



STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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|  |   |                              |                       |
|--|---|------------------------------|-----------------------|
| <b>DOCKET NO:</b><br>H-08                                | <b>BOARD MEETING:</b><br>April 17, 2018 | <b>PROJECT NO:</b><br>17-065 | <b>PROJECT COST:</b>  |
| <b>FACILITY NAME:</b><br>Fresenius Kidney Care New Lenox |   | <b>CITY:</b><br>New Lenox    | Original: \$6,488,198 |
| <b>TYPE OF PROJECT:</b> Substantive                      |   |                              | <b>HSA:</b> IX        |

**PROJECT DESCRIPTION:** The Applicants (Fresenius Medical Care Holdings, Inc. and Fresenius Medical Care New Lenox, LLC d/b/a Fresenius Kidney Care New Lenox) are proposing to establish a twelve (12) station ESRD facility in 7,800 GSF of leased space in New Lenox, Illinois. The cost of the project is \$6,488,198 and the scheduled completion date is December 31, 2019.

## EXECUTIVE SUMMARY

### PROJECT DESCRIPTION:

- The Applicants (Fresenius Medical Care Holdings, Inc. and Fresenius Medical Care New Lenox, LLC d/b/a Fresenius Kidney Care New Lenox) are proposing to establish a twelve (12) station ESRD facility in 7,800 GSF of leased space in New Lenox, Illinois. The cost of the project is \$6,488,198, and the scheduled completion date is December 31, 2019.
- Two Additional project located in the HSA IX ESRD Planning Area are on the April 17, 2018 Agenda.
  - Project #17-043 DaVita Romeoville Dialysis to establish a 12-station facility in Romeoville, Illinois
  - Project #17-063 DaVita Hickory Creek to establish a 12-station facility in Joliet, Illinois.

### WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The project is before the State Board because the project proposes to establish a health care facility as defined at 20 ILCS 3960/3
- One of the objectives of the Health Facilities Planning Act is *“to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding **capacity, quality, value and equity** in the delivery of health care services in Illinois. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process.”* [20 ILCS 3960/2]

### PURPOSE OF THE PROJECT:

- The Applicants stated: *“The purpose of this project is to provide access to dialysis services in an area exhibiting high population growth, above average growth of End Stage Renal Disease (ESRD) and ongoing high clinic utilization. There are two clinics that serve the immediate northwest New Lenox and east Joliet area, DaVita New Lenox and Fresenius Joliet. These facilities are operating at a combined average utilization rate of 82% with a total of 174 patients. Access is severely restricted in the area due to a higher than average yearly increase of ESRD. It is our goal to not only maintain access to dialysis services but to provide access to treatment schedule times that will best serve each patient's individual needs, allow for adequate transportation options and to keep up with the significant increase in demand for dialysis services in the New Lenox market.”*

### PUBLIC HEARING/COMMENT:

A public hearing was offered but was not requested. **Letters of support** were received from three physicians and Presence Health all urging the Board to approve the proposed project because of the high utilization of the existing facilities in New Lenox and Joliet and the increase rates of kidney failure as the population ages and the demographic makeup of the communities becomes more and more diverse. Along with these changes, unfortunately, comes an increase in diabetes and high blood pressure leading to the increase in kidney disease. With area clinics operating near capacity, we have experienced difficulty finding appropriate clinic and shift options for patients being discharged from the Hospital. No opposition letters were received by the State Board Staff.

### SUMMARY:

- The State Board is **estimating a need for 17 stations** in the HSA IX ESRD Planning Area by 2020. Additionally, the State Board is estimating a growth of 2.9% compounded annually in the population in this ESRD Planning Area for the period 2015 to 2020. For the period 2013 to 2017

growth in the number of dialysis patients has been 5.75% compounded annually in this planning area.

- There are 23 ESRD facilities within thirty minutes of the proposed facility. Three facilities have recently been approved and are not completed or in ramp-up. One facility (Concerto Dialysis) did not report their fourth quarter 2017 utilization data. Average utilization of the remaining 19 facilities (346 Stations) is approximately 74%. If the current growth in the number of dialysis patients in this planning area continues by CY 2020 these 346 stations will be in excess of 90% utilization.
- From the information provided by the Applicants the proposed facility will serve residents of the HSA IX ESRD Planning Area. Additionally there appears to be sufficient demand (60 pre-ESRD patients) to justify the proposed 12 station facility. While not all of the facilities in the 30 minute service area are at target occupancy (74% Average Occupancy) it appears with the recent demand for dialysis service in this planning (approximately 5.75% compounded annually) the proposed 12-station facility appears warranted

**CONCLUSION:**

- The Applicants addressed a total of 21 criteria and have met them all.

**STATE BOARD STAFF REPORT  
Fresenius Kidney Care New Lenox  
PROJECT #17-065**

| <b>APPLICATION SUMMARY/CHRONOLOGY</b>                 |   |
|---|---|
| Applicants  | Fresenius Medical Care Holdings, Inc.<br>Fresenius Medical Care New Lenox, LLC<br>d/b/a Fresenius Kidney Care New Lenox |
| Facility Name   | Fresenius Kidney Care New Lenox   |
| Location  | Lot 10, south side of Cedar Crossing Dr. in Cedar Crossing Development, New Lenox                                       |
| Application Received                                  | November 15, 2017   |
| Application Deemed Complete                           | November 22, 2017   |
| Review Period Ends                                    | March 22, 2018  |
| Permit Holder   | Fresenius Medical Care Holdings, Inc.<br>Fresenius Medical Care New Lenox, LLC d/b/a Fresenius Kidney Care New Lenox    |
| Operating Entity                                      | Fresenius Medical Care New Lenox, LLC d/b/a Fresenius Kidney Care New Lenox   |
| Owner of the Site                                     | Meridian Investment Partners, LLC   |
| Project Financial Commitment Date                     | December 31, 2019   |
| Gross Square Footage                                  | 7,800 GSF   |
| Project Completion Date                               | December 31, 2019   |
| Expedited Review                                      | No  |
| Can Applicants Request a Deferral?                    | Yes   |
| Has the Application been extended by the State Board? | No  |

**I. The Proposed Project**

The Applicants (Fresenius Medical Care Holdings, Inc and Fresenius Medical Care New Lenox, LLC d/b/a Fresenius Kidney Care New Lenox) are proposing the establishment of a twelve (12) station ESRD facility in 7,800 GSF of leased space in New Lenox, Illinois. The cost of the project is \$6,488,198, and the scheduled completion date is December 31, 2019.

**II. Summary of Findings**

- A. State Board Staff finds the proposed project is in conformance with the provisions of 77 ILAC 1110 (Part 1110).
- B. State Board Staff finds the proposed project is in conformance with the provisions of 77 ILAC 1120 (Part 1120).

