of \$7,008. The difference in Medicare payments for only DVA services was \$626 PMPM (\$3,162 vs. \$3,788, CI -\$736, -\$516) (Table 3).

Higher PMPM payments for patients treated in the HOPD are probably driven by an increase in negative outcomes during the episode (Table 3). Patients treated in the FOC have significantly fewer related and unrelated hospitalizations, infections, and septicemia-related hospitalizations than those treated in the HOPD ( $p < 0.001$ ). As a result of fewer hospitalizations among patients treated in the FOC, patients who received their DVA services in the FOC had a larger proportion of their episode in an outpatient setting, and therefore had higher PMPM payments for outpatient dialysis treatments

and drugs compared with patients treated in the HOPD (\$1,820 vs. \$1,777, CI \$29, \$56). As both groups receive a similar number of outpatient dialysis treatments per week, patient compliance (as defined by missed dialysis treatments) does not appear to be driving the results.

Patients treated in the FOC also had a significantly lower mortality rate (47.9% vs. 53.5%, CI -6.5%, -4.8%) (11.7% difference). This lower mortality rate resulted in a longer average episode length compared with those treated in the HOPD (2.3 years vs. 2.1 years, CI 0.1, 0.2). Therefore, patients treated in the FOC had lower PMPM payments, better outcomes, and live longer than those treated in the HOPD.

#### Potential Drivers of Outcomes across Matched Cohorts

The PMPM episode payment by physician specialty for the majority of the DVA-related services and the distribution of DVA services contained within the episode were investigated as drivers of outcomes. The distribution of physician specialties and the average PMPM episode payment within a specialty was different across cohorts (Table 4). A larger proportion of patients treated in the FOC received interventional DVA care primarily by a nephrologist compared with patients treated in the HOPD (64.2% vs. 47.9%, CI 15.5%, 17.2%). Given the lack of a designated specialty code for interventional nephrologists, it is the authors' assumption that nephrologists who provide DVA services are interventional nephrologists. However, patients receiving DVA care from nephrologists in the FOC had PMPM payments that were \$1,365 lower than those receiving care from a nephrologist in the HOPD (\$3,436 vs. \$4,801, CI -\$1,492, -\$1,238). Data suggest that, within each setting, nephrologists treat higher severity patients than the other specialties, as indicated by the average hospital HCC

TABLE 3. Distribution of outcomes by matched cohort

	FOC (n = 27,613)	HOPD (n = 27,613)	Difference* (FOC - HOPD)	95% confidence interval
DVA PMPM payment (including dialysis & drugs)	\$4,982	\$5,566	-\$584*	(-\$694, -\$473)
DVA PMPM (excluding outpatient dialysis & drugs)	\$3,162	\$3,788	-\$626*	(-\$736, -\$516)
DVA PMPM for outpatient dialysis & drugs	\$1,820	\$1,777	\$42*	(\$29, \$56)
Outcomes per patient				
Average number of related and unrelated hospitalizations per year	3.8	4.4	-0.6*	(-0.7, -0.5)
Average number of infections per year	0.18	0.29	-0.11*	(-0.13, -0.10)
Average number of septicemia hospitalizations per year	0.15	0.18	-0.03*	(-0.04, -0.02)
Outpatient dialysis treatments per week	2.8	2.9	-0.1**	(-0.1, 0.0)
All-cause mortality rate during episode	47.9%	53.5%	-5.6%*	(-6.5%, -4.8%)
Episode length (years)	2.3	2.1	0.2*	(0.1, 0.2)

Totals do not add due to rounding.

\*Difference represents the percentage point difference of FOC minus HOPD.

\*\*Statistically significant at  $p < 0.001$ .

\*\*\*Statistically significant at  $p < 0.01$ .

\*\*\*\*Statistically significant at  $p < 0.05$ .

TABLE 4. Distribution of Episodes by Physician Specialty Providing the Majority of DVA-Related Services by Matched Cohort

	FOC (n = 27,613)		HOPD (n = 27,613)		Difference <sup>a</sup> (FOC - HOPD)			
	Percentage of episodes	Average PMPM	Percentage of episodes	Average PMPM	Percentage of episodes	95% confidence interval	Average PMPM	95% confidence interval
Nephrology	64.2%	\$3,436	47.9%	\$4,801	16.4%*	(15.5%, 17.2%)	-\$1365*	(-\$1492, -\$1238)
Diagnostic/Interventional radiology	16.3%	\$2,577	26.0%	\$2,485	-9.7%*	(-10.4%, -9.0%)	\$92	(-\$142, \$325)
Internal medicine	6.2%	\$3,952	5.2%	\$5,389	1.0%*	(0.6%, 1.4%)	-\$1437*	(-\$2194, -\$682)
Vascular surgery	5.4%	\$2,165	7.9%	\$2,808	-2.6%*	(-3.0%, -2.2%)	-\$643***	(-\$1217, -\$68)
General surgery	3.6%	\$1,719	7.0%	\$2,212	-3.4%*	(-3.8%, -3.0%)	-\$494**	(-\$799, -\$189)
Thoracic surgery	0.4%	\$2,529	0.9%	\$2,208	-0.6%*	(-0.7%, -0.4%)	\$322	(-\$660, \$1304)
Cardiology	0.4%	\$2,926	0.8%	\$4,193	-0.4%*	(-0.6%, -0.3%)	-\$1,267	(-\$3620, \$1086)
Other	3.6%	\$2,569	4.3%	\$3,118	-0.7%*	(-1.0%, -0.3%)	-\$549***	(-\$1091, -\$8)
Total	100.0%	\$3,162	100.0%	\$3,788	-	-	-\$626*	(-\$736, -\$516)

Totals do not add due to rounding.  
<sup>a</sup>Difference represents the percentage point difference of FOC minus HOPD.  
 \*Statistically significant at p < 0.001.  
 \*\*Statistically significant at p < 0.01.  
 \*\*\*Statistically significant at p < 0.05.

TABLE 5. Number of annualized services per patient and average PMPM by type of service, by cohort

	FOC (n = 27,613)		HOPD (n = 27,613)		Difference <sup>a</sup> (FOC - HOPD)			
	Number of services per patient <sup>b</sup>	Average PMPM <sup>c</sup>	Number of services per patient <sup>b</sup>	Average PMPM <sup>c</sup>	Number of Services per Patient	95% confidence interval	Average PMPM	95% confidence interval
Average number of DVA services per patient	20.5	-	23.9	-	-3.4**	(-5.3, -1.6)	-	-
Prevalence of anticipatory care	63.0%	-	53.0%	-	10.0%*	(9.1%, 10.9%)	-	-
Anticipatory services per year								
Angioplasty & angiograms	8.4	\$268	7.1	\$176	1.3***	(0.2, 2.4)	\$92*	(\$67, \$116)
Resuscitative services per year								
Catheter placement	1.3	\$27	2.0	\$54	-0.8*	(-1.0, -0.5)	-\$27*	(-\$36, -\$17)
Thrombectomy	0.8	\$49	0.8	\$25	0.0	(-0.2, 0.2)	\$24*	(\$14, \$35)
Treatments per year								
Creation of fistula/graft	0.5	\$22	2.3	\$110	-1.8*	(-2.1, -1.4)	-\$87*	(-\$104, -\$70)
Catheter exchange	0.5	\$9	0.7	\$17	-0.2	(-0.4, 0.0)	-\$8*	(-\$11, -\$4)
Related and unrelated hospitalizations (including septicemia-related)	2.3	\$2,720	2.8	\$3,283	-0.5*	(-0.6, -0.4)	-\$563*	(-\$661, -\$465)
Vessel mapping	1.6	\$7	2.0	\$5	-0.4*	(-0.5, -0.2)	\$2*	(\$1, \$2)
Catheter removal	3.2	\$14	3.6	\$31	-0.4	(-1.0, 0.3)	-\$17*	(-\$23, -\$11)
Stent placement	0.6	\$30	1.4	\$67	-0.8*	(-1.2, -0.4)	-\$36**	(-\$63, -\$10)
Arteriogram of extremity	1.3	\$15	1.2	\$22	0.0	(-0.3, 0.4)	-\$7	(-\$16, \$2)

Totals do not add due to rounding.  
<sup>a</sup>Difference represents the percentage point difference of FOC minus HOPD.  
<sup>b</sup>Calculated as the number of services divided by the number of total patient years.  
<sup>c</sup>Average PMPM includes the Medicare payment for the specific service divided by the total number of patient months across all episodes, including those who did not receive the service.  
 \*Statistically significant at p < 0.001.  
 \*\*Statistically significant at p < 0.01.  
 \*\*\*Statistically significant at p < 0.05.

score (data not shown). This may explain the higher PMPM payments for nephrologists' patients within a setting compared with the other specialties. About one-quarter (26.0%) of patients treated in the HOPD primarily received DVA-related care from a

diagnostic or interventional radiologist compared to 16.3% of patients treated in the FOC.

The types of DVA services received during an episode also differed by cohort (Table 5). Patients treated in the FOC had less complex patient

pathways (received fewer DVA services) than those treated in the HOPD (20.5 vs. 23.9, CI -5.3, -1.6), despite having longer episodes and lower mortality rates. Not only are they receiving fewer total services, patients treated in the FOC received a significantly higher proportion of maintenance/anticipatory care (63.0% of all services vs. 53.0%, CI 9.1%, 10.9%). Anticipatory services were defined by the prevalence of angioplasties and angiograms, which was significantly higher for patients treated in the FOC compared with patients treated in the HOPD (8.4 vs. 7.1, CI 0.2, 2.4). The lower number of services and higher proportion of anticipatory services resulted in a lower average PMPM payment.

The largest difference in the average PMPM payment across cohorts was due to the prevalence of related and unrelated hospitalizations per year. Patients treated in the FOC had significantly fewer related and unrelated hospitalizations per year during their episode compared with patients treated in the HOPD (2.3 vs. 2.8, CI -0.6, -0.4). The lower use of hospital services resulted in a \$563 lower PMPM payment (\$2,720 vs. \$3,283, CI -\$661, -\$3465).

With the exception of arteriograms and thrombectomies, patients treated in the FOC had lower utilization of all treatment services, resulting in lower PMPM payments over the length of the episode. The number of thrombectomies and vessel mappings per annualized episode was the same or lower for patients treated in the FOC, but the total number of patients receiving these services was higher, resulting in a higher average PMPM for patients treated in the FOC.

### Impact of Anticipatory Care on Average PMPM Payments

The results suggest that anticipatory care was associated with better patient outcomes and lower average PMPM payments. Figure 1 illustrates the average infection rate, mortality rate, and PMPM payments for DVA services by the percentage of anticipatory care a patient received. This analysis was not divided by patient cohort, but rather investigated the overall impact of anticipatory care, regardless of site of service. Across all patients and care settings, prior to matching, as the proportion of anticipatory care services increased, the infection rate, mortality rate, and average PMPM payment decreased significantly.

### Discussion

Based on a large retrospective matched cohort analysis of Medicare ESRD beneficiaries using claims data from 2006 to 2009, this study demonstrates that patients who receive DVA care in a FOC have statistically significantly better outcomes, including fewer related and unrelated hospitalizations, infections, septicemia-related hospitalizations, and all-cause mortality, despite having longer patient episodes. Furthermore, patients treated in the FOC have lower average PMPM payments than patients treated in an HOPD. That is, patients treated in the FOC live longer as a result of the lower mortality rate and have lower PMPM payments.

