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HEALTH FACILITIES &
SERVICES REVIEW BOARD

February 6, 2018

VIA HAND DELIVERY

Courtney Avery
Board Administrator
Illinois Health Facilities and Services Review Board
525 W. Jefferson, 2nd Floor
Springfield, Illinois 62716

Re: Opposition to Project #17-043 DaVita Romeoville Dialysis

Dear Courtney:

The applicant's project reflects the continuation of a poorly planned hostile take-over of dialysis care in Illinois. This duo of applicants has filed eight applications proposing to establish ESRD services in a Health Service Area already served by an abundance of providers. This signifies an all-out assault which would undermine the Board's mission with regards to health planning in our state. The reason for this is that these applications do not reflect a desire to serve patients that are without access to care, but rather to manipulate the service of those patients from quality existing providers to serve the financial needs of the applicants. This is exactly what the Certificate of Need program was designed to prevent.

This application will greatly undermine the cost savings achieved by the nation's first ESRD Seamless Care Organization ("ESCO"), and the quality of patient care by oversaturating a planning area where the average utilization rate is a meager 67%.

This project was originally slated for consideration by the Board at your January 2018 meeting, but was deferred by the applicants in an effort to delay what would have surely been an intent-to-deny by this Board. As you may recall during the January 2018 meeting, this Board was provided with a full and honest assessment of the applicant's quest to increase their market share. We would ask that the abundance of public comment, both in written form and in oral testimony before the Board, be incorporated by reference into this application file.

This application would contribute to the unnecessary duplication of service and have a severe impact on other providers in violation of Ill. Admin. Code 1110.1430(d)(1)(3). You have heard the testimony from several of them. The greatest indication of this imbalance is evidenced by reviewing the utilization rate of other area facilities.

- There are nineteen (19) facilities in the planning area and only 30% or six (6) of those facilities are at the state's target utilization rate.

- Four (4) of the nineteen (19) area facilities are still ramping up, and have only been in service for a couple of months.

When taking a comprehensive review of the planning area where this project is proposed, it is clear that there are simply not enough patients to fill the existing stations in the planning area. The only way this project will succeed is to syphon patients from existing providers to the benefit of the applicants. Nothing exhibits this better that the fact that these applicants had patients testify to support related projects, and the only available patients were those already being provided with care by those existing providers who are opposing these projects.

The applicant's also continue use the same stale "referral" letter for several projects that was submitted to support their other projects. This letter cites unidentified patients from the same zip code multiple times- in a clear violation of Board rules that prohibit the same referral to support multiple projects. This project proposes to serve patients in the same overlapping geographic area that the applicant's five (5) other projects propose to serve. The applicants have already admitted before the Board that they do not know where their patients will come from and they are asking the Board to abandon rational health planning in favor of an "if you build it they will come" mentality. This was not enough for the Board members to approve the applicant's project in September, it wasn't enough in January, and it should certainly not be enough in February.

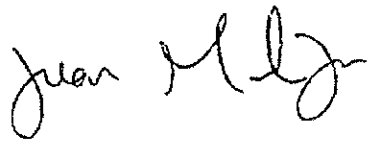
As noted above, this application is part of a larger bundle of applications filed by the applicant, to have this Board approve the largest number of dialysis stations at one time to a single provider in Illinois CON history. There is something wrong with these proposals and the applicant knows it. The five (5) other applications were deferred again by the applicants to the April 2018 agenda in a pointless attempt to delay their inevitable final denial by this Board. Nothing has changed since this application was last slated to be considered by the Board. The obvious is still true. There is **NO** need for these stations in HSA 9.

It is not problematic for these applicants to repeatedly come before this Board to propose ESRD facilities, because they do not have ESRD patients they are busy caring for. The providers opposing these projects do have to care for such patients. The fact that the dozens of people previously opposing these projects may not make every meeting to which these projects are strategically deferred should not undermine the opposition, its validity, and the prior denials of these projects.

For these reasons, we pray that the Board continue to deny this application and allow for a more organized development of ESRD services within this community.

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP



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