**III. General Information**

The Applicants are Fresenius Medical Care Holdings, Inc and Fresenius Medical Care New Lenox, LLC d/b/a Fresenius Kidney Care New Lenox. **Fresenius Medical Care Holdings**, operating as Fresenius Medical Care North America or FMCNA, operates a network of some 2,100 dialysis clinics located throughout the continent. One of the largest providers of kidney dialysis services, FMCNA offers outpatient and in-home

hemodialysis treatments for chronic kidney disease. The company's operating units also market and sell dialysis machines and related equipment and provide renal research, laboratory, and patient support services. FMCNA oversees the North American operations of dialysis giant Fresenius Medical Care AG & Co.

Financial commitment will occur after permit issuance. This project is a substantive project subject to a Part 1110 and 1120 review.

Substantive Projects means types of projects that are defined in the Act and classified as substantive. *Substantive projects shall include no more than the following:*

*Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.*

*Projects proposing a new service or a discontinuation of a service; shall be reviewed by the Board within 60 days.*

*Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]*

Table One below outlines the current Fresenius projects approved by the State Board and not yet completed.

| <b>TABLE ONE</b>                             |                               |                           |                 |
|--|-------------------------------|---------------------------|-----------------|
| <b>Current Fresenius Projects and Status</b> |                               |                           |                 |
| Project Number                               | Name                          | Project Type              | Completion Date |
| #15-028                                      | FMC Schaumburg                | Establishment             | 5/31/2018       |
| #15-036                                      | FMC Zion                      | Establishment             | 12/31/2018      |
| #15-046                                      | FMC Beverly Ridge             | Establishment             | 10/31/2018      |
| #15-050                                      | FMC Chicago Heights           | Establishment             | 09/30/2018      |
| #15-062                                      | FMC Belleville                | Establishment             | 12/31/2018      |
| #16-024                                      | FMC Kidney Care East Aurora   | Establishment             | 9/30/2018       |
| #16-029                                      | FMC Ross Dialysis – Englewood | Relocation/ Establishment | 12/31/2018      |
| #16-034                                      | FKC Woodridge                 | Establishment             | 3/31/2019       |
| #16-042                                      | FKC Paris Community           | Establishment             | 09/30/2018      |
| #16-049                                      | FMC Macomb                    | Relocation/Establishment  | 12/31/2018      |
| #17-003                                      | FMC Gurnee                    | Expansion                 | 3/31/2018       |
| #17-004                                      | FKC Mount Prospect            | Establishment             | 12/31/2018      |
| #17-023                                      | FMC Oswego                    | Expansion                 | 12/31/2018      |
| #17-024                                      | FKC Springfield East          | Establishment             | 3/31/2019       |
| #17-025                                      | FMC Crestwood                 | Relocation/Establishment  | 9/30/2019       |
| #17-027                                      | FMC Sandwich                  | Expansion                 | 12/31/2018      |
| #17-033                                      | FMC Palatine                  | Expansion                 | 12/31/2018      |

**IV. Health Service Area**

The proposed facility will be located in Health Service Area IX. Health Service Area IX is comprised of the Illinois counties of Grundy, Kankakee, Kendall, and Will. As of February 2018 there is a calculated **need for 17 ESRD stations** in this planning area. The State Board is estimating a growth of 2.89% compounded annually in the population in this ESRD Planning Area from 2015 to 2020.<sup>1</sup> The State Board reported an increase in the number ESRD patients for the period 2013<sup>2</sup> thru 2017 of 5.75% compounded annually.

| <b>TABLE TWO</b>  |           |
|---|-----------|
| <b>Need Methodology HSA IX ESRD Planning Area</b>   |           |
| Planning Area Population – 2015   | 970,600   |
| In Station ESRD patients -2015  | 1,086     |
| Area Use Rate 2013 <sup>(1)</sup>   | .977      |
| Planning Area Population – 2020 (Est.)  | 1,111,300 |
| Projected Patients – 2020 <sup>(2)</sup>  | 1,086     |
| Adjustment  | 1.33      |
| Patients Adjusted   | 1,444     |
| Projected Treatments – 2020 <sup>(3)</sup>  | 225,323   |
| Existing Stations   | 284       |
| Stations Needed-2018  | 301       |
| <b>Number of Stations Needed</b>  | <b>17</b> |
| <ol style="list-style-type: none"> <li>1. Usage rate determined by dividing the number of in-station ESRD patients in the planning area by the 2015 – planning area population per thousand.</li> <li>2. Projected patients calculated by taking the 2020 projected population per thousand x the area use rate. Projected patients are increased by 1.33 for the total projected patients.</li> <li>3. Projected treatments are the number of patients adjusted x 156 treatments per year per patient</li> </ol> |           |

<sup>1</sup> Source: 2017 Inventory of Health Care Facilities and Services Need Determinations Other Health Services page A-19.

<sup>2</sup> Source: 2015 Inventory of Health Care Facilities and Services Need Determination Other Health Services page A-19 and Quarterly Dialysis Report.

**V. Project Costs**

The Applicants are funding this project with cash and securities of \$2,080,800 and the fair market value of leased space and equipment of \$4,407,398. The estimated start-up costs and the operating deficit are projected to be \$201,886.

**TABLE THREE  
Project Uses and Sources of Funds <sup>(1)</sup>**

| <b>Uses of Funds</b>                                       | <b>Reviewable</b>     | <b>Non Reviewable</b> | <b>Total</b>          | <b>% of Total</b> |
|--|-----------------------|-----------------------|-----------------------|-------------------|
| Modernization Contracts                                    | \$1,095,640.00        | \$323,960.00          | \$1,419,600.00        | 21.88%            |
| Contingencies  | \$108,360.00          | \$32,040.00           | \$140,400.00          | 2.16%             |
| Architectural/Engineering Fees                             | \$119,184.00          | \$33,616.00           | \$152,800.00          | 2.36%             |
| Movable or Other Equipment (not in construction contracts) | \$292,000.00          | \$76,000.00           | \$368,000.00          | 5.67%             |
| Fair Market Value of Leased Space or Equipment             | \$3,437,340.00        | \$970,058.00          | \$4,407,398.00        | 67.93%            |
| <b>TOTAL USES OF FUNDS</b>                                 | <b>\$5,052,524.00</b> | <b>\$1,435,674.00</b> | <b>\$6,488,198.00</b> | <b>100.00%</b>    |

  

| <b>SOURCE OF FUNDS</b>        | <b>Reviewable</b>     | <b>Non Reviewable</b> | <b>Total</b>          | <b>% of Total</b> |
|-------------------------------|-----------------------|-----------------------|-----------------------|-------------------|
| Cash and Securities           | \$1,615,184.00        | \$465,616.00          | \$2,080,800.00        | 32.07%            |
| Leases (fair market value)    | \$3,437,340.00        | \$970,058.00          | \$4,407,398.00        | 67.93%            |
| <b>TOTAL SOURCES OF FUNDS</b> | <b>\$5,052,524.00</b> | <b>\$1,435,674.00</b> | <b>\$6,488,198.00</b> | <b>100.00%</b>    |

1. Itemization of Project Costs can be found at Page 36 of the Application for Permit

**VI. Background of the Applicants**

**A) Criterion 1110.1430(b)(1)&(3) – Background of the Applicants**

*An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character to adequately provide a proper standard of health care service for the community. To demonstrate compliance with this criterion the Applicants must provide*

- A) A listing of all health care facilities currently owned and/or operated by the applicant in Illinois or elsewhere, including licensing, certification and accreditation identification numbers, as applicable;
- B) A listing of all health care facilities currently owned and/or operated in Illinois, by any corporate officers or directors, LLC members, partners, or owners of at least 5% of the proposed health care facility;
- C) Authorization permitting HFSRB and IDPH access to any 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, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.
- D) An attestation that the Applicants have had no *adverse action*<sup>3</sup> taken against any facility they own or operate.