These results are consistent with other research concluding that receiving DVA care in a FOC is

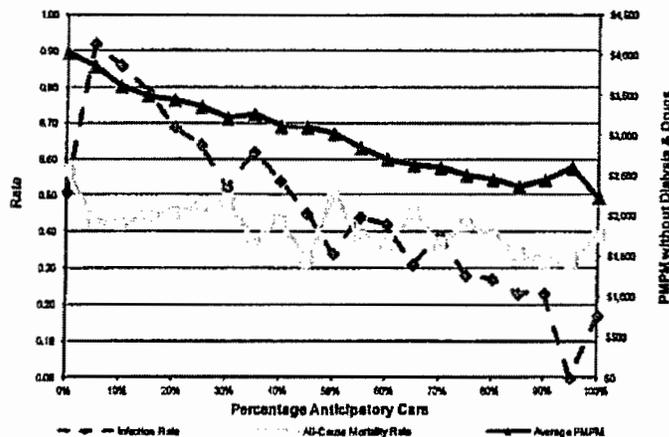


FIG. 1. Impact of Anticipatory Care on Infection Rate, All-Cause Mortality Rate, and Average PMPM Payments. Prevalence of patient outcomes by percentage of anticipatory care, defined as the proportion of dialysis vascular access (DVA) services for anticipatory services (angioplasties and angiograms) to resuscitation services (thrombectomies and additional placements). Infection rate (dashed line); all-cause mortality (gray solid line); average per member-per month (PMPM) payment excluding outpatient dialysis treatments and drugs (black solid line).

associated with a significant decrease in DVA-related hospitalizations. Researchers have concluded that FOCs demonstrate efficiency and have better outcomes even while treating emergent DVA problems (9-13). One study specifically noted that FOCs use best-demonstrated practices for both diagnosis and treatment and provide the comprehensive set of skills needed to achieve quality results with an acceptably low complication rate (10).

This study enables attribution of patient outcomes to the site of service at which patients receive over 80% of their DVA care. Patient outcomes are probably influenced by the presence of care coordination across specialties, physician specialty performing DVA procedures, and the provision of anticipatory care to maintain access function. The data suggest that nephrologists are less likely, and diagnostic/interventional radiologists are more likely, to be providing the majority of a patient's DVA-related care in the HOPD than in the FOC. Because the study patients were not risk-adjusted by specialty within setting, the study cannot determine the cost-effectiveness of DVA-related care provided by specialty. However, literature suggests that nephrologists are associated with safe, successful, and quality outcomes, resulting in decreased morbidity and cost (14). Several studies also suggest that receiving DVA services by nephrologists increases the chances of receiving permanent access placed prior to dialysis (15-19). Furthermore, appropriately trained interventional nephrologists have been shown to perform DVA procedures effectively and safely with a low major complication rate (20).

In addition to specialty and anticipatory care, the presence of a dedicated access team and team coordinator improves patient outcomes and reduces cost. Coordinators have been identified as essential for managing interaction among different disciplines, such as vascular surgeons, nephrologists, and interventionalists (21). Using a nephrologist in the role of interventionist and key decision maker enhances the ability to practice coordinated care (22). The literature asserts that a dedicated team is better able to assess fistula and graft maturation, organize timely interventions, and establish a multidiscipline prevention strategy. Close collaboration among nephrologists, surgeons, radiologists, and dialysis staff, streamlined by a dedicated access coordinator, improves DVA management and outcomes (23).

The results of this study, informed by the published literature, suggest that patients treated in the FOC achieve favorable results due to the synergy of the provider specialty, receipt of anticipatory care, and use of a dedicated access team with proper coordination. The exclusion of any one of these aspects may inhibit favorable outcomes. Based on the results of this and other studies investigating the impact of FOCs on patient outcomes and Medicare payments, proper incentives could be developed to ensure that patients are receiving care in the setting that provides for the best patient outcomes.

This study serves as the first published research to analyze patient outcomes using a 4-year national dataset that captures all care across all sites of service. This methodology allows for very rigorous risk-adjustment methods to be implemented and spans beyond the practice patterns of select, geographically focused access centers. Furthermore, this study includes over 55,000 ESRD patients matched on demographic characteristics, clinical characteristics (laboratory values and comorbidities), and access type, who represent about 10% of ESRD patients nationally.

There are, however, limitations to this approach. First, while all healthcare utilization is captured in the USRDS database, this study was limited to the use of administrative claims data and select clinical information. USRDS data includes several clinical fields, but the use of medical records would have increased our ability to identify DVA-related outcomes beyond the specificity of CPT and ICD-9 coding. All comorbidity and clinical values, however, were defined using USRDS methodology. Second, the reliance on administrative claims over a fixed period of time precludes examining the patients' healthcare utilization prior to the study period. Therefore, prior complications or historical utilization cannot be included in our propensity score model. As indicated by the ability to match patients across sites of service based on rigorous patient demographic and clinical characteristics, we believe, however, that this study reflects minimum residual selection bias among those who are treated in the FOC compared with those who are treated in the HOPD.

In conclusion, these results suggest that patients who receive care from a FOC that provides a multidisciplinary approach with a dedicated care team have significantly better patient outcomes and lower mortality rates at a significantly reduced cost to Medicare. These outcomes may be the result of receiving anticipatory care to maintain DVA health from dedicated physician specialists working within a coordinated care environment.

#### Acknowledgments

The authors gratefully acknowledge Samuel Awuah at Lifeline Vascular Access, a DaVita Healthcare Partners® affiliate, for his thoughtful guidance and support throughout the study. The authors would also like to acknowledge the staff at the National Institute of Diabetes and Digestive and Kidney for maintaining the USRDS database and making comprehensive claims-level data available for analysis.

#### Funding

This research was funded by a contract with Lifeline Vascular Access, a DaVita Healthcare Partners® affiliate. These funding sources, beyond the identified authors, had no involvement in the design or execution of the study.

The content expressed is the responsibility and opinion of the authors and not their affiliation.

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**Staffing, 77 Ill. Admin. Code 1110.1540(i)**

The facility will appoint one of the existing NANI physicians, all Board certified nephrologists, to act in the capacity of medical director for the facility.

The staffing of the facility will consist of already employed individuals and includes the following positions:

- 2 Registered Nurses (already employed)
- 1 Vascular Care Coordinator (already employed)
- 1 Radiological Technologist (already employed)
- 1 Facility Manager (may be responsibility of existing personnel)
- 1 Medical Director

As needed, additional staff will be identified and employed utilizing existing job search sites and professional placement services.

**Charge Commitment, 77 Ill. Admin. Code 1110.1540(j)**

A list of the procedures and charges with the proposed ASC is below. DuPage Vascular Care verifies it will adhere to these charges for a minimum of 24 months.

<b>CPT Description</b>	<b>2017 CPT Code</b>	<b>2017 POS 24 Charge ASC Amount</b>
Fistulogram	36901	1,500.00
Venous Angioplasty	36902	3,300.00
Arterial Angioplasty	36902	3,300.00
Stent + Angioplasty	36903	15,000.00
Thrombectomy + Angioplasty	36905	6,100.00
Stent + Thrombectomy	36906	18,000.00
Central Venous Cath Insertion	36558	1,811.45
	77001	
	76937	
Central Venous Cath Removal	36589	2,016.46
Central Venous Cath Exchange	36581	
	77001	
Cephalic Vein Transposition Fistula	36818	2,015.00
BVT Fistula	36819	2,127.00
Forearm Vein Transposition Fistula	36820	2,127.00
Direct Anastomosis Fistula	36821	1,927.00
AV Graft Creation	36830	1,940.00
PD Catheter Insertion	49418	3,667.00
PD Catheter Removal	49422	1,085.00
Fistula Revision	36832	2,200.00
Pseudo aneurysm	36901	1,500.00
Injection with Fistulagram	36002	3,300.00
Vein Mapping	36005	
	75820	
	75827	
Direct Brachial Puncture w/Fistula imaging	36140	1,800.00
	36901-52	
Angioplasty w/Selective Cath & Imaging	36902	5,975.00
	36215	
	75710	
Thrombectomy no Angioplasty	36904	4,000.00
Central Venous Angioplasty	36902	5,300.00
	36907	
Central Venous Stenting	36902	5,300.00
	36908	

Embolization	36901	6,800.00
	36909	
Thrombectomy w/Arterial Thrombus	36905	11,778.00
	37186	
	36215	
	75710	
Embolization w/Foreign Body Retrieval	36901	9,803.00
	36909	
	37197	
Arterial Angioplasty	37246	4,600.00
Outside Fistula	36902	5,975.00
	36215	
	75710	
Venous Angioplasty	37248	4,000.00
No Fistula Cannulation	36581	1,693.61
	77001	
Angioplasty w/IVUS	36902	7,000.00
	37252	
Ligation Collateral Vessel	37607	918.00
Fistula Superficialization Revision	36832	2,200.00

**Assurances, 77 Ill. Admin. Code 1110.1540(k)**

DuPage Vascular Care hereby attests, in accordance with the provisions of 735 ILCS 5/1-109, that it will implement a peer review program to evaluate whether patient outcomes are consistent with quality standards as established by the relevant professional organizations. In the unlikely event that the outcomes being experienced do not meet or exceed those standards, appropriate quality improvement plans will be initiated.

As evidenced below, the project will, at a minimum, meet the utilization standard for ASTCs by its second year of operation.

UTILIZATION					
	DEPT./ SERVICE	HISTORICAL UTILIZATION (PATIENT DAYS) (TREATMENTS) ETC.	PROJECTED UTILIZATION	STATE STANDARD	MET STANDARD?
YEAR 1	ASTC	1,323	80%	>1500 hours	Yes
YEAR 2	ASTC	1,492	90%	>1500 hours	Yes

**Availability of Funds, 77 Ill. Admin. Code 1120.120**

This project will be funded entirely through internal sources.

The cash necessary to complete this project is evidenced by the attached bank statement and the accompanying affidavit verifying that these funds are explicitly dedicated to the establishment of this ASTC with the only limiting condition being the approval of the HFSRB.



March 20, 2017

Illinois Health Facilities & Services Review Board  
525 West Jefferson Street, 2<sup>nd</sup> Floor  
Springfield, IL 62761

Re: Nephrology Associates of Northern Illinois

To Whom It May Concern:

Please accept this letter as verification that Nephrology Associates of Northern Illinois, LTD (NANI) has a checking account at Huntington Bank that maintains in excess of \$800,000 to support equipment purchases for DuPage Vascular Care, LLC a wholly owned subsidiary of NANI.

If you need any further information, please do not hesitate to contact me directly at the numbers below.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanton H Barnett", with a long horizontal flourish extending to the right.

Stanton H Barnett  
Senior Vice President/Group Manager  
The Huntington National Bank  
678 Lee St  
Des Plaines, IL 60016  
O: 847-391-6280  
M: 847-436-1931

**Nephrology Associates of Northern Illinois, LTD**

120 W 22<sup>nd</sup> Street • Oak Brook, IL 60523 • Phone 630-573-5000 • Fax 630-368-0331

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April 6, 2017

Ms. Kathryn J. Olson, Chair  
Illinois Health Facilities and Services Review Board  
525 W. Jefferson Street, 2<sup>nd</sup> Floor  
Springfield, IL 62761

Dear Ms. Olson:

In accordance with the verification provisions of 735 ILCS 5/1-109 of the Illinois Code of Civil Procedure, I hereby certify under penalty of perjury that the \$800,000 in funds referenced in the March 20, 2017 letter from Huntington Bank, executed by Stanton H. Barnett, are designated for and will remain available for the completion of this ASTC project. The funds are currently available and will remain available throughout the Certificate of Need process and have been designated solely for the use of completing this project, subject to the approval by the HFSRB.

This information is based upon my personal knowledge.

Under penalty of perjury, in accordance with 735 ILCS 5/1-109, I verify by certification the above is true and correct.



Brian J. O'Dea

## **LEASE AGREEMENT**

**BUILDING:** Woodgrove Medical and Professional Center  
**LOCATION:** 7425 Janes Ave., Woodridge, ILLINOIS 60517  
**LANDLORD:** Woodgrove Professional Center, Inc.  
**TENANT:** Nephrology Associates of Northern Illinois, P. C.

