



STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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<b>DOCKET NO:</b> H-03	<b>BOARD MEETING:</b> December 4, 2018	<b>PROJECT NO:</b> 18-019	<b>PROJECT COST:</b> Original: \$2,325,199 Modified: \$2,281,824
<b>FACILITY NAME:</b> Dialysis Care Center Evergreen Park		<b>CITY:</b> Evergreen Park	
<b>TYPE OF PROJECT:</b> Substantive			<b>HSA:</b> VII

**PROJECT DESCRIPTION:** The Applicants (Dialysis Care Center Evergreen Park, LLC and Dialysis Care Center Holdings, LLC) propose to establish a 14-station ESRD facility in 7,000 GSF of lease space in Evergreen Park at a cost of \$2,281,824. The expected completion date is July 31, 2020.

## EXECUTIVE SUMMARY

### PROJECT DESCRIPTION:

- The Applicants propose to establish a 14-station ESRD facility in Evergreen Park, in 7,000 GSF of leased space at a cost of \$2,281,824. The expected completion date is July 31, 2020.
- The Applicants provided 2017 Audited Financial Statements for DCC Holdings, LLC. These data are included in the financial section of this report.

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

- The Applicants are proposing to establish a health care facility as defined by the Illinois Health Facilities Planning Act. (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]

### PUBLIC HEARING/COMMENT:

- A public hearing was offered in regard to the proposed project, but none was requested. No letters of support or opposition were received by the State Board Staff. .

### SUMMARY:

- The State Board Staff notes there is an excess of 28 ESRD stations in the HSA VII ESRD Planning Area, per the October 31, 2018 ESRD Inventory Update.
- The Applicants addressed a total of twenty one (21) criteria and have failed to adequately address the following:

<b>Criteria</b>	<b>Reasons for Non-Compliance</b>
77 ILAC 1110.230 (c)(1) (2) (3) (5) – Planning Area Need	There is a <u>calculated excess of 28 ESRD stations</u> in the HSA VII Planning Area. Service Access will not be improved should this project be approved as there are 22 facilities within 5-mile service area. Of these 22 facilities, 6 are in ramp-up. Of the remaining 16 facilities, eight are not at target occupancy. The average utilization of these 16 facilities is approximately 81%.
77 ILAC 1110.230 (d) (1) (2) (3) – Unnecessary Duplication of Service, Maldistribution, Impact on Other Facilities	There is a <u>calculated excess of 28-ESRD</u> stations in this planning area and service accessibility will not be improved should this project be approved as there are 22 facilities within the 5-mile service area. Six of the facilities are in ramp-up and the remaining 16 facilities the average utilization is approximately 81%. Fifty percent (50%) of the 16 facilities (8 facilities) are not operating at target occupancy. With six facilities not yet operational and eight of the facilities are not at target occupancy should this project be approved there will result in an unnecessary duplication of service in this planning area. The Applicants have not met the requirements of this criterion.
77ILAC 1110.230 (h) Continuity of Care	The Applicants supplied an unsigned transfer agreement with Advocate Christ Medical Center, Oak Lawn. A negative finding results.

77ILAC 1120.140(c) Reasonableness of Project  
Costs

The Applicants have exceeded the State Board Standard  
for Architectural/Engineering Fees

**STATE BOARD STAFF REPORT**  
**Project 18-019**  
**Dialysis Care Center Evergreen Park**

<b>APPLICATION/CHRONOLOGY/SUMMARY</b>	
Applicants(s)	Dialysis Care Center Evergreen Park, LLC, Dialysis Care Holdings, LLC
Facility Name	Dialysis Care Center Evergreen Park
Location	9834 South Kedzie Avenue, Evergreen Park, Illinois
Permit Holder	Dialysis Care Center Evergreen Park, LLC, Dialysis Care Holdings, LLC
Operating Entity	Dialysis Care Center Evergreen Park, LLC
Owner of Site	Prairieland Property, LLC
Total GSF	7,000 GSF
Application Received	June 29, 2018
Application Deemed Complete	June 29, 2018
Review Period Ends	October 27, 2018
Financial Commitment Date	December 4, 2019
Project Completion Date	July 31, 2020
Review Period Extended by the State Board Staff?	No
Can the Applicants request a deferral?	Yes
Expedited Review?	No

**I. Project Description**

The Applicants propose to establish a 14-station ESRD facility in 7,000 GSF of lease space, in Evergreen Park, at a cost of \$2,281,824. The expected completion date is July 31, 2020.

**II. Summary of Findings**

- A.** State Board Staff finds the proposed project does **not** appear to be in conformance with the provisions of 77 ILAC 1100 (Part 1110).
- B.** State Board Staff finds the proposed project does **not** appear to be in conformance with the provisions of 77 ILAC 1120 (Part 1120).

**III. General Information**

Dialysis Care Center Evergreen Park, LLC and Dialysis Care Center Holdings, LLC is 100% physician owned and operated. The two physicians below equally own the two entities.

- 1. Morufu Alausa M.D.
- 2. Sameer M. Shafi M.D.

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

Dialysis Care Center Holdings, LLC has been approved by the State Board for the following dialysis projects:

- **In October of 2016**, the State Board approved Permit #16-020 – Dialysis Care Center Oak Lawn to establish an 11-station ESRD facility at a cost of the \$762,000. This facility is currently in ramp-up.
- **In October of 2016**, the State Board approved Permit #16-022 – Dialysis Care Center Olympia Fields to establish an 11-station ESRD facility at a cost of \$992,000. This facility is currently in ramp-up.
- **In June of 2017**, the State Board approved Permit #16-058 – Dialysis Care Center McHenry to establish a 14-station ESRD facility at a cost of \$1,215,000.
- **In February of 2018**, the State Board approved Permit #17-052 – Dialysis Care Center Beverly to establish a 12-station ESRD facility at a cost of \$1,609,752.
- **In April of 2018**, the State Board issued an Intent-to-Deny for Permit #17-061, Dialysis Care Center-Elgin, to establish a 14-station ESRD facility in Elgin at a cost of \$1,459,570. This project was approved at the June 2018 State Board Meeting.

**IV. Health Planning Area**

The proposed facility will be located in the HSA VII ESRD Planning Area. The HSA VII ESRD Planning Area includes Suburban Cook and DuPage County. As of October 2018 there is a calculated excess of 28 ESRD stations in this ESRD planning area.

The five-year need determination is a short-term assessment that applies to the planning area need requirements in the 77 Ill. Adm. Code 1110 category of service review criteria. The in-center hemodialysis or end stage renal disease (ESRD) station need is a five-year projection from the base year. The need for additional treatment stations is projected utilizing the following methodology. [77 ILAC 1100.630 - In-Center Hemodialysis Category of Service]

<b>TABLE ONE</