<sup>3</sup>Adverse action is defined as a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations." (77 IAC 1130.140)

1. The Applicants have attested that there has been no adverse action taken against any of the facilities owned or operated by Fresenius Kidney Care during the three (3) years prior to filing the application. [Application for Permit pages 46-47]
2. The Applicants have authorized the Illinois Health Facilities and Services Review Board and the Illinois Department of Public Health to have access to any documents necessary to verify information submitted in connections the Applicants' certificate of need to establish a twelve station ESRD facility. The authorization includes, but is not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. [Application for Permit pages 46-47]
3. The site is owned by Meridian Investment Partners, LLC and evidence of this can be found at pages 27-31 of the application for permit in the Letter of Intent to lease the property in New Lenox.
4. The Applicants provided evidence that they were in compliance with Executive Order #2006-05 that requires *all State Agencies responsible for regulating or permitting development within Special Flood Hazard Areas shall take all steps within their authority to ensure that such development meets the requirements of this Order. State Agencies engaged in planning programs or programs for the promotion of development shall inform participants in their programs of the existence and location of Special Flood Hazard Areas and of any State or local floodplain requirements in effect in such areas. Such State Agencies shall ensure that proposed development within Special Flood Hazard Areas would meet the requirements of this Order.*
5. The proposed location of the ESRD facility is in compliance with the Illinois State Agency Historic Resources Preservation Act which requires *all State Agencies in consultation with the Director of Historic Preservation, institute procedures to ensure that State projects consider the preservation and enhancement of both State owned and non-State owned historic resources* (20 ILCS 3420/1).

## **VII. Purpose of Project, Safety Net Impact Statement and Alternatives**

The following three (3) criteria are informational; no conclusion on the adequacy of the information submitted is being made.

### **A) Criterion 1110.230(a) Purpose of the Project**

**To demonstrate compliance with this criterion the Applicants must document that the project will provide health services that improve the health care or well-being of the market area population to be served.**

#### **The Applicants stated the following:**

*“The purpose of this project is to provide access to dialysis services in an area exhibiting high population growth, above average growth of End Stage Renal Disease (ESRD) and ongoing high clinic utilization. There are two clinics that serve the immediate northwest New Lenox and east Joliet area, DaVita New Lenox and Fresenius Joliet. These facilities are operating at a combined average utilization rate of 82% with a total of 174 patients. Access is severely restricted in the area due to a higher than average yearly increase of ESRD. It is our goal to not only maintain access to dialysis services but to provide access to treatment schedule times that will best serve each patient's individual needs, allow for adequate transportation options and to keep up with the significant increase in demand for dialysis services in the New Lenox market.”*

[See Application for Permit for complete discussion page 48]

## **B) Criterion 1110.230(b) - Safety Net Impact Statement**

The Applicants provided a Safety Net Impact Statement as required and it is attached at the end of this report.

## **C) Criterion 1110.230(c) - Alternatives to the Project**

To demonstrate compliance with this criterion the Applicants must document all alternatives to the proposed project that were considered.

The Applicants provided the following narrative:

### 1. Proposing a project of greater or lesser scope and cost.

*The only option that would entail a lesser scope and cost than the project proposed in this application would be to do nothing. Not acting on the current utilization and historical 6% growth of ESRD in this area will simply maintain the lack of access to dialysis services in the New Lenox/East Joliet market. There is no cost to this alternative.*

### 2. Pursuing a joint venture or similar arrangement with one or more providers of 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.

*The ownership of this facility is structured so that later on if there was the desire to form a joint venture, a partner would be able to invest in the facility. Fresenius Kidney Care, however, always maintains direct control of its facilities.*

### 3. Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project

*Kidney Care physicians have privileges at and currently refer patients to several area facilities including DaVita New Lenox and FKC Joliet (where they serve as medical director), however the New Lenox facility is near capacity with 104 patients and the FKC Joliet facility is at 74% with 71 patients as of November. Given the 7% yearly average growth of ESRD in the zip codes within 30-minutes travel time, the FKC Joliet facility is expected to be full before the FKC New Lenox facility is operating. There is no cost to this alternative.*

### 4. Reasons why the chosen alternative was selected

*The most efficient long-term solution to maintaining access to dialysis services in the New Lenox/East Joliet market is to establish Fresenius Kidney Care New Lenox as area utilization continues to rise. The cost of this project is \$6,488,198. While this is the costliest alternative, the expense is to Fresenius Kidney Care only. Patients will benefit from continued access in New Lenox, choice of preferred treatment times and reduced travel times/expenses while maintaining continuity of care with their nephrologist and other healthcare services.*

**VIII. Project Scope and Size, Utilization and Assurances**

**A) Criterion 1110.234(a) - Size of Project**

**To demonstrate compliance with this criterion the Applicants must document that the proposed size of the project is in compliance with the State Board Standard in Part 1110 Appendix B.**

The Applicants propose to lease 7,800 GSF of space in which 6,020 GSF of space will be reviewable space. The State Board standard is 650 GSF per station or 7,800 GSF (12 stations x 650 GSF = 7,800 GSF). The Applicants have met the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SIZE OF PROJECT (77 ILAC 1110.234(a))**

**B) Criterion 1110.234(b) – Projected Utilization**

**To demonstrate compliance with this criterion the Applicants must document that the 12-station facility will be at target occupancy as specified in Part 1100. 630.**

The Applicants project 60 patients will utilize the proposed 12-station facility within 2-years after project completion.

$$\begin{aligned} 60 \text{ patients} \times 156 \text{ treatment per year} &= 9,360 \text{ treatments} \\ 12 \text{ stations} \times 936 \text{ treatments per year per station} &= 11,232 \text{ treatments} \\ 9,360 \text{ treatments} \div 11,232 \text{ treatments} &= 83.33\% \end{aligned}$$

The Applicants have met the requirements of this criterion,

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PROJECTED UTILIZATION (77 ILAC 1110.234(b))**

**C) Criterion 1110.234(e) – Assurances**

**To demonstrate compliance with this criterion the Applicants must attest that the proposed facility will be at target occupancy (80%) within two (2) years after project completion.**

The Applicants have provided the necessary attestation as required at page 97 of the Application for Permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.234(e))**

**IX. In-Center Hemo-dialysis Projects**

**A) Criterion 1110.1430(c)(1), (2), (3) & (5) - Planning Area Need**

To demonstrate compliance with this criterion the Applicants must document the number of stations to be established for in-center hemodialysis is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.