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**EXHIBITS**

Exhibit A	Site Plan
Exhibit A-1	First Floor Plan
Exhibit A-2	Lease Plan
Exhibit B	Corrected Minimum Rent
Exhibit C	Tenant's Work
Exhibit D	Final Letter of Intent (LOI) Dated March 2, 2007

## LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made as of this First day of April, 2007, by and among Woodgrove Professional Center, an Illinois Corporation ("Landlord"), with its principal office at 7425 Janes Ave., Suite 200, Woodridge, IL 60517, and Nephrology Associates of Northern Illinois, P. C.

### ARTICLE I GRANT AND TERM

#### Section 1.01 - Premises.

Landlord hereby leases to Tenant for the Term (hereafter defined) and upon the covenants hereinafter set forth, approximately 3628 +/- square feet of first area (the "Premises") space A-D in the building commonly known as Woodgrove Medical and Professional Center, or by such other name as Landlord may, from time to time hereafter designate (the "Building"). The Building is the parcel of land as shown outlined on Exhibit A of this Lease and first Floor Lease Plan on Exhibit A-1 of this Lease, and all improvements situated thereon, provided however that once any such area, or portion thereof, is sold by Landlord, then such area, or portion thereof, would no longer be so included. The Premises showing space A-D, attached hereto and made a part hereof as Exhibit A-2 (Lease Plan). The exact square footage in the Premises shall be determined by landlord or designated architect. Such square footage shall be measured from the mid-line of interior demising walls and the outside surface part of exterior demising walls, and shall include the totality of the area within such boundaries, including any mezzanines. Landlord may measure the floor area of the Premises within sixty (60) days of the Commencement Date. In the event Tenant does not object to such measurement within thirty (30) after the expiration of such sixty (60) period, such measurement shall be binding upon the parties hereto, except as otherwise provided in this Lease. In the event the square footage, as determined by Landlord/Architect and not objected to by Tenant, differs from the square footage set forth above, the Minimum Rent to be paid by Tenant as set forth in Article II shall be adjusted after the exact square footage is determined by multiplying the square footage by the amount(s) per square foot as set forth in Section 2.01 of this Lease and will be attached as Exhibit B.

#### Section 1.02 - Site Plan.

Exhibit A sets forth the general layout of the building and Exhibit A-2 sets forth the lease plan of the area A-D of Building. Landlord does not warrant or represent that the Building will be or has been constructed exactly as shown thereon or that it will be completed by a specific date. Landlord may change or alter any of the spaces, Common Areas (hereafter defined) or any other aspect of the Building, or may sell or lease any portions of the Building all without the consent of or notice to Tenant. This Lease is subject to all applicable building restrictions, planning and zoning ordinances, governmental rules and regulations, and all other encumbrances, restrictions and easements affecting the Building and the terms and provisions of certain declarations, reciprocal easement and operating agreements now or hereafter affecting the Building.

#### Section 1.03 - Term.

The initial term (the "Initial Term") of this Lease shall be for a period of Ten (10) Lease Years (the "Initial

of this lease document. By signing this lease both Tenant and Landlord agrees to the terms and conditions as set forth in Exhibit D.

**Section 1.04 - Option.**

Provided Tenant is open and operating and is not otherwise in Default (hereafter defined), Tenant shall have the option of extending this Lease Two (2) additional periods of Five (5) Lease Years (the "Option Terms"), commencing on midnight on the date on which the Initial Term expires, upon the same terms, covenants, conditions and provisions of this Lease. Minimum Rent during the Option Terms shall not increase more than 3.0% per annum over the Minimum Rent for the immediately preceding year. The granting of the Option Term shall be null and void should Tenant be in Default upon either the last day of the Initial Term, or the date of exercise of the Option Terms by Tenant. In order to exercise the Option Terms, Tenant shall provide Landlord with written notice at least Nine (9) months prior to the date on which the Initial Term or the current Option Term expires. Notwithstanding anything herein to the contrary, Tenant agrees that the right to extend this Lease pursuant to this Section 1.04 is personal to Tenant and may be available to any assignee or successor-in-interest to Tenant with the approval of Landlord. For purposes of this Lease, the word "Term" shall mean the Initial Term and, if validly exercised, the Option Term, collectively.

**ARTICLE II  
RENT**

**Section 2.01 - Minimum Rent.**

Commencing on the Term Commencement Date and continuing during the entire Term of this Lease, Tenant shall pay annual "Minimum Rent" for the Premises payable to Landlord, without demand, deduction, set-off or counterclaim, in equal installments (the "Monthly Minimum Rent") in advance, on or before the first (1st) day of each month, as follows:

Lease Year(s)	Annual Minimum Rent	Monthly Minimum Rent	Minimum Rent per Sq. Ft.
1	\$67,118.00	\$5,593.17	\$18.50
2	\$69,131.54	\$5,760.96	\$19.06
3	\$71,205.49	\$5,933.79	\$19.63
4	\$73,341.65	\$6,111.80	\$20.22
5	\$75,541.90	\$6,295.16	\$20.82
6	\$77,808.16	\$6,484.01	\$21.45
7	\$80,142.40	\$6,678.53	\$22.09
8	\$82,546.67	\$6,878.89	\$22.75
9	\$85,023.07	\$7,085.26	\$23.44
10	\$87,573.77	\$7,297.81	\$24.14

The first installment of Minimum Rent shall be paid Two Months after 120 days of lease execution, or upon receipt of certificate of occupancy whichever comes first. If the Term Commencement Date occurs on other

**Section 2.02 - Intentionally Omitted**

**Section 2.03 - Intentionally Omitted**

**Section 2.04 - Intentionally Omitted**

**Section 2.05 - Payments by Tenant.**

Throughout the Term of this Lease, Tenant shall pay to Landlord, without demand, deductions, set-offs or counterclaims, the rent, which is hereby defined as the sum of the Minimum Rent, and all Additional Rent, when and as the same shall be due and payable hereunder. Unless otherwise stated, all sums of money or charges payable to Landlord from Tenant by this Lease, other than Minimum Rent, are defined as "Additional Rent" and are due with minimum rent on a monthly basis, without any deductions, set-offs or counterclaims, and failure to pay such charges carries the same consequences as Tenant's failure to pay Minimum Rent. All payments and charges required to be made by Tenant to Landlord hereunder shall be payable in coin or currency of the United States of America, at the address indicated herein. No payment to or receipt by Landlord of a lesser amount than that then amount required to be paid hereunder shall be deemed to be other than on account of the earliest amount of such obligation then due hereunder. No endorsement or statement on any check or other communication accompanying a check for payment of any amounts payable hereunder shall be deemed an accord and satisfaction, and Landlord may accept such check in payment without prejudice to Landlord's right to recover the balance of any sums owed by Tenant hereunder. In the event Landlord bills Tenant for any charge hereunder and within ninety (90) days of receipt of the same Tenant does not provide Landlord with notice that it disputes such charge, then Tenant waives any further right to dispute such charge and that charge shall automatically become an account stated between Landlord and Tenant.

**Section 2.06 - Security Deposit.**

Waived.

**Section 2.07 - Late Charge.**

In the event any sums required hereunder to be paid are not received by Landlord on or before the date the same are due, or within five (5) days thereafter, then, Tenant shall immediately pay, as Additional Rent, a service charge equal to the greater of One Hundred Dollars (\$100.00), or five percent (5%) of the past due sum for each successive month such amount remains unpaid. In addition, interest shall accrue on all past due sums at an annual rate equal to the greater of one and one-half percent (1½%) per month, or three percent (3%) in excess of the prime rate of interest announced from time to time by Bank One, Chicago, or its successor institution, but not in excess of the maximum legal rate. Such interest shall also be deemed Additional Rent.

**Section 2.08 - Returned Checks.**

In the event that Tenant's check for rents and charges is returned for any reason, Tenant agrees to pay Landlord the sum of Seventy Five Dollars (\$70.00) as a handling charge in addition to any applicable late charge

**ARTICLE III  
PREPARATION OF PREMISES**

**Section 3.01 - Improvements And Alterations.**

All costs associated with interior and exterior improvements to the Premises (the "Tenant Improvements") shall be the obligation of tenant at 100%. Tenant, at its sole cost and expense, shall pay the balance of Tenant Improvement costs directly to the contractor after the completions of each phase and a copy of which shall be provided to the Landlord. Tenant shall inspect the Premises and Tenant shall accept the Premises in the condition in which they are tendered subject to any items identified in a punch list which is developed after a walk-through by Landlord and Tenant subsequent to the completion of the construction of the Tenant Improvements. Tenant shall make all further changes, alterations, decorations, additions or improvements in or to the Premises as it may deem necessary, subject however, to the prior written consent of Landlord, which shall not unreasonably withheld, conditioned or delayed. Any and all such alterations and improvements approved by Landlord shall be paid for by Tenant, shall be made in good and workmanlike manner and of quality equal to the original construction, and shall be in compliance with all applicable permits and authorizations, building and zoning laws and all other laws, ordinances and regulations. All such alterations and improvements so made (including without limitation, all partitions, fixtures, floor coverings and equipment excepting medical equipment, office furniture/furnishings and personal items owned by Tenant located within the Building) shall automatically become the property of Landlord without expense to Landlord, and may not be removed from the Premises without the prior written approval of Landlord; provided, however, that Landlord may, by written notice to Tenant, require Tenant, at Tenant's sole cost and expense, to remove any and all improvements, alterations, additions, wiring or fixtures installed or made by Tenant on or to the Premises and to repair any damages to the Premises caused by such removal.

Tenant agrees to indemnify, hold harmless and defend Landlord from any loss, cost, damage or expense, including attorneys' fees, arising out of any claims relating to work done or materials supplied to Premises at Tenant's request or on Tenant's behalf, except as otherwise provided in this Lease.

**Section 3.02 - Delivery Date.**

(a) Tenant agrees to begin its work under Section 3.03 on the date this Lease is signed by both Landlord and Tenant. Tenant agrees to diligently perform Tenant's Work to completion. Under no circumstances shall Landlord be liable to Tenant in damages for any delay in commencing or completing the Premises, or for a total failure to complete same or for a failure to deliver same.

(b) Tenant hereby expressly agrees that the entry or occupancy of the Premises by Tenant or Tenant's agents or contractors prior to the date herein fixed for the Term Commencement Date shall be governed by and shall be subject to all of the terms and provisions of this Lease, and Tenant shall observe and perform all its obligations under this Lease, including, without limitation, its obligation to pay charges for temporary utilities, insurance, and other charges pursuant to the provisions of Exhibit C, but specifically excluding any obligations to pay Minimum and Additional Rent, until the Term Commencement Date.

**Section 3.03 - Tenant's Work.**

unlawful or create an unsound or dangerous condition or adversely affect the structural soundness of the Premises or the Building, and/or would interfere with the use and enjoyment of any adjoining space in the Building, then, in the event Landlord determines that Landlord and Tenant are unable to agree upon design drawings and/or working drawings, each of Landlord and Tenant shall have the option, upon ten (10) days' written notice to the other party to correct the situation. Failure to compliance declare this Lease null and void and of no further force and effect, in which event this Lease shall terminate. All work performed by Tenant shall be subject to Landlord's prior written approval and shall be in accordance with good construction practices, all applicable laws, codes, ordinances, regulations, and insurance requirements and Landlord's reasonable rules and regulations. No material deviations from the final plans and specifications, once approved by Landlord, shall be permitted. Landlord's review of Tenant's plans and specifications shall not constitute the assumption of any responsibility by Landlord for their accuracy or sufficiency, and shall in no event create an express or implied confirmation that Tenant's design and/or working drawings have been prepared in accordance with the requirements of applicable laws, codes, ordinances and regulations. Further, Landlord shall have no responsibility or liability for any loss or damage to any property belonging to Tenant as a result of Tenant's Work. Tenant agrees to pay for all the utilities used or consumed in the Premises by Tenant during construction. Tenant shall maintain and keep the premises clean at all times during construction. Tenant and their agents shall obtain all certificates and approvals which may be necessary so that a certificate of occupancy for the Premises may be issued. Copies of all such certificates shall be delivered to Landlord prior to Tenant commencing Tenant's Work. Upon the issuance of the certificate of occupancy, a copy thereof shall be immediately delivered to Landlord. Tenant shall ready the Premises for the opening of Tenant's business by the Term Commencement Date.

#### **Section 3.04 - Alterations by Tenant.**

(a) Tenant may not make any exterior or structural alterations to the Premises without the prior written consent of Landlord. In addition, Tenant shall not make any interior alterations, except for alterations to the decor of the Premises provided such alterations affect color or merchandising aspects of the interior only, without giving prior written notice to Landlord and Landlord giving Tenant its written consent therefore, which consent shall not be unreasonably withheld, conditioned or delayed. Any such alterations shall be performed in a good and workmanlike manner and in accordance with applicable legal and insurance requirements and the terms and provisions of this Lease.

(b) In the event that any mechanic's lien is filed against the Premises or Building as a result of any work or act of Tenant, Tenant, at its expense, shall discharge or bond off the same within ten (10) days from the filing thereof. If Tenant fails to discharge said mechanic's lien, Landlord may bond or pay without inquiring into the validity of merits of such lien and all sums so advanced shall be paid to Landlord as Additional Rent with 10% penalty.

(c) Prior to the commencement of any work by Tenant, Tenant shall require that every contractor obtain public liability and workers' compensation insurance, and shall deliver duplicate originals of all certificates of such insurance to Landlord.

(d) If, in an emergency, it shall become necessary to make repairs required to be made by Tenant, Landlord may reenter the Premises and proceed to have such repairs made and pay the costs thereof. Tenant shall

**Section 3.06 – Intentionally Omitted.**

**Section 3.07 - Title to Improvements.**

Title to the Premises and all other improvements which are now or shall hereafter be made, erected, constructed, installed or placed, on, above, or below the Premises shall be deemed vested in Landlord during the Term and thereafter. Tenant agrees to execute and deliver to Landlord such deeds, assignments or other instruments of conveyance as Landlord may reasonably deem necessary to confirm Landlord's sole ownership of and fee simple title to the same.

**Section 3.08 – Intentionally Omitted.**

**Section 3.09 – As Is.**

Tenant has inspected the Premises and otherwise investigated and determined the feasibility of development, at its expense, including, without limitation, having conducted such engineering, environmental, and mechanical studies of the Premises as it deemed necessary, and found it acceptable. TENANT SHALL RELY EXCLUSIVELY ON ITS INSPECTION IN PROCEEDING WITH ITS LEASE HEREUNDER AND NOT ON ANY WARRANTY OR REPRESENTATION OF LANDLORD OR ANY OF LANDLORD'S AGENTS, IT BEING UNDERSTOOD THAT LANDLORD MAKES NO WARRANTY OR REPRESENTATION AND THAT TENANT TAKES AND ACCEPTS THE PREMISES "AS IS".

**ARTICLE IV.  
CONDUCT OF BUSINESS**

**Section 4.01 - Use and Trade Name.**

(a) The Premises shall be used and occupied for the following purpose only, and for no other purpose whatsoever: Interventional Vascular Access Outpatient Medical Practice and Related Medical Use under the name of Nephrology Associates of Northern Illinois, P. C. only.

(b) If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business or other activity carried on in the Premises, or if a failure to procure such a license or permit might or would in any way adversely affect Landlord or the Building, then Tenant, at Tenant's expense, shall duly procure and thereafter maintain such a license or permit and submit the same for inspection by Landlord. Tenant, at Tenant's expense, shall, at all times, comply with the requirements of each such license or permit.

(c) Tenant shall operate its business from the Premises under the following trade name only and under no other trade name: Nephrology Associates of Northern Illinois, P. C. Tenant covenants, warrants and agrees that it has the absolute, undisputed right to use the trade name Nephrology Associates of Northern Illinois, P. C. in the state of Illinois with holding record of good standing from Illinois Secretary of State and shall provide a copy of such letter of good standing to Landlord. Tenant agrees to indemnify, defend and hold harmless Landlord, and

#### **Section 4.02 - Operation of Business.**

Tenant shall open for business to the public on or after the Term Commencement Date and during the entire Term of this Lease continuously, conduct its regular business operation on business days during normal business hours.

#### **Section 4.03 - Utilities.**

Tenant, at its expense, shall arrange for and pay all costs of the charges for all utilities and services provided or used in or at the Premises, commencing with the Term Commencement Date and throughout the Term of this Lease. Tenant shall pay directly to the public utility companies the cost of any installation not included in Landlord's Work of any and all such utility services. In the event that Landlord supplies or pays for any such utilities, then as Additional Rent, Tenant shall reimburse Landlord for the same. In the event, for any reason whatsoever, any particular utility is not separately metered, then, and in that event, Tenant shall be responsible for its proportionate share of such utility based upon the formula that Landlord, in its reasonable discretion, deems appropriate. Tenant agrees to indemnify and hold harmless Landlord from and against any and all claims arising from the installation and maintenance of such utility services and from all costs and charges for utilities consumed on or by the Premises. Landlord shall not be liable to Tenant for damages or otherwise (i) if any utilities shall become unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (ii) for any interruption in any utility service (including, but without limitation, any heating, ventilation or air conditioning) caused by the making of any necessary repairs or improvements or by any cause beyond Landlord's reasonable control, and the same shall not constitute a default, termination or an eviction.

#### **Section 4.04 - Signage.**

Tenant shall install and maintain one (1) sign affixed to the front of the suite in a location, size and style designated by Landlord, subject to the prior written approval of Landlord. Additional signage requires approval from landlord per Exhibit D. Notwithstanding Landlord's approval and/or the terms of this Lease, Tenant's sign shall conform to all applicable legal and insurance requirements and limitations. Subject to the foregoing, Tenant shall pay for all costs in connection with such sign and shall be responsible for the cost of proper installation and removal thereof and any damage caused to the Premises. No additional signs, which can be seen from the exterior of the Premises, shall be installed or displayed in, on or about the Premises without the prior written consent of Landlord. Any interior signs must be tasteful and shall be prepared in a professional manner (not hand-lettered). Any sign or display visible from the exterior of the Premises which does not meet the above criteria may be removed at any time by Landlord without incurring any liability therefor.

#### **Section 4.05 - Tenant's Warranties.**

Tenant warrants, represents, covenants and agrees to and with Landlord, that throughout the Term hereof it shall: (i) keep the Premises used by Tenant in a neat and clean condition, (ii) pay, before delinquent, any and all insurances, taxes, assessments and public charges imposed upon Tenant's business or fixtures, and pay when due all fees of similar nature, (iii) observe all reasonable rules and regulations established by Landlord for tenants in the Building, (iv) observe all restrictive covenants of record which are applicable to the Building. (v) not use the marking

designated to carry, and not commit or suffer to be committed any nuisance or other act or thing which may disturb the quiet enjoyment of any other occupant or tenant of the Building.

**Section 4.06 - Legal Requirements.**

Tenant shall at its own expense, comply with all laws, orders, ordinances and with directions of public officers thereunder, with all applicable Board of Fire Insurance Underwriters regulations and other requirements and with all notices from Landlord's mortgagee respecting all matters of occupancy, condition or maintenance of the Premises, whether such orders or directions shall be directed to Tenant or Landlord, and Tenant shall hold Landlord harmless from any and all costs or expenses on account thereof. Tenant shall procure and maintain all licenses and permits legally necessary for the operation of Tenant's business and allow Landlord to inspect them on request.

**Section 4.07 - Competition.**

Tenant shall not directly or indirectly, without the prior written consent of Landlord, which consent Landlord may withhold in Landlord's sole and absolute discretion, solicit, take away or divert business or their business partners, associates, employees or contractors from any businesses operation in the Building.

**Section 4.08 - Hazardous Materials.**

Except in the ordinary course of Tenant's business and in compliance with all applicable environmental laws, each of Landlord and Tenant agrees that it will not use, install, permit, hold, release or dispose of any Hazardous Material (defined hereafter) on, under or at the Premises or the Building and that it will not use or permit the use of the Premises or any other portion of the Building as a treatment, storage or disposal (whether permanent or temporary) site for any Hazardous Material. Each of Landlord and Tenant further agrees that it will not cause or allow any asbestos to be incorporated into any improvements or alterations which it makes or causes to be made to the Premises. Each of Landlord and Tenant hereby holds the other harmless from and indemnifies the other against any and all losses, liabilities, damages, injuries, costs, expenses, fines, penalties, and claims of any and every kind whatsoever (including, without limitation, court costs and attorneys' fees) which at any time or from time to time may be paid, incurred or suffered by, or asserted against the other for, with respect to, or as a direct or indirect result of (i) a breach by each such party of the foregoing covenants, or (ii) to the extent caused or allowed by each such party or any agent, contractor, employee, invitee or licensee of each such party, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, onto or into the Premises, the Building, the atmosphere, or any watercourse, body of water or groundwater, of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other Federal, state, local or other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Material). For purposes of this Lease, "Hazardous Material" means and includes any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, the Toxic Substances Control Act, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or

available under this Lease or at law or in equity, to re-enter the Premises and remove all persons and property therefrom.

If Landlord elects to relocate Tenant as provided herein, this Lease shall automatically be amended to provide that the term "Premises" as used in this Lease shall refer to the New Premises and not to the premises originally leased to Tenant under this Lease and, except as modified in this paragraph, all terms, covenants and conditions of this Lease shall apply with full force and effect to the New Premises throughout the remainder of the Term of this Lease as if the New Premises had originally been leased to Tenant in this Lease. If requested by either party, the other party shall execute and deliver an amendment to this Lease consistent with this paragraph confirming the location of the New Premises and such other matters related to the New Premises or this Lease as may reasonably be required by the requesting party.

If Landlord elects to relocate Tenant as provided herein, Landlord at its sole expense shall improve the New Premises with Tenant's Improvements.

#### ARTICLE V. COMMON AREA

##### Section 5.01 - Definition.

The term "Common Areas" shall mean the interior and exterior areas and facilities within the Building, which are: (i) not leased to a tenant, or (ii) by nature not leasable to a tenant for the purpose of the sale of merchandise or the rendition of services to the general public. Common Areas shall include but shall not be limited to all parking areas and facilities, roadways, driveways, entrances and exits, truck service ways, utilities, retention ponds or basins located within or outside the Building, retaining and exterior walks, sidewalks, open and enclosed malls, outside courts, landscaped and planted areas, stairways, elevators, service corridors, service areas, loading docks, hallways, public restrooms, community rooms or areas, roofs, equipment, signs and any special services provided by Landlord for the common or joint use and benefit of all tenants or other occupants of the Building, their employees, customers and invitees.