**1. Planning Area Need**

To demonstrate compliance with this sub-criterion the Applicants must document that there is a calculated need in the ESRD Planning Area.

The State Board is estimating a **need for 17 stations** in the HSA IX ESRD Planning Area as of February 2018 Revised Station Need Determination.

**2. Service to Area Residents**

To demonstrate compliance with this sub-criterion the Applicants must document that the proposed ESRD service will serve the residents of the ESRD Planning Area.

A review of the number of patients by zip code indicates that over fifty percent (50%) of the patients will come from the HSA IX ESRD Planning Area.

**TABLE FOUR**  
**Pre-ESRD Patient Origin**

| Zip Code | City        | County | Health Service Area (HSA) | Number Of Pre-ESRD Patients |
|----------|-------------|--------|---------------------------|-----------------------------|
| 60421    | Elwood      | Will   | 9                         | 2                           |
| 60423    | Frankfort   | Will   | 9                         | 9                           |
| 60432    | Joliet      | Will   | 9                         | 7                           |
| 60433    | Joliet      | Will   | 9                         | 13                          |
| 60436    | Joliet      | Will   | 9                         | 9                           |
| 60448    | Mokena      | Will   | 9                         | 7                           |
| 60451    | New Lenox   | Will   | 9                         | 7                           |
| 60481    | Wilmington  | Will   | 9                         | 2                           |
| 60467    | Orland Park | Cook   | 7                         | 3                           |
| 60487    | Tinley Park | Cook   | 7                         | 1                           |

**3. Service Demand**

To demonstrate compliance with this sub-criterion the Applicants must document that there is sufficient demand for the number of stations being proposed.

Dr. Awua-Larbi and Kidney Care Center are the referring nephrologists and the referring physician practice respectively for the proposed ESRD facility. Kidney Care Center was treating 127 hemodialysis patients at the end of 2014, 145 at the end of 2015, 149 at the end of 2016 and 155 as of September 2017, as reported to The Renal Network. The Applicants are estimating that 60 Stage 4 patients will be referred to the proposed Fresenius New Lenox location in the first two years after opening.

## **5. Service Accessibility**

**To demonstrate compliance with this sub-criterion the Applicants must document at least one of the following:**

- i) The absence of the proposed service within the planning area;**
- ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;**
- iii) Restrictive admission policies of existing providers;**
- iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;**
- v) For purposes of this subsection (c) (5) only, all services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.**

There is no absence of ESRD service in the proposed HSA IX ESRD Planning Area. No evidence has been provided of access limitations due to payor status of patients, or evidence of restrictive admission policies at the existing providers. There are 23 ESRD facilities within thirty minutes of the proposed facility. Three facilities have recently been approved and are not completed or in ramp-up. One facility (Concerto Dialysis) did not report their fourth quarter 2017 utilization data. Average utilization of the remaining 19 facilities is approximately 74%. (See Table Below)

### **Summary**

The State Board is estimating a need for 17 stations in the HSA IX ESRD Planning Area by 2020. The number of patients receiving dialysis within this ESRD Planning Area has grown 5.75% compounded annually over the past five years. From the information provided by the Applicants the proposed facility will serve the residents of the HSA IX ESRD Planning Area. Additionally there appears to be sufficient demand (60 pre-ESRD patients) to justify the proposed 12 station facility. While not all of the facilities in the 30 minute service area are at target occupancy (74% Average Occupancy) it appears that with the recent demand for dialysis service in this planning (Approximately 5.75% annually) it appears the proposed 12 station facility is warranted

**TABLE FIVE**  
**Facilities within 30 minutes of Proposed Facility**

| Facility   | City               | Time <sup>(1)</sup> | Star Rating <sup>(2)</sup> | Stations | Patients | Utilization <sup>(3)</sup> | Met Standard? |
|--|--------------------|---------------------|----------------------------|----------|----------|----------------------------|---------------|
| DaVita New Lenox   | New Lenox          | 2.3                 | 3                          | 19       | 107      | 93.86%                     | Yes           |
| FKC Joliet   | Joliet             | 10.35               | 3                          | 16       | 72       | 75.00%                     | No            |
| FKC Mokena   | Mokena             | 14.95               | 3                          | 14       | 55       | 65.48%                     | No            |
| FKC Bolingbrook  | Bolingbrook        | 19.55               | 4                          | 24       | 123      | 85.42%                     | Yes           |
| DaVita Sun Health  | Joliet             | 21.85               | 5                          | 17       | 61       | 59.80%                     | No            |
| USRC Bolingbrook   | Bolingbrook        | 21.85               | 2                          | 13       | 63       | 80.77%                     | Yes           |
| FKC Hazel Crest  | Hazel Crest        | 21.85               | 3                          | 16       | 77       | 80.21%                     | Yes           |
| FKC Orland Park  | Orland Park        | 23                  | 4                          | 18       | 65       | 60.19%                     | No            |
| DaVita Country Hills   | Country Club Hills | 23                  | 3                          | 24       | 95       | 65.97%                     | No            |
| FKC Oak Forest   | Oak Forest         | 23                  | 3                          | 12       | 58       | 80.56%                     | Yes           |
| DaVita Olympia Fields  | Matteson           | 23                  | 3                          | 27       | 101      | 62.35%                     | No            |
| DaVita Hazel Crest   | Hazel Crest        | 24.15               | 3                          | 20       | 100      | 83.33%                     | Yes           |
| DaVita Harvey  | Harvey             | 25.3                | 2                          | 18       | 95       | 87.96%                     | Yes           |
| USRC Oak Brook   | Downers Grove      | 27.6                | 2                          | 13       | 66       | 84.62%                     | Yes           |
| FKC South Suburban   | Olympia Fields     | 28.75               | 2                          | 27       | 119      | 73.46%                     | No            |
| FKC Downers Grove  | Downers Grove      | 28.75               | 3                          | 16       | 68       | 70.83%                     | No            |
| FKC Alsip  | Alsip              | 28.75               | 3                          | 20       | 84       | 70.00%                     | No            |
| FKC Willowbrook  | Willowbrook        | 29.9                | 3                          | 20       | 75       | 62.50%                     | No            |
| FKC Lombard  | Lombard            | 29.9                | 4                          | 12       | 51       | 70.83%                     | No            |
| Total Stations/Patients  |                    |                     |                            |          |          |                            |               |
| Average Utilization  |                    |                     |                            | 346      | 1,535    | 73.94%                     |               |
| FKC Lemont   | Lemont             | 11.5                | NA                         | 12       | 25       | 34.72%                     |               |
| FKC Woodridge3   | Woodridge          | 21.85               | NA                         | 12       | 0        | 0.00%                      |               |
| DaVita Tinley Park   | Tinley Park        | 26.45               | NA                         | 12       | 19       | 26.39%                     |               |
| Concerto   | Crestwood          | 27.6                | 1                          | 9        | -        |                            |               |
| Total Stations/Patients  |                    |                     |                            |          |          |                            |               |
| Average Utilization  |                    |                     |                            | 391      | 1,579    | 67.31%                     |               |
| 1. Travel Time from MapQuest and adjusted per 77 ILAC 1100.510 (d) |                    |                     |                            |          |          |                            |               |
| 2. Star Rating taken from Medicare Compare Website                 |                    |                     |                            |          |          |                            |               |
| 3. Stations, Patients, and Utilization as of December 31, 2017     |                    |                     |                            |          |          |                            |               |