##### Section 5.02 - Use.

During the Term of this Lease Tenant is granted, subject to Landlord's rules and regulations promulgated by Landlord from time to time, the nonexclusive license to permit its customers and invitees to use Common Areas. Notwithstanding anything contained in this Lease to the contrary, Landlord shall have the right, at any time and from time to time, without notice to or consent of Tenant, to change the size, location, elevation and nature of any of the Common Areas (including the right to construct, remove, or demolish any improvements or buildings), or any part thereof, including, without limitation, the right to locate and/or erect thereon kiosks, structures and other buildings and improvements of any type. Common Areas shall be subject to the exclusive control and management of Landlord, and Landlord shall have the right, at any time and from time to time, to establish, modify, amend and enforce reasonable rules and regulations with respect to the Common Areas and the use thereof. Tenant agrees to abide by and conform with such rules and regulations on notice thereof and to cause its permitted concessionaires, invitees and licensees and its and their employees and agents to do the same.

and expenses incurred in operating, managing, repairing, replacing, maintaining, insuring, City/County Taxes, equipping, general lighting, and other services to the Building which are attributable to the Common Areas of the Building ("Common Area Expenses"), it being agreed between the parties that the method of establishing the amounts so attributable to the Building shall be at the sole discretion of Landlord. Notwithstanding the foregoing, Tenant's proportionate share of Common Area Expenses commences on lease execution is set at an annual rate of \$6.00 PSF for the first lease year with annual escalation of 3.5% and not to exceed the rate of 10%. The manner in which said payment shall be used shall be within the sole reasonable discretion and control of Landlord. Common Area Expenses shall include, but not be limited to, the following costs and expenses: (i) electricity (Emergency lighting), water, sewer and other utility charges (including surcharges) of whatever nature to maintain "Common Areas", (ii) building personnel costs, including, but not limited to, salaries, wages, employment taxes, fringe benefits and other direct and indirect costs of engineers, superintendents, watchmen, porters and any other building personnel, (iii) costs of service and maintenance contracts, including, but not limited to, chillers, boilers, controls, windows, janitorial and general cleaning, security services, and management fees to maintain "Common Areas" (iv) all other maintenance and repair expenses (including those payable by Landlord under Section 6.01 hereof) and supplies which may be deductible for such calendar year in computing Federal income tax liability, (v) any other costs and expenses incurred by Landlord in operating the Building, (vi) the cost of any additional services not provided to the Building at the Term Commencement Date but thereafter provided by Landlord in the prudent management of the Building, (vii) the cost of any capital improvements which are made by Landlord to benefit the Building occupants (viii) deposits into reserve accounts for capital improvements, (ix) the expenses associated with costs, repair, replacement and maintenance of the roofs, curbs, gutters, sidewalks and paved areas of the Building, (x) landscaping costs, (xi) snow and ice removal costs, (xii) any expenses due under any declarations or reciprocal easement and operating agreements, including, but not limited to, the REA, and (xiii) Landlord's customary additional administrative fee to be paid to Landlord in connection with the Building.

#### ARTICLE VI REPAIRS AND MAINTENANCE

##### **Section 6.01 - Landlord's Obligations.**

Landlord shall keep in good repair the sewer and water lines outside the Premises and the structural supports of the Premises.

##### **Section 6.02 - Tenant's Obligations.**

(a) Except as stated in Section 6.01, Tenant, at its expense, shall (i) keep in good order, condition and repair of their space and every part thereof, including, without limiting the generality of the foregoing, all plumbing and sewage facilities within or serving its area, including free flow up to the common sewer line, all electrical and lighting systems, facilities and equipment within or serving its area; all fixtures, ceilings, doors, windows, plate glass, suite fronts, interior walls and interior surfaces of exterior walls; and any repairs required due to illegal entry or burglary of the Premises, (ii) install and maintain such fire protection devices as may be required by any governmental body or insurance underwriter for the Building, (iii) provide trash storage and removal services regardless of the location of any storage and removal facilities, except that if Landlord, in its sole discretion, shall

replacements required to be made by Tenant hereunder promptly and adequately upon at least ten (10) days written notice thereof from Landlord, Landlord may, in addition to any other remedy Landlord may have, but shall not be required to, make or complete said maintenance, repairs or replacements and Tenant shall pay the cost and expense thereof, plus a charge of fifteen percent (15%) thereof, to Landlord upon demand as Additional Rent.

#### **ARTICLE VII. REAL ESTATE TAXES**

##### **Section 7.01 - Liability.**

Included in Common area expenses.

##### **Section 7.02 - Intentionally Omitted.**

#### **ARTICLE VIII. INSURANCE**

##### **Section 8.01 - Landlord's Obligations.**

(a) Landlord shall obtain and maintain during the Term of this Lease, fire and extended coverage insurance, insuring against all reasonable perils and liabilities, for one hundred percent (100%) of the replacement value of the Building. Such insurance shall be issued by an insurance company licensed to do business in the jurisdiction in which the Building is located.

(b) Landlord shall obtain and maintain during the Term of this Lease, comprehensive general liability insurance covering the Common Areas, which policy is to be in the minimum amount of Two Million Dollars (\$2,000,000.00) with respect to any one accident, and in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to property damage.

##### **Section 8.02 - Intentionally Omitted.**

##### **Section 8.03 - Tenant's Obligations.**

(a) Tenant, at Tenant's sole cost and expense, shall obtain and maintain for the Term of this Lease, insurance policies providing the following coverage: (i) Tenant's fixtures, equipment, furnishings, merchandise and other contents in the Premises, for the full replacement value of said items regardless of cause or peril, (ii) one (1) full year Minimum Rent and business income coverage, (iii) all perils included in the classification "all-risk property insurance coverage" under insurance industry practices in effect from time to time in the jurisdiction in which the Building is located, (iv) plate glass insurance, (v) comprehensive general liability insurance naming Landlord and any mortgagee as additional insured, which policy is to be in the minimum amount of Two Million Dollars (\$2,000,000.00) with respect to any one person/accident, and in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to property damage. Tenant shall deliver to Landlord a copy of each of the policies obtained by Tenant.

**Section 8.04 - Covenants to Hold Harmless.**

(a) Landlord and Tenant each hereby release and waive all rights of subrogation against the other, its officers, directors, employees and agents from any and all liability or responsibility for any loss or damage to property covered by valid and collectible fire insurance with standard and extended coverage endorsement, or required to be carried hereunder, even if such fire or other casualties shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

**Section 8.05 - Limitation of Liability.**

Except with respect to any damages resulting from the gross negligence of Landlord, Tenant, or either party's agents or employees, neither Landlord nor Tenant shall be liable to the other party, its agents, employees or customers, for any damage, loss, compensation, accident or claims whatsoever.

**ARTICLE IX.  
DESTRUCTION OF PREMISES**

**Section 9.01 - Continuance of Lease.**

In the event the Premises shall be partially or totally destroyed by fire or other casualty insured under the provisions of Section 8.01 above, so as to become partially or totally untenable, then the damage to the Premises shall be promptly repaired, unless Landlord shall elect not to rebuild or repair as hereafter set forth. Except in the case of termination Minimum Rent shall be abated in proportion to the amount of the Premises rendered untenable until so repaired. In no event shall Landlord be required to repair or replace Tenant's merchandise, trade fixtures, furnishings or equipment. If more than fifty percent (50%) of the Premises or of the floor area of the Building shall be damaged or destroyed by fire or other casualty, then Landlord may elect that the Building and/or the Premises, as the case may be, be repaired or rebuilt or, at its sole discretion, terminate this Lease by giving written notice to Tenant of its election to so terminate, such notice to be given within ninety (90) days after the occurrence of such damage or destruction. If Landlord is required or elects to repair or rebuild the Premises as herein provided, Tenant shall repair or replace its merchandise, trade fixtures, furnishings and equipment in a manner and to at least a condition equal to that immediately prior to its damage or destruction.

**Section 9.02 - Reconstruction; Rent Abatement.**

If all or any portion of the Premises is damaged by fire or other casualty and this Lease is not terminated in accordance with the above provision, then all insurance proceeds however recovered shall be made available for payment of the cost of repair, replacing and rebuilding. Landlord shall use the proceeds from the insurance as set forth herein to repair or rebuild the Premises to its condition as on the Delivery Date, and Tenant shall, using the proceeds from the insurance provided for in Section 8.03, repair, restore, replace or rebuild that portion of the Premises constituting Tenant's Work as defined herein together with any additional improvements installed by Tenant, such that the Premises shall be restored to its condition as of immediately prior to the occurrence of such casualty. All of the aforesaid Tenant's insurance proceeds shall be deposited in escrow and shall be disbursed as work on repair, replacement or restoration progresses.

**ARTICLE X.  
CONDEMNATION**

**Section 10.01 - Eminent Domain.**

If twenty-five percent (25%) or more of the Premises shall be taken or condemned by any competent government authority, then either party may elect to terminate this Lease by giving notice to the other party not more than thirty (30) days after the date of which such title shall vest in the authority. If the parking facilities are reduced below the minimum parking requirements imposed by the applicable authorities and the applicable authorities will not waive such requirement in light of such taking or condemnation, Landlord may elect to terminate this Lease by giving Tenant notice within one hundred twenty (120) days after such taking. In the case of any taking or condemnation, whether or not the Term of this Lease shall cease and terminate, the entire award shall be the property of Landlord; provided, however, Tenant shall be entitled to any award as may be allowed for fixtures and other equipment which under the terms of this Lease would not have become the property of Landlord and equitable relocation costs; further provided, that any such award to Tenant shall not be in diminution of any award to Landlord.

**ARTICLE XI.  
ASSIGNING, SUBLETTING AND ENCUMBERING LEASE**

**Section 11.01 - Assigning, Subletting and Encumbering Lease.**

(a) Tenant shall not without Landlord's prior written consent, (i) assign or otherwise transfer, or mortgage or otherwise encumber, this Lease or any of its rights hereunder, (ii) sublet the Premises or any part thereof, or permit the use of the Premises or any part thereof by any persons other than Tenant or its agents, or (iii) permit the assignment or other transfer of this Lease or any of Tenant's rights hereunder by operation of law. Any attempted or purported transfer, assignment, mortgaging or encumbering of this Lease or any of Tenant's interest hereunder and any attempted or purported subletting or grant of a right to use or occupy all or a portion of the Premises in violation of the foregoing sentence shall be null and void and shall not confer any rights upon any purported transferee, assignee, mortgagee, subTenant or occupant.

(b) In the event Tenant desires to assign or transfer this Lease, or sublet (or permit occupancy or use of) the Premises, or any part thereof, Tenant shall give Landlord sixty (60) days prior written notice of Tenant's intention to so assign or transfer or sublet all or any part of the Premises. For thirty (30) days following receipt of said notice, Landlord shall have the right, exercisable by sending written notice to Tenant, to refuse to permit such assignment, sublet or transfer. In the event Tenant is in Default hereunder, Tenant hereby assigns to Landlord the rent due from any subtenant of Tenant and hereby authorizes each such subtenant to pay said rent directly to Landlord. The consent by Landlord to any assignment, transfer or subletting to any party shall not be construed as a waiver or release of Tenant under the terms of any covenant or obligation under this Lease, nor shall the collection or acceptance of rent from any such assignee, transferee, subtenant or occupant constitute a waiver or release of Tenant of any covenant or obligation contained in this Lease, nor shall any such assignment, transfer or subletting be construed to relieve Tenant from giving Landlord said thirty (30) days notice or from obtaining the consent in writing of Landlord to any further assignment, transfer or subletting.

**ARTICLE XII  
SUBORDINATION AND FINANCING**

**Section 12.01 – Subordination.**

This Lease and Tenant's tenancy hereunder shall be subject and subordinate at all times to the lien of any mortgage or deed of trust now or hereafter placed upon the interest of Landlord and the Premises, and to any renewals, modifications, consolidations, replacements or extensions thereof. The foregoing provision shall be self-operative and no further instrument shall be required to effect such subordination, but Tenant agrees to execute and deliver such instruments as may be desired by Landlord or by any mortgagee or trustee subordinating this Lease to the lien of any present or future mortgage or deed of trust, or as may be otherwise required to carry out the intent of this Section. Tenant also agrees that any mortgagee or trustee may elect to have this Lease a prior lien to its mortgage or deed of trust, and in the event of such election, and upon notification by such mortgagee or trustee to Tenant to that effect, this Lease shall be deemed prior in lien to the said mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said mortgage or deed of trust.

**Section 12.02 – Attornment.**

If, and so long as this Lease is in full force and effect, then at the option of the mortgagee: (a) this Lease shall remain in full force, notwithstanding (i) a default under the mortgage by Landlord, (ii) failure of Landlord to comply with this Lease, (iii) a defense to which Tenant might be entitled against Landlord under this Lease, or (iv) any bankruptcy or similar proceedings with respect to Landlord, (b) if any such mortgagee shall become possessed of the Premises, Tenant shall be obligated to such mortgagee to pay to it the rentals and other charges due hereunder and to thereafter comply with all the terms of this Lease, and (c) if any mortgagee or purchaser, at a private or public sale shall become possessed of the Premises, Tenant shall, without charge, attorn to such mortgagee or purchaser as its landlord under this Lease. Tenant agrees that in the event Landlord is in default under this Lease, any mortgagee or trustee under a deed of trust of Landlord's interest in the Premises shall be permitted (but not required) to enter the Premises for the purpose of correcting or remedying such default, and Tenant agrees to accept performance by such mortgagee or trustee in lieu of performance by Landlord. Tenant further agrees that, from and after written notice from Landlord of the name and address of any mortgagee or trustee, Tenant will contemporaneously deliver notice to any such mortgagee or trustee of a default by Landlord under this Lease. Notwithstanding any provision of this Lease, Tenant agrees that no termination of this Lease or abatement or reduction of rent or any other amounts under this Lease shall be effective unless and until such mortgagee or trustee has received notice and fails within thirty (30) days of the later of (i) the date on which Landlord's cure period expires to cure the default of Landlord in question, or if the default cannot be cured within said thirty (30) days, fails to commence and diligently prosecute the cure of such default or (ii) the date on which such lender received such notice.