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PLANNING AREA NEED (77 IAC 1110.1430(c)(1), (2), (3) & (5))**

**B) Criterion 1110.1430(d)(1), (2) and (3) - Unnecessary Duplication/Mal-distribution/ Impact on Other Facilities**

- 1) The applicant shall document that the project will not result in an unnecessary duplication of service.
- 2) The applicant shall document that the project will not result in maldistribution of services.
- 3) The applicant shall document that, within 24 months after project completion, the proposed project will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100 and will not lower, to a further extent, the utilization of other area providers that are currently (during the latest 12-month period) operating below the occupancy standards.

**1. Unnecessary Duplication of Service**

In response to all existing facilities not being at target occupancy the Applicants stated the following:

*“Although all facilities within thirty minutes travel time are not above the target utilization of 80%, Fresenius Kidney Care New Lenox will not create a maldistribution of services in regard to there being excess availability. The two clinics that serve the New Lenox/East Joliet market are operating at an average combined utilization rate above 80%, with the DaVita New Lenox facility nearing capacity. Dr. Awua-Larbi needs additional access in New Lenox for her patients who live in this area. Only three patients are needed to bring the Fresenius Joliet facility (at 74% utilization as of November 2017) above 80% and only 10 more patients will put DaVita New Lenox at capacity. Remaining facilities are 9-24 miles away, many via highway travel. If New Lenox area residents were to be referred to these outlying facilities would experience increased and unnecessary transportation problems and loss of continuity of care.”*

**2. Mal-distribution of Service**

The ratio of ESRD stations to population in the zip codes within a 30 minute radius of Fresenius Kidney Care New Lenox is 1 station per 3,097 residents. The State ratio is 1 station per 2,760 residents (based on US Census estimates for 2015 and the February 2018 State Board Station Inventory). To have a surplus of stations in this 30 minute service area the number of stations per population would need to be one station per every 1,804 residents. Based upon this methodology there is not a surplus of stations in this service area.

|            | State of Illinois             | 30-minute Service Area        |
|------------|-------------------------------|-------------------------------|
| Population | 12,980,800                    | 1,210,804                     |
| Stations   | 4,704                         | 391                           |
| Ratio      | 1 Station per 2,760 residents | 1 Station per 3,097 residents |

**3. Impact on Other Facilities**

The Applicants stated the following:

*“Fresenius Kidney Care New Lenox will not have an adverse effect on any other area ESRD provider in that the new patients identified for this facility are pre-ESRD patients who would otherwise be referred to the FKC Joliet or DaVita New Lenox facility which is nearing capacity. With expected referrals based on historic growth additional access is needed in New Lenox. The utilization will not be lowered at any other ESRD facility due to the establishment of the New Lenox facility. DaVita New Lenox is 10 patients away from capacity and the FKC Joliet facility is expected to surpass 80% before the New Lenox facility is operating. The impact would be positive in that access would be maintained and patients would have a choice of treatment shift.”*

### **Summary**

There are 23 ESRD facilities within thirty minutes of the proposed facility. Three facilities have recently been approved and are not completed or in ramp-up. One facility (Concerto Dialysis) did not report their fourth quarter 2017 utilization data. Average utilization of the remaining 19 facilities (346 Stations) is approximately 74%. If the current growth as documented by the State Board continues (5.75% compounded annually) these 346 stations would be in excess of 90% utilization by CY 2020. If the growth is 3% (historical growth) compounded annually the existing 346 stations would be at 84% utilization by CY 2020.

### **STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION UNNECESSARY DULICATION OF SERVICE MALDISTRIBUTION OF SERVICE IMPACT ON OTHER FACILITIES (77 IAC 1110.1430(d (1), (2) & (3))**

#### **C) Criterion 1110.1430(f) - Staffing**

**To demonstrate compliance with this criterion the Applicants must document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and Joint Commission staffing requirements can be met.**

The proposed facility will be staffed in accordance with all State and Medicare staffing requirements. Dr. Stella Awua-Larbi is currently the Medical Director for Fresenius Kidney Care Lemont and will also be the Medical Director for the proposed Fresenius Kidney Care New Lenox facility. Dr. Awua-Larbi curriculum vitae has been provided. A complete narrative of the staffing for the proposed facility has been provided at pages 84-86 of the Application for Permit. Based upon the information provided in the Application for Permit, the Applicants have met the requirements of this criterion.

### **STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION STAFFING (77 IAC 1110.1430 (f))**

#### **D) Criterion 1110.1430(g) - Support Services**

**To demonstrate compliance with this criterion the Applicants must submit a certification from an authorized representative that attests to each of the following:**

- 1) Participation in a dialysis data system;

- 2) Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and
- 3) Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed facility or the existence of a signed, written agreement for provision of these services with another facility.

The Applicants have provided the necessary attestation as required at page 87 of the application for permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SUPPORT SERVICES (77 IAC 1110.1430(g))**

**E) Criterion 1110.1430(h) - Minimum Number of Stations**

To demonstrate compliance with this criterion the Applicants must document that the minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:

- 1) Four dialysis stations for facilities outside an MSA;
- 2) Eight dialysis stations for a facility within an MSA.

The proposed 12-station facility will be located in the Chicago-Joliet-Naperville metropolitan statistical area ("MSA"). The Applicants have met the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION MINIMUM NUMBER OF STATIONS (77 IAC 1110.1430(h))**

**F) Criterion 1110.1430(i) - Continuity of Care**

To demonstrate compliance with this criterion the Applicants document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.

The Applicants have provided the necessary signed affiliation agreement with Presence Saint Joseph Medical Center located in Joliet as required at pages 89-96 of the Application for Permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION CONTINUITY OF CARE (77 IAC 1110.1430(i))**

**G) Criterion 1110.1430(k) - Assurances**

To demonstrate compliance with this criterion the representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that:

- 1) By the second year of operation after the project completion, the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal; and
- 2) An applicant proposing to expand or relocate in-center hemodialysis stations will achieve and maintain compliance with the following adequacy of hemodialysis outcome measures for the latest 12-month period for which data are available:

**≥ 85% of hemodialysis patient population achieves urea reduction ratio (URR) ≥ 65%  
and ≥ 85% of hemodialysis patient population achieves Kt/V Daugirdas II 1.2.**

The necessary attestation has been provided at page 97 of the application for permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION ASSURANCES (77 IAC 1110.1430(k))**

**X. FINANCIAL VIABILITY**

- A) Criterion 1120.120 – Availability of Funds**
- B) Criterion 1120.130 – Financial Viability**

The Applicants are funding this project with cash and securities of \$2,080,800 and the fair market value of leased space of \$4,407,398. The lease will be an operating lease<sup>4</sup>. A review of the 2014/2015/2016 audited financial statements indicates there is sufficient cash to fund the project. Because the project will be funded with cash no viability ratios need to be provided and the Applicants have qualified for the financial viability waiver.<sup>5</sup>

| <b>TABLE SIX</b>                                      |              |              |              |
|---|--------------|--------------|--------------|
| <b>FMC Holdings Inc. Audited Financial Statements</b> |              |              |              |
| <b>(Dollars in Thousands 000)</b>                     |              |              |              |
| <b>December 31<sup>st</sup></b>                       |              |              |              |
|   | <b>2014</b>  | <b>2015</b>  | <b>2016</b>  |
| Cash & Investments                                    | \$195,280    | \$249,300    | \$357,899    |
| Current Assets  | \$4,027,091  | \$4,823,714  | \$5,208,339  |
| Total Assets  | \$18,489,619 | \$19,332,539 | \$20,135,661 |
| Current Liabilities                                   | \$2,058,123  | \$2,586,607  | \$2,799,192  |
| Long Term Debt  | \$2,669,500  | \$2,170,018  | \$2,085,331  |
| Total Liabilities                                     | \$9,029,351  | \$9,188,251  | \$9,602,364  |
| Total Revenues  | \$10,373,232 | \$11,691,408 | \$12,806,949 |
| Expenses  | \$9,186,489  | \$10,419,012 | \$11,185,474 |
| Income Before Tax                                     | \$1,186,743  | \$1,272,396  | \$1,621,175  |
| Income Tax  | \$399,108    | \$389,050    | \$490,932    |
| <i>Net Income</i>                                     | \$787,635    | \$883,346    | \$1,130,243  |

<sup>4</sup> Operating lease is a contract wherein the owner, called the Lessor, permits the user, called the Lessee, to use of an asset for a particular period which is shorter than the economic life of the asset without any transfer of ownership rights. The Lessor gives the right to the Lessee in return for regular payments for an agreed period of time.

<sup>5</sup> **Financial Viability Waiver:** The applicant is NOT required to submit financial viability ratios if:

1. all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or **HFSRB NOTE:** Documentation of internal resources availability shall be available as of the date the application is deemed complete.
2. the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA) or its equivalent; or **HFSRB NOTE:** MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.
3. the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.

| <b>TABLE SIX</b><br><b>FMC Holdings Inc. Audited Financial Statements</b><br><b>(Dollars in Thousands 000)</b><br><b>December 31<sup>st</sup></b> |      |      |
|---|------|------|
| 2014  | 2015 | 2016 |
| Source: 2014/2015/2016 Audited Financial Statements   |      |      |

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS AND FINANCIAL VIABILITY (77 ILAC 1120.120 and 77 ILAC 1120.130)**

**XI. ECONOMIC FEASIBILITY**

- A) Criterion 1120.140(a) – Reasonableness of Financing Arrangements**
- B) Criterion 1120.140(b) – Terms of Debt Financing**

The State Board considers leasing a form of debt financing<sup>6</sup>. The Applicants provided a copy of a letter of intent to lease 7,800 GSF rentable contiguous square feet with an initial lease term of fifteen (15) years with three (3) five (5) year renewal options. The annual base rental rate shall be \$32.00 per SF, which shall escalate on an annual basis by three percent (1.6%) per year, beginning at the beginning of year two. (See Application for Permit page 98-102)

The Applicants have attested that entering into of a lease (borrowing) is less costly than the liquidation of existing investments which would be required for the applicant to buy the property and build a structure itself to house a dialysis clinic. (See Application for Permit page 106)

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION REASONABLENESS OF FINANCING ARRANGEMENTS AND TERMS OF DEBT FINANCING (77 ILAC 1120.140(a) and 77 ILAC 1120.140(b))**

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<sup>6</sup> "Debt Financing" means all or any portion of project costs financed through borrowing. Leasing, for purposes of this Part, is considered borrowing. Portions of lease payments that are for service, insurance, or other noncapital costs are not considered borrowing. 77 ILAC 1120.10

**C) Criterion 1120.140(c) – Reasonableness of Project Costs**

Only the reviewable costs are being reviewed for this criterion. The Applicants are proposing 6,020 GSF of reviewable space for the proposed facility.

**TABLE SEVEN  
Reasonableness of Project Costs**

| Description   | Project Costs |                      | State Standard |                      | Difference | Met Standard? |
|---|---------------|----------------------|----------------|----------------------|------------|---------------|
|   | Total         | Unit                 | Total          | Unit                 |            |               |
| Modernization and Contingency Cost <sup>(2)</sup>                         | \$1,204,000   | \$200 GSF            | \$1,210,020    | \$201.GSF            | -\$6,020   | Yes           |
| Contingencies   | \$108,360     | 9.89%                | \$164,346      | 15.00%               | -\$55,986  | Yes           |
| Architectural/Engineering Fees  | \$119,184     | 9.90%                | \$124,734      | 10.36%               | -\$5,550   | Yes           |
| Movable or Other Equipment (not in construction contracts) <sup>(3)</sup> | \$292,000     | \$24,333 per Station | \$663,504      | \$55,292 per station | -\$371,504 | Yes           |
| Fair Market Value of Leased Space or Equipment <sup>(1)</sup>             | \$3,437,340   |                      | No Standard    |                      |            |               |

1. Modernization includes the build out of leased space and shall include the cost of capital equipment included in the terms of the lease.
2. Modernization and Contingency Costs are \$178.33 per GSF (2015) and inflated by 3% to 2019.
3. Station cost is \$39,945 per station (2008) and inflated by 3% to 2019.

**D) Criterion 1120.140(d) - Direct Operating Costs**

To demonstrate compliance with this criterion the Applicants must document 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.

The Applicants are estimating \$285.61 per treatment in direct operating costs. This appears reasonable when compared to previously approved projects of this type.

|   |                 |
|---|-----------------|
| Estimated Personnel Expense:                | \$962,150       |
| Estimated Medical Supplies:                 | \$162,653       |
| Estimated Other Supplies                    | \$1,244,160     |
| Exc: Depreciation and Amortization          |                 |
| Total                                       | \$2,368,964     |
| Estimated Annual Treatments:                | 8,294           |
| <b>Direct Operating Cost Per Treatment:</b> | <b>\$285.61</b> |

**E) Criterion 1120.140(e) - Total Effect of the Project on Capital Costs**

To demonstrate compliance with the criterion the Applicants must document the capital 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.