**Section 12.03 – Financing.**

In the event the construction lender, land Landlord or the permanent lender for the Building requires, as a condition to financing, modifications to this Lease, provided such modifications are reasonable, do not adversely affect Tenant, do not materially alter the approved working plans and do not increase the rent and other sums to be paid hereunder, Landlord shall submit to Tenant a written amendment with such required modifications and if

**Section 12.05 - Unrelated Business Taxable Income.**

If at any time and from time to time during the term of this Lease, Landlord is advised by its counsel or counsel to a tax exempt member of the managing member of Landlord that any provision of this Lease, including without limitation the provisions relating to the payment of Rent and Additional Rent, or the absence of any provision might give rise to unrelated business taxable income within the meaning of sections 512 of the Internal Revenue Code of 1986, as amended, or the regulations issued thereunder, or may jeopardize the tax exempt status of any member in Landlord or any member in a limited liability company that is a member in Landlord, or may prevent any such partner from obtaining such tax-exempt status, then this Lease may be unilaterally amended by Landlord in such manner to meet the requirements specified by counsel for Landlord and Tenant agrees that it will execute all documents or instruments necessary to effect such amendments, provided that no such amendment shall result on an estimated basis in Tenant having to pay in the aggregate more on account of its occupancy of the Premises than it would be required to pay under the terms of this Lease, or having to receive fewer services or services of lesser quality than it is presently entitled to receive under this Lease.

**ARTICLE XIII  
DEFAULTS**

**Section 13.01 - Events of Default.**

If any one or more of the following events occur, said event or events shall hereby be classified as a "Default":

(a) If Tenant fails to pay Minimum Rent, Additional Rent or any other charges required to be paid by Tenant when same shall become due and payable, and such failure continues for ten (10) days after written notice from Landlord;

(b) If Tenant shall fail to perform or observe any terms and conditions of this Lease other than the obligation to pay rent as set forth in Section 13.01(a), and such failure shall continue for thirty (30) days after written notice from Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Tenant is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such default shall be deemed to have been cured if Tenant commences such performance within said thirty (30) day period and thereafter diligently undertakes to complete the same;

(c) If Tenant refuses to take possession of the Premises at the Delivery Date, or fails to open its doors for business on the Term Commencement Date as required herein, vacates the Premises and permits the same to remain unoccupied and unattended or substantially ceases to carry on its normal activities in the Premises;

(d) If Tenant is a corporation, if any part or all of its stock representing effective voting control of Tenant shall be transferred to a party other than an affiliate of Tenant so as to result in a change in the present effective voting control of Tenant and such change is not consented to in writing by Landlord, which consent shall not be unreasonably withheld, conditioned or delayed;

(g) If a receiver or trustee shall be appointed under state law for Tenant or any guarantor of Tenant's obligations hereunder, for all or any portion of the property of either of them, and such receivership or trusteeship shall not be set aside within thirty (30) days after such appointment;

(h) If any execution, levy, attachment or other legal process of law shall occur upon Tenant's goods, fixtures, or interest in the Premises; or,

(i) If Tenant shall be given two (2) notices of Default under Section 13.01(a), (b), (c), or (d) within any consecutive twelve (12) month period, notwithstanding any subsequent cure of the Default identified in such notices.

#### Section 13.02 - Landlord's Remedies.

Should a Default occur, Landlord may pursue any or all of the following:

(a) Landlord may terminate this Lease by giving five (5) days written notice of such termination to Tenant, whereupon this Lease shall automatically cease and terminate and Tenant shall be immediately obligated to quit the Premises. Any other notice to quit or notice of Landlord's intention to reenter the Premises is hereby expressly waived. If Landlord elects to terminate this Lease, everything contained in this Lease on the part of Landlord to be done and performed shall cease without prejudice, subject, however, to the right of Landlord to recover from Tenant all rent and any other sums accrued up to the time of termination or recovery of possession by Landlord, whichever is later, plus all other losses or damages to such default.

(b) Landlord may terminate Tenant's right to possession without terminating this Lease. Upon any termination of Tenant's right to possession (regardless of whether the Lease shall be terminated), Tenant shall surrender possession and vacate the Premises immediately, and remove Tenant's property as provided herein and deliver possession of the Premises to Landlord. Tenant hereby grants to Landlord full and free license to enter into the Premises in such event with or without process of law, and to repossess Landlord of the Premises as of Landlord's former estate, and to expel or remove Tenant and, at Tenant's expense, any and all property therefrom, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction, forcible entry or detainer, or conversion of property, and without relinquishing Landlord's rights to rent or any other rights given to Landlord hereunder, or by law.

If the Landlord elects to terminate Tenant's right to possession only without terminating the Lease, Landlord may, at Landlord's option, enter into Premises, remove Tenant's signs and other evidence of tenancy, and take and hold possession thereof without such entry and possession terminating this Lease or releasing the Tenant, in whole or in part, from Tenant's obligations to pay the rent reserved herein and Tenant's other obligations hereunder for the full Term.

(c) Landlord may proceed to recover possession of the Premises under and by virtue of the provisions of the laws of the jurisdiction in which the Building is located, or by such other proceedings, including reentry and possession, as may be applicable.

alterations, repairs or replacements in the Premises as Landlord, in its sole judgment, considers advisable and necessary for the purpose of reletting the Premises, and the making of such alterations, repairs or replacements shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Landlord shall in no event be liable in any way whatsoever for failure to relet the Premises, or in the event that the Premises are relet, for failure to collect the rent under such reletting, and in no event shall Tenant be entitled to receive the excess, if any, of such net rent collected over the sums payable by Tenant to Landlord hereunder.

(e) If Tenant shall fail to pay any monthly installment of rent pursuant to the terms of this Lease, or any Additional Rent due under this Lease, when each such payment is due, for two (2) consecutive months, or three (3) times in any period of six (6) consecutive months, then Landlord may, by giving written notice to Tenant, exercise any of the following options as a condition of Tenant's curing such Default: (i) declare the rent reserved under this Lease for the next six (6) months (or at Landlord's option for a lesser period) to be due and payable within ten (10) days of such notice; or (ii) require an additional security deposit to be paid to Landlord within ten (10) days of such notice, in an amount not to exceed six (6) months rent. Landlord may invoke any of the options provided for herein at any time during which Default remains uncured.

(f) If Tenant shall be in Default, Landlord shall have the option, upon ten (10) days written notice to Tenant, to cure said Default for the account of and at the expense of Tenant. No such notice shall be required for emergency repairs.

(g) Any damage or loss of rent sustained by Landlord may be recovered by Landlord, at Landlord's option, at the time of the reletting, or in separate actions, from time to time, as said damage shall have been made more easily ascertainable by successive reletting, or at Landlord's option in a single proceeding deferred until the expiration of the Term of this Lease (in which event Tenant hereby agrees that the cause of action shall not be deemed to have accrued until the date of expiration of said Term) or in a single proceeding prior to either the time of reletting or the expiration of the Term of this Lease.

(h) Any and all property of Tenant which may be removed from the Premises by Landlord pursuant to the authority of this Lease or by law may be handled, removed or stored in a commercial warehouse or otherwise by Landlord, at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property, for so long as the same shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not removed from the Premises when required or any of Tenant's property removed from the Premises by Landlord and stored which is not retaken from storage by Tenant within thirty (30) days shall be conclusively deemed to have been forever abandoned by Tenant, and Landlord may dispose of the same in such manner as Landlord shall choose, but such disposal shall not relieve Tenant of the obligation to reimburse Landlord for the cost of removal, storage and disposition of such property.

(i) Nothing contained herein shall prevent the enforcement of any claim either party may have against the other for anticipatory breach of any of the covenants or provisions hereof. Each party shall have the right of injunction and the right to invoke any remedy allowed at law or in equity. Mention in this Lease of any particular remedy shall not preclude either party from any other remedy, in law or in equity.

**Section 13.04 - Default by Landlord.**

Landlord shall in no event be charged with a default hereunder unless Landlord shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after written notice thereof from Tenant; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such default shall be deemed to have been cured if Landlord commences such performance within said thirty (30) day period and thereafter diligently undertakes to complete the same.

**ARTICLE XIV.  
BANKRUPTCY OR INSOLVENCY**

**Section 14.01 - Tenant's Interest Not Transferable.**

Neither Tenant's interest in this Lease, nor any interest therein of Tenant nor any estate hereby created in Tenant, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law.

**Section 14.02 - Intentionally Omitted.**

**Section 14.03 - Tenant's Obligation to Avoid Creditors' Proceedings.**

Tenant or Tenant's Guarantor, if any, shall not cause or give cause for the institution of legal proceedings seeking to have Tenant or Tenant's Guarantor, if any, adjudicated bankrupt, reorganized or rearranged under the bankruptcy laws of the United States, and shall not cause or give cause for the appointment of a trustee or receiver for the assets of Tenant or Tenant's Guarantor, if any, and shall not make any assignment for the benefit of creditors, or become or be adjudicated insolvent. The allowance of any petition under the bankruptcy law, or the appointment of a trustee or receiver of Tenant or Tenant's Guarantor, if any, or its assets, shall be conclusive evidence that Tenant caused, or gave cause therefore, unless such allowance of the petition, or the appointment of a trustee or receiver, is vacated within thirty (30) days after such allowance or appointment. Any act described in this Section 14.03 shall be deemed a material breach of Tenant's obligation hereunder, and upon such breach by Tenant, Landlord may, at its option and in addition to any other remedy available to Landlord, terminate this Lease and all rights of Tenant hereunder, by giving to Tenant notice in writing of the election of Landlord to so terminate.

**Section 14.04 - Application of Bankruptcy Proceeds.**

Notwithstanding anything to the contrary contained in this Article XIV, in the event, for any reason whatsoever, the interest of Tenant in this Lease is subject to assignment or sale by the Bankruptcy Court, then, and in that event, all proceeds of such sale or assignment shall be paid to Landlord and not to Tenant nor to the bankruptcy estate.

**Section 14.05 - Intentionally Omitted.**

**ARTICLE XVI.  
DELAYS**

**Section 16.01 - Delays.**

If Landlord or Tenant is delayed from performing any of their respective obligations during the Term of this Lease because of acts of God or other cause beyond their control, then the period of such delays shall be deemed added to the time herein provided for the performance of any such obligation and the defaulting party shall not be liable for losses or damages caused by such delays; provided, however, that this Article shall not apply to the payment of any sums of money required to be paid by Tenant hereunder or any obligation of Landlord or Tenant that can be satisfied by the payment of money. Subject to the foregoing, time is of the essence with respect to all obligations to be performed by Tenant pursuant to the terms of this Lease.

**ARTICLE XVII.  
END OF TERM**

**Section 17.01 - Return of Premises.**

Upon the expiration or termination of this Lease, Tenant shall quit and surrender the Premises to Landlord, in good order, broom clean, normal wear and tear and acts of God excepted. Subject to the other terms of this Lease, Tenant shall, at its expense, remove all property of Tenant, all alterations to the Premises not wanted by Landlord and repair damage caused by such removal and return the Premises to the condition in which they were prior to the installation of the article so removed.