The Applicants are estimating \$24.72 in capital costs. This appears reasonable when compared to previously approved projects of this type.

|                                   |                |
|-----------------------------------|----------------|
| Depreciation/Amortization:        | \$205,000      |
| Interest                          | \$0            |
| Capital Costs:                    | \$205,000      |
| Treatments:                       | 8,294          |
| <b>Capital Cost per Treatment</b> | <b>\$24.72</b> |

## Star Rating System

### Centers for Medicare & Medicaid Services (CMS) Star Ratings

*“The star ratings are part of Medicare's efforts to make data on dialysis centers easier to understand and use. The star ratings show whether your dialysis center provides quality dialysis care - that is, care known to get the best results for most dialysis patients. The rating ranges from 1 to 5 stars. A facility with a 5-star rating has quality of care that is considered 'much above average' compared to other dialysis facilities. A 1- or 2- star rating does not mean that you will receive poor care from a facility. It only indicates that measured outcomes were below average compared to those for other facilities. Star ratings on Dialysis Facility Compare are updated annually to align with the annual updates of the standardized measures.”*

CMS assigns a one to five ‘star rating’ in two separate categories: best treatment practices and hospitalizations and deaths. The more stars, the better the rating. Below is a summary of the data within the two categories.

#### ➤ Best Treatment Practices

This is a measure of the facility’s treatment practices in the areas of anemia management; dialysis adequacy, vascular access, and mineral & bone disorder. This category reviews both adult and child dialysis patients.

#### ➤ Hospitalization and Deaths

This measure takes a facility's expected total number of hospital admissions and compares it to the actual total number of hospital admissions among its Medicare dialysis patients. It also takes a facility's expected patient death ratio and compares it to the actual patient death ratio taking into consideration the patient’s age, race, sex, diabetes, years on dialysis, and any co-morbidities.

The Dialysis Facility Compare website currently reports on 9 measures of quality of care for facilities. These measures are used to develop the star rating. Based on the star rating in each of the two categories, CMS then compiles an ‘overall rating’ for the facility. As with the separate categories: the more stars, the better the rating. The star rating is based on data collected from January 1, 2012 through December 31, 2015.

## Safety Net Impact Statement

The establishment of Fresenius Kidney Care New Lenox will not have any impact on safety net services in the New Lenox area of Will County. Outpatient dialysis services are not typically considered "safety net" services, to the best of our knowledge. However, we do provide care for patients in the community who are economically challenged and/or who are undocumented aliens, who do not qualify for Medicare/Medicaid pursuant to an Indigent Waiver policy. We assist patients who do not have insurance in enrolling when possible in Medicaid for ESRD or insurance on the Healthcare Marketplace. Also our social services department assists patients who have issues regarding transportation and/or who are wheel chair bound or have other disabilities which require assistance with respect to dialysis services and transport to and from the unit.

This particular application will not have an impact on any other safety net provider in the area, as no hospital within the area provides dialysis services on an outpatient basis.

Fresenius Kidney Care is a for-profit publicly traded company and is not required to provide charity care, nor does it do so according to the Board's definition. However, Fresenius Kidney Care provides care to patients who do not qualify for any type of coverage for dialysis services. These patients are considered "self-pay" patients. They are billed for services rendered, and after three statement reminders the charges are written off as bad debt. Collection actions are not initiated unless the applicants are aware that the patient has substantial financial resources available and/or the patient has received reimbursement from an insurer for services we have rendered, and has not submitted the payment for same to the applicants. Fresenius notes that as a for profit entity, it does pay sales, real estate and income taxes. It also does provide community benefit by supporting various medical education activities and associations, such as the Renal Network, National Kidney Foundation and American Kidney Fund.

The table below shows the amount of "self-pay" care and Medicaid services provided for the 3 fiscal years prior to submission of the application for all Illinois Fresenius Kidney Care facilities.

| <b>Safety Net Information per PA 96-0031</b>  |              |             |             |
|---|--------------|-------------|-------------|
| <b>CHARITY CARE* (self-pay)</b>   |              |             |             |
|   | <b>2014</b>  | <b>2015</b> | <b>2016</b> |
| <b>Charity (# of patients)</b>  | 251          | 195         | 233         |
| <b>(self-pay)</b>   |              |             |             |
| <b>Charity (cost in dollars)</b>  | \$5,211,664  | \$3,204,986 | \$3,269,127 |
| <b>(self-pay)</b>   |              |             |             |
| <b>MEDICAID</b>   |              |             |             |
|   | <b>2014</b>  | <b>2015</b> | <b>2016</b> |
| <b>Medicaid (# of patients)</b>   | 750          | 396         | 320         |
| <b>Medicaid (revenue)</b>   | \$22,027,882 | \$7,310,484 | \$4,383,383 |
| *As a for-profit corporation Fresenius does not provide charity care per the Board's definition. Numbers reported are self-pay. |              |             |             |

**Note:**

- 1) Charity (self-pay) and Medicaid patient numbers continue to decrease as Fresenius Financial Coordinators assist patients in signing up for health insurance in the Healthcare Marketplace. This provides the patient with insurance coverage not only for dialysis but for other needed healthcare services. Patients who cannot afford the premiums have them paid by the American Kidney Fund.
- 2) Medicaid reported numbers are also impacted by the large number of patients who switched from Medicaid to a Medicaid Risk insurance (managed care plan) which pays similar to Medicaid. These patients are reported under commercial insurance however, in 2016 of our commercial patients we had 1,230 Medicaid Risk patients with Revenues of \$22,664,352

## Charity Care Information

The applicant(s) do not provide charity care at any of their facilities per the Board's definition of charity care because self-pay patients are billed and their accounts are written off as bad debt. Fresenius takes Medicaid patients without limitations or exception. The applicant(s) are for profit corporations and do not receive the benefits of not for profit entities, such as sales tax and/or real estate exemptions, or charitable donations. The applicants are not required, by any State or Federal law, including the Illinois Healthcare Facilities Planning Act, to provide charity care. The applicant(s) are prohibited by Federal law from advising patients that they will not be invoiced for care, as this type of representation could be an inducement for patients to seek care prior to qualifying for Medicaid, Medicare or other available benefits. Self-pay patients are invoiced and then the accounts written off as bad debt.

Uncompensated care occurs when a patient is not eligible for any type of insurance coverage (whether private or governmental) and receives treatment at our facilities. It is rare in Illinois for patients to have no coverage as patients who are not Medicare eligible are Medicaid eligible or are able to purchase insurance on the Healthcare Marketplace with premiums paid for by The American Kidney Fund. This represents a small number of patients, as Medicare covers all dialysis services as long as an individual is entitled to receive Medicare benefits (i.e. has worked and paid into the social security system as a result) regardless of age. In addition, in Illinois Medicaid covers patients who are undocumented for ESRD only. Also, the American Kidney Fund funds health insurance premiums for patients who meet the AKF's financial parameters and who suffer from end stage renal disease (see uncompensated care attachment). The applicants work with patients to procure coverage for them as possible whether it be Medicaid, Medicare and/or coverage on the Healthcare Marketplace funded by AKF. The applicants donate to the AKF to support its initiatives as do most dialysis providers.