**Section 17.02 - Holding Over.**

If Tenant shall hold possession of the Premises after the expiration or termination of this Lease, at Landlord's option (i) Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month at 150% the Minimum Rent and additional rent in effect during the last Lease Year immediately preceding such holdover, and otherwise subject to all of the terms and conditions of this Lease, or (ii) Landlord may exercise any other remedies it has under this Lease or at law or in equity including an action for wrongfully holding over.

**ARTICLE XVIII.  
COVENANT OF QUIET ENJOYMENT**

**Section 18.01 - Covenant of Quiet Enjoyment.**

Landlord covenants that if and so long as Tenant pays in full all the rent and all other charges provided for herein and performs all of its obligations provided for herein, Tenant shall at all times during the Term hereof peaceably have, hold and enjoy the Premises, without any interruption or disturbance from Landlord, or anyone claiming through or under Landlord, subject to the terms hereof, and any mortgages to which this Lease is subordinate.

forth. This Lease may be amended or added to only by an agreement in writing signed by the parties hereto or their respective successors in interest.

**Section 19.02 - Notice.**

No notice or other communications given under this Lease shall be effective unless the same is in writing and is delivered in person or mailed by registered or certified mail, return receipt requested, first class, postage prepaid, or delivered via over-night courier, addressed: (1) if to Landlord, attention: General Counsel at the address set forth on page 1 of this Lease, or to such other address as Landlord shall designate by giving notice thereof to Tenant, or (2) if to Tenant, at the address set forth on page 1 of this Lease or such other address as Tenant shall designate by giving notice thereof to Landlord. Any such notice, statement, certificate, request or demand shall, in the case of registered or certified mailing, be deemed to have been given on the date mailed as aforesaid in any post office or branch post office regularly maintained by the United States Government, and in the case of delivery by nationally recognized overnight courier service, shall be deemed to have been given upon the date of delivery to an authorized agent of such courier service, except in each case for notice of change of address or revocation of a prior notice, which shall only be effective upon receipt.

**Section 19.03 - Applicable Laws.**

It is the intent of the parties hereto that all questions and/or disputes with respect to the construction of this Lease and the rights and the liabilities of the parties hereto shall be determined in accordance with the laws of the State in which the Building is located. Any and all such disputes shall be filed either in a court of competent jurisdiction in the jurisdiction in which the Building is located.

**Section 19.04 - Successors.**

This Lease shall bind and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

**Section 19.05 - Limitation on Tenant's and Landlord's Personal Liability.**

There shall be no personal liability on either Tenant or Landlord, or their respective officers, partners, members, employees, shareholders, agents beneficiaries, or any successor in interest with respect to any provisions of this Lease, or amendments, modifications or renewals hereof. Tenant shall look solely to the then owner's equity in the Premises for the satisfaction of any remedies of Tenant in the event of a breach by Landlord of any of its obligations hereunder.

**Section 19.06 - Broker.**

Each party agrees to indemnify and hold the other harmless against any claims for brokerage or other commission arising by reason of a breach by such party of this representation and warranty. Landlord covenants and agrees to pay the commission to the Broker, pursuant to separate agreement.

of this Lease, the former Tenant thereunder shall become and remain liable as Landlord hereunder until a further transfer. No holder of a mortgage or deed of trust to which this Lease is, or may be subordinate, shall be responsible in connection with the security deposited hereunder, unless such mortgagee or holder of such deed of trust of Landlord shall have actually received the security deposited hereunder.

**Section 19.08 - Relationship of the Parties.**

The terms of this Lease shall not be interpreted to mean that Landlord and Tenant are partners or joint ventures.

**Section 19.09 - Intentionally Omitted**

**Section 19.10 - Waiver of Jury Trial.**

Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on or in respect of any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant hereunder, Tenant's use or occupancy of the Premises and/or any claim of injury or damage.

**Section 19.11 - Invalidity of Particular Provisions.**

If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

**Section 19.12 - Strict Performance.**

No failure by either party to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this Lease to be kept, observed or performed by the other party, and no failure by Tenant or Landlord, as applicable, to exercise any right or remedy consequent upon a breach of any such term, covenant, agreement, provision, condition or limitation of this Lease, shall constitute a waiver of any such breach or of any such term, covenant, agreement, provision, condition or limitation.

**Section 19.13 - Promotion Costs; Tenants' Association.**

Landlord or Landlord's designated agent shall have the exclusive management, direction and control of all advertising, promotion and public relations for the Building. All personnel and any consultants or service organizations engaged by Landlord in connection therewith shall be under the exclusive supervision of Landlord and Landlord shall have the sole authority to employ and discharge the same.

**Section 19.14 - Intentionally Omitted**

**Section 19.17 - Intentionally Omitted**

**Section 19.18 - Effect of Captions.**

The captions or legends in this Lease are inserted for convenient reference or identification of the particular paragraphs. They are in no way intended to describe, interpret, define or limit the scope, extent or interest of this Lease, or any paragraph or provision thereof.

**Section 19.19 - Recording.**

Tenant shall not record this Lease, or a memorandum or so-called "short form" of this Lease, without the prior written consent of Landlord.

**Section 19.20 - Confidentiality.**

Tenant covenants to not disclose any part of this Lease to anyone other than its attorneys, accountants, employees, or lenders who need to know of its content in order to perform their duties for Tenant.

**Section 19.21 - Time is of the Essence.**

Time is of the essence in each and every instance hereunder with respect to the covenants, undertakings and conditions to be performed hereunder.

**Section 19.22 - Attorneys' Fees.**

Either party shall reimburse the other party for all reasonable attorneys' fees and other expenses incurred by the prevailing party in successfully enforcing any of the obligations under this Lease or in any litigation or negotiation in which either party shall, without its fault, become involved through, on account of, or by reason of this Lease, or arising out of the relationship between Tenant and Landlord hereunder.

**Section 19.23 - Damages.**

Notwithstanding anything to the contrary contained in this Lease, Tenant acknowledges and agrees that neither Tenant nor Landlord shall be liable for any consequential, indirect, speculative or punitive damages in connection with any claim made by the other party hereunder.

**Section 19.24 - Intentionally Omitted.**

**Section 19.25 - Preparation of Lease.**

Notwithstanding any rule of construction or interpretation, or otherwise, this Lease, nor any portion thereof, shall not be construed more strongly against the party who prepared it.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease Agreement to be executed effective the day and year first above written.

**LANDLORD:**

Woodgrove Professional Center, Inc.,  
an Illinois general partnership  
7425 Janes Ave., Suite 200  
Woodridge, IL 60517  
630-852-0267 (O)  
630-852-0554 (F)

By: Woodgrove Professional Center, Inc.,  
an Illinois general partnership

its sole member

By: \_\_\_\_\_

Name: Mahmood Choudry, Ph.D.

Title: Manager

**TENANT:**

Nephrology Associates of Northern Illinois, P. C.  
855 Madison Ave.  
Oak Park, IL 60302  
708-386-1000

By:

\_\_\_\_\_  
Name: Brian O'Dea, CFO

By:

\_\_\_\_\_  
Name: Dr. Michael Carbon, COO

**EXHIBIT A**  
**SITE PLAN**  
**[See Attached]**

**EXHIBIT A-1**  
**FIRST FLOOR LEASE PLAN**  
[see Attached]

**EXHIBIT A-2**

**LEASE PLAN**

[See Attached]

**EXHIBIT B**  
**Corrected Minimum Rent**  
**[See Attached]**

**EXHIBIT C**  
**TENANT'S WORK**  
[See Attached]

**EXHIBIT D**

**Final Letter of Intent (LOI) Dated March 2, 2007**

**[See Attached]**

Dec. 13. 2007 12:23PM

No. 7926 P. 1



# Fax

<b>To:</b> Jim Cichowski	<b>From:</b> Lindy Nakaerts
<b>Fax:</b> 866-694-0425	<b>Pages:</b> 3 (including cover page)
<b>Phone:</b>	<b>Date:</b> 12/13/07
<b>Re:</b> Woodridge Lease	<b>CC:</b>

Urgent     For Review     Please Comment     Please Reply     Please Recycle

◆ **Comments:**

Jim,

Here is the executed page of the lease for Janes Ave., and the Exhibit page. This is the only Exhibit with anything on it, the others are blank.

630.289.6153 mobile    630.388.6896 office    630.388.7674 fax

Confidential Notice

Dec. 13. 2007 12:23PM

No. 7926 P. 2

12/13/2007 11:05 6308520554

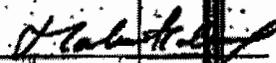
PHYSICIANS OFFICE

PAGE 02/02

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease Agreement to be executed effective the day and year first above written.

LANDLORD:

Woodgrove Professional Center, Inc.,  
an Illinois corporation  
7425 James Ave., Suite 300  
Woodridge, IL 60517  
630-852-0267 (O)  
630-852-0534 (F)

By: 

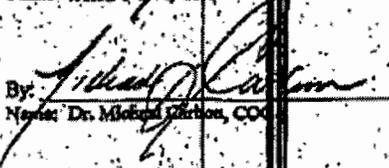
Name: Mahmood Choudry, Ph.D.  
Title: Manager

TENANT:

Nephrology Associates of Northern Illinois, Inc.,  
an Illinois corporation  
855 Madison Ave.  
Oak Park, IL 60302  
708-386-1000

By: 

Name: Brian O'Dea, CFO

By: 

Name: Dr. Michael Carlson, COO

**ADDENDUM TO EXHIBIT C**

As a supplement to the attached plans and specifications, and to the fullest extent not covered therein, Landlord and Tenant hereby agree as follows:

1. All heating, air conditioning, ventilating, electrical, plumbing and mechanical systems in the Building and in the Premises will be in good operating condition and broom swept clean.
2. Landlord will designate two (2) parking spaces, along the south face of unit D, for creating a new access side walk to the new tenant access door, to be installed by Tenant.
3. Landlord shall provide to Tenant one (1) electric panel and 200 amps of power at 480 volt. Panel shall be available in the common area 1<sup>st</sup> floor electrical closet.
4. Landlord will allow an automatic front entrance to be installed at Tenant's expense and subject to Landlord's approval of actual door and construction plans, which approval shall not be unreasonably withheld, conditioned or delayed.
5. Tenant may install one (1) new entrance on the south face of the building for private Medi Car and ambulance access to the Premises subject to Landlord's approval of actual door and construction plans, which approval shall not be unreasonably withheld, conditioned or delayed.
6. Landlord and Tenant agree that all curbing, new side walk and aluminum and glass partitions for the new entrance will match the existing to maintain current aesthetics and compliance with current ADA requirements.
7. Tenant may install one (1) exterior, gas powered power generator next to the existing electrical transformers near the northeast corner of the Building, subject to Landlord's approval of the plans and specifications therefor, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant may use the existing electrical conduit to bring the electrical line into the main electrical room on the lower level.
8. Tenant may install one (1) roof top compressor unit and the required condensate piping and electrical line for this unit, subject to Landlord's approval of the plans and specifications therefor, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord acknowledges that Tenant requires a low temperature room in which to conduct their procedures and the supplemental air conditioning unit is necessary to achieve the lower temperature levels. Tenant will be responsible for all maintenance, upkeep, repairs and electrical costs to run this compressor unit plus any continuing repairs.

February 1, 2017

Bill Brennan  
Nephrology Associates of Northern Illinois, Inc.  
120 W. 22<sup>nd</sup> Street  
Oak Brook, IL 60523



Via E-mail: [bbrennan@nephdocs.com](mailto:bbrennan@nephdocs.com)

**RE: Nephrology Associates of Northern Illinois, Inc.  
At Woodgrove Professional Center  
7425 Janes Avenue  
Woodridge, IL 60517**

Dear Mr. Brennan;

Please find below a proposal to reflect all points that will be the basis for the renewal of the lease for Suite 101 in the Woodgrove Professional Center.

1. **Tenant:** Nephrology Associates of Northern Illinois, Inc.  
120 W. 22<sup>nd</sup> Street  
Oak Brook, IL 60523
2. **Premises:** 7425 Janes Ave., Suite 101  
Woodridge, IL 60517
3. **Square Feet :** A BOMA study was conducted in April of 2015 by GEA Architects and it was found that the actual rentable square footage of the space is 4,206 Square Feet
4. **Ownership/Management:** John M. Seelander  
Pogo Properties, LLC  
7425 Janes Ave., Suite 201  
Woodridge, IL 60517
5. **Lease Term:** Sixty (60) month term will begin on September 1, 2017 and end on August 31, 2022.
6. **Initial Net Rent:** Rent will be \$19.00 per square feet equivalent to \$6,659.50 per month and \$79,914.00 per year. Rent will be subject to a three (3) percent annual escalation starting on the 12<sup>th</sup> month and annually thereafter. Operating Expenses and taxes will be trued up annually to reflect the actual costs.
7. **Operating Expenses:** Below is an illustration of the most recent Operating Expenses and are based on 2016 expenses:  
  
CAM's and Insurance - \$5.18 SF  
Real Estate Taxes - \$3.69 SF

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7425 Janes Avenue - Suite 203 - Woodridge, IL 60517 - Phone 630-515-8831 - Fax 630-515-0510

- 8. Landlord Improvements : Landlord agrees to provide an allowance of \$6,000 towards refurbishment of the space. Said allowance shall be available to Tenant upon signing of the amended lease. If not used by tenant by January 1<sup>st</sup>, 2018 their right to this allowance will end.
- 9. Option to Extend Landlord will provide Tenant One (1) 5 year options to renew. Minimum Rent during the Option Terms shall not increase more than 3.0% per annum over the Minimum Rent for the immediately preceding year.
- 10. Assignment & Sublease Tenant shall have the right to assign or sublet all or part of the premises at any time with Landlord's consent, which shall not be unreasonably withheld or delayed. No consent shall be required for an assignment or sublet to any subsidiary, affiliate, or related company to the Tenant.
- 11. Real Estate Commission: It is represented that neither the Tenant nor the Landlord is represented by a real estate broker and no commissions will be paid on this lease.
- 12. Response Date: This proposal is valid until Friday, February 10<sup>th</sup>, 2017

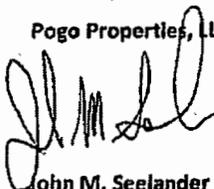
This letter is not intended to be a binding agreement but the basis for negotiation. There shall be no binding agreement until a lease or lease extension is executed and delivered by the Landlord and the Tenant. Proposal is being provided with confidentiality and must not be shared with any other parties.

If everything meets with your understanding and approval, please sign and date below and return this proposal to our office or by fax to 630-725-4981. Upon receipt of the signed offer, we will prepare a lease and begin the tenant improvement process.

We look forward to working with you. Please feel free to call me at (630) 515-8831 with any questions regarding this proposal.

Sincerely,

Pogo Properties, LLC



John M. Seelander

CC: Lindy Nakaerts – Source One Solutions – [lindy@sosi2.com](mailto:lindy@sosi2.com)

Agreed and Accepted this 10<sup>th</sup> day of February, 2017  
Bill Bruner Neurology Associates of Northern Illinois, LTD

By:

**Reasonableness of Project and Related Costs, 77 Ill. Admin. Code 1120.140(c)**

Below is outlined the cost per square foot for the establishment of the ASTC, taking into consideration the entirety of the modernization costs and excluding those costs solely attributable to the fair market value lease of the property.

COST AND GROSS SQUARE FEET BY DEPARTMENT OR SERVICE									
Department (list below)	A	B	C	D	E	F	G	H	Total Cost (G + H)
	Cost/Square Foot New	Mod.	Gross Sq. Ft. New	Circ.*	Gross Sq. Ft. Mod.	Circ.*	Const. \$ (A x C)	Mod. \$ (B x E)	
ASTC		\$148.07			4,206			\$622,770	\$622,770
Contingency		\$14.27			4,206			\$60,000	\$60,000
<b>TOTALS</b>		<b>\$162.33</b>			<b>4,206</b>			<b>\$682,770</b>	<b>\$682,770</b>

DuPage Vascular Care LLC

CON Uno	Description	Clinical	Nonclinical	Total	% Clinical
Modernization Contracts	Parking		1,000	1,000	0.0%
Modernization Contracts	Patient entry / drop off		-	-	0.0%
Modernization Contracts	Shared space	85,000	-	85,000	100.0%
Modernization Contracts	Sprinkler system		-	-	0.0%
Modernization Contracts	Examination / Multipurpose room	200	-	200	100.0%
Modernization Contracts	Patient dressing		-	-	0.0%
Modernization Contracts	Procedure room	27,500	-	27,500	100.0%
Modernization Contracts	Pre-Op and Recovery		-	-	0.0%
Modernization Contracts	Stretcher holding		-	-	0.0%
Modernization Contracts	Equipment storage		-	-	0.0%
Modernization Contracts	Clinic sink/bed pan washer	7,000	-	7,000	100.0%
Modernization Contracts	Scrub sink	3,000	-	3,000	100.0%
Modernization Contracts	Medical vacuum & O2 Systems	-	70,000	70,000	0.0%
Modernization Contracts	Ceiling tile	1,000	-	1,000	100.0%
Modernization Contracts	Tenant separation	5,000	-	5,000	100.0%
Modernization Contracts	HVAC	-	80,000	80,000	0.0%
Modernization Contracts	Clean/soiled room separation		1,000	1,000	0.0%
Modernization Contracts	Linen storage		-	-	0.0%
Modernization Contracts	Anesthesia work area		-	-	0.0%
Modernization Contracts	Staff locker / changing room / toilet / shower		-	-	0.0%
Modernization Contracts	Staff locker / changing room / toilet / shower		25,000	25,000	0.0%
Modernization Contracts	Emergency power		2,500	2,500	0.0%
Modernization Contracts	Generator		70,000	70,000	0.0%
Modernization Contracts	Moveable or Other Equipment	80,000	20,000	100,000	80.0%
Modernization Contracts	Permitting	3,000	6,000	9,000	33.3%
Modernization Contracts	Construction management	6,000	21,500	27,500	21.8%
		217,700	297,000	514,700	
Modernization Contracts psl		\$ 102.28	\$ 142.96	\$ 112.37	
Contingencies	Contingencies	25,378	34,622	60,000	42.3%
Architectural/Engineering Fees	Architectural design & state plan review	10,000	30,000	40,000	25.0%
Consulting and Other Fees	Quality Program (accreditation & deemed status)	-	26,370	26,370	0.0%
FMV Leased Space	FMV Leased Space	163,137	261,137	424,274	38.5%
Start up costs	Close facility for Modernization (30 days)	-	41,700	41,700	0.0%
Total Cost		416,215	690,829	1,107,044	37.6%
Total Cost psl		\$ 195.54	\$ 332.53	\$ 263.21	
FMV Leased Space	FMV Leased Space	\$ (163,137)	\$ (261,137)	\$ (424,274)	
Cash & Securities		253,078	429,692	682,770	

**Projected Operating Costs, 77 Ill. Admin. Code 1120.140(d)**

Below is the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first two full fiscal years, both which are expected to reach the level of target utilization.

	Year 1 Annual Operations	Per Day	Year 2 Annual Operations	Per Day
<b>DuPage Vascular Care</b>				
<b>Encounters Per Day</b>	5.25		5.92	
<b>Operating Days per year</b>	252		252	
<b>Number of Patient Encounters/Procedures</b>	1,323		1,492	
<b>Avg Revenue per Encounter</b>	2,176		2,176	
<b>Net Revenue</b>	2,878,848	11,424	3,246,244	12,882
<b>Salaries &amp; Wages</b>	280,000	1,111	288,400	1,144
<b>Benefits and Taxes</b>	92,400	367	95,172	378
<b>Total Salaries, Wages &amp; Benefits</b>	372,400	1,478	383,572	1,522
<b>% of Revenue</b>	12.9%		11.8%	
<b>Medical Supplies</b>	305,127	1,211	344,102	1,365
<b>% of Revenue</b>	10.6%		10.6%	
<b>Other Center Operating Expenses:</b>				
<b>Building Rent</b>	119,766		123,359	
<b>Machine Maintenance &amp; Repair</b>	9,155		9,429	
<b>Facility Maintenance &amp; Repair</b>	22,819		23,504	
<b>Utilities</b>	10,818		11,143	
<b>Telephone</b>	11,243		11,580	
<b>Office Supplies/Minor Equipment</b>	10,427		10,740	
<b>Other Purchase Services</b>	6,716		6,918	
<b>Professional Fees</b>	17		17	
<b>Taxes &amp; Licenses</b>	492		507	
<b>Patient Transportation</b>	41,602		42,850	
<b>Laundry &amp; Linen</b>	13,242		13,639	
<b>Freight/Postage</b>	390		402	
<b>Equipment Rental</b>	1,384		1,425	
<b>Other</b>	-	-	-	-
<b>Total Other Ctr Operating Expenses</b>	248,070	984	255,512	1,014
<b>Total Oper Exp Before Mgmt Fees</b>	925,597	3,673	983,186	3,902
	32.2%		30.3%	
<b>Management Fees</b>	228,000	905	228,000	905
<b>Total Operating Expenses</b>	1,153,597	4,578	1,211,186	4,806
	40.1%		37.3%	
<b>Net</b>	1,725,251	6,846	2,035,058	8,076

**Total Effect of the Project on Capital Costs, 77 Ill. Admin. Code 1120.140(e)**

The below outlines the total projected annual capital costs (in current dollars per equivalent patient day) for the first two full fiscal years at target utilization.

DuPage Vascular Care	Year 1		Year 2	
	Annual Operations	Per Day	Annual Operations	Per Day
Encounters Per Day	5.25		5.92	
Operating Days per year	252		252	
Number of Patient Encounters/Procedures	1,323		1,492	
Avg Revenue per Encounter	2,176		2,176	
Net Revenue	2,878,848	11,424	3,246,244	12,882
Salaries & Wages	280,000	1,111	288,400	1,144
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% of Revenue	12.9%		11.8%	
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Other Center Operating Expenses:				
Building Rent	119,766		123,359	
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Utilities	10,818		11,143	
Telephone	11,243		11,580	
Office Supplies/Minor Equipment	10,427		10,740	
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Professional Fees	17		17	
Taxes & Licenses	492		507	
Patient Transportation	41,602		42,850	
Laundry & Linen	13,242		13,639	
Freight/Postage	390		402	
Equipment Rental	1,384		1,425	
Other	-	-	-	-
Total Other Ctr Operating Expenses	248,070	984	255,512	1,014
Total Oper Exp Before Mgmt Fees	925,597	3,673	983,186	3,902
	32.2%		30.3%	
Management Fees	228,000	905	228,000	905
Total Operating Expenses	1,153,597	4,578	1,211,186	4,806
	40.1%		37.3%	
Net	1,725,251	6,846	2,035,058	8,076

**Safety Net Impact**

Safety Net Information per PA 96-0031			
CHARITY CARE			
Charity (# of patients)	2014	2015	2016
Total Outpatient	10	3	7
Charity (cost in dollars)			
Total Outpatient	\$52,724	\$19,031	\$21,788
Percentage	2.38%	0.93%	1.03%
MEDICAID			
Medicaid (# of patients)	2014	2015	2016
Outpatient	48	45	10
Total			
Medicaid (revenue)			
Total Outpatient	\$66,209	\$70,364	\$2,326
Percentage	2.98%	3.43%	0.11%

Note: These amounts reflect charity care provided, but not in accordance with the statutory definition.

### Charity Care Information

CHARITY CARE			
	Year	Year	Year
Net Patient Revenue	2014	2015	2016
Amount of Charity Care	\$52,724	\$19,031	\$21,788
Cost of Charity Care	\$52,724	\$19,031	\$21,788

Note: These amounts reflect charity care provided, but not in accordance with the statutory definition.