If a patient has no available insurance coverage, they are billed for services rendered, and after three statement reminders the charges are written off as bad debt. Collection actions are not initiated unless the applicants are aware that the patient has substantial financial resources available and/or the patient has received reimbursement from an insurer for services we have rendered, and has not submitted the payment for same to the applicants

Nearly all dialysis patients in Illinois will qualify for some type of coverage and Fresenius works aggressively with the patient to obtain insurance coverage for each patient.

### Uncompensated Care For All Fresenius Facilities in Illinois

| CHARITY CARE* (self-pay)                         |               |               |               |
|--|---------------|---------------|---------------|
|  | 2014          | 2015          | 2016          |
| <b>Net Patient Revenue</b>                       | \$411,981,839 | \$438,247,352 | \$449,611,441 |
| <b>Amount of Charity Care (self-pay charges)</b> | \$5,211,664   | \$3,204,986   | \$3,269,127   |
| <b>Cost of Charity Care (self-pay)</b>           | \$5,211,664   | \$3,204,986   | \$3,269,127   |

\*As a for-profit corporation Fresenius does not provide charity care per the Board's definition. Numbers reported are self-pay

Note:

- 1) Charity (self-pay) and Medicaid patient numbers continue to decrease as Fresenius Financial Coordinators assist patients in signing up for health insurance in the Healthcare Marketplace. This provides the patient with insurance coverage not only for dialysis but for other needed healthcare services. Patients who cannot afford the premiums have them paid by the American Kidney Fund.
- 2) Medicaid reported numbers are also impacted by the large number of patients who switched from Medicaid to a Medicaid Risk insurance (managed care plan) which pays similar to Medicaid. These patients are reported under commercial insurance however, in 2016 of our commercial patients we had 1,230 Medicaid Risk patients with Revenues of \$22,664,352

## **Fresenius Medical Care North America - Community Care**

Fresenius Medical Care North America (FMCNA) assists all of our patients in securing and maintaining insurance coverage when possible.

### **American Kidney Fund**

FMCNA works with the American Kidney Fund (AKF) to help patients with insurance premiums at no cost to the patient.

Applicants must be dialyzed in the US or its territories and referred to AKF by a renal professional and/or nephrologist. The Health Insurance Premium Program is a "last resort" program. It is restricted to patients who have no means of paying health insurance premiums and who would forego coverage without the benefit of HIPP. Alternative programs that pay for primary or secondary health coverage, and for which the patient is eligible, such as Medicaid, state renal programs, etc. must be utilized. Applicants must demonstrate to the AKF that they cannot afford health coverage and related expenses (deductible etc.).

Our team of Financial Coordinators and Social Workers assist patients in purchasing insurance on the Healthcare Marketplace and then connects patients who cannot afford to pay their insurance premiums, with AKF, which provides financial assistance to the patients for this purpose. The benefit of working with the AKF is that the insurance coverage which AKF facilitates applies to all of the patient's insurance needs, not just coverage for dialysis services.

### **Indigent Waiver Program**

FMCNA has established an indigent waiver program to assist patients who are unable to obtain insurance coverage or who lack the financial resources to pay for medical services.

In order to qualify for an indigent waiver, a patient must satisfy eligibility criteria for both annual income and net worth.

**Annual Income:** A patient (including immediate family members who reside with, or are legally responsible for, the patient) may not have an annual income in excess of two (2) times the Federal Poverty Standard in effect at the time. Patients whose annual income is greater than two (2) times the Federal Poverty Standard may qualify for a partial indigent waiver based upon a sliding scale schedule approved by the Office of Business Practices and Corporate Compliance.

**Net Worth:** A patient (including immediate family members who reside with, or are legally responsible for, the patient) may not have a net worth in excess of \$75,000 (or such other amount as may be established by the Office of Business Practices and Corporate Compliance based on changes in the Consumer Price Index

The Company recognizes the financial burdens associated with ESRD and wishes to ensure that patients are not denied access to medically necessary care for financial reasons. At the same time, the Company also recognizes the limitations imposed by federal law on offering "free" or "discounted" medical items or services to Medicare and other government supported patients for the purpose of inducing such patients to receive ESRD-related items and services from FMCNA. An indigent waiver excuses a patient's obligation to pay for items and services furnished by FMCNA. Patients may have dual coverage of AKF assistance and an Indigent Waiver if their financial status qualifies them for both programs.

### **IL Medicaid and Undocumented patients**

FMCNA has a bi-lingual Regional Insurance Coordinator who works directly with Illinois Medicaid to assist patients with Medicaid applications. An immigrant who is unable to produce proper documentation will not be eligible for Medicaid unless there is a medical emergency. ESRD is considered a medical emergency.

The Regional Insurance Coordinator will petition Medicaid if patients are denied and assist undocumented patients through the application process to get them Illinois Medicaid coverage. This role is actively involved with the Medicaid offices and attends appeals to help patients secure and maintain their Medicaid coverage for all of their healthcare needs, including transportation to their appointments.

### **FMCNA Collection policy**

FMCNA's collection policy is designed to comply with federal law while not penalizing patients who are unable to pay for services.

FMCNA does not use a collection agency for patient collections unless the patient receives direct insurance payment and does not forward the payment to FMCNA.

### **Medicare and Medicaid Eligibility**

**Medicare:** Patients are eligible for Medicare when they meet the following criteria: age 65 or older, under age 65 with certain disabilities, and people of all ages with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a kidney transplant).

There are three insurance programs offered by Medicare, Part A for hospital coverage, Part B for medical coverage and Part D for pharmacy coverage. Most people don't have to pay a monthly premium, for Part A. This is because they or a spouse paid Medicare taxes while working. If a beneficiary doesn't get premium-free Part A, they may be able to buy it if they (or their spouse) aren't entitled to Social Security, because they didn't work or didn't pay enough Medicare taxes while working, are age 65 or older, or are disabled but no longer get free Part A because they returned to work. Part B and Part D both have monthly premiums. Patients must have Part B coverage for dialysis services.

Medicare does allow members to enroll in Health Plans for supplemental coverage. Supplemental coverage (secondary) is any policy that pays balances after the primary pays reducing any out of pocket expenses incurred by the member.

Medicare will pay 80% of what is allowed by a set fee schedule. The patient would be responsible for the remaining 20% not paid by Medicare. The supplemental (secondary) policy covers the cost of co-pays, deductibles and the remaining 20% of charges.

**Medicaid:** Low-income Illinois residents who can't afford health insurance may be eligible for Medicaid. In addition to meeting federal guidelines, individuals must also meet the state criteria to qualify for Medicaid coverage in Illinois.

### **Self-Pay**

A self-pay patient would not have any type of insurance coverage (un-insured). They may be un-insured because they do not meet the eligibility requirements for Medicare or Medicaid and can not afford a commercial insurance policy.

In addition, a patient balance becomes self-pay after their primary insurance pays, but the patient does not have a supplemental insurance policy to cover the remaining balance. The AKF assistance referenced earlier may or may not be available to these patients, dependent on whether or not they meet AKF eligibility requirements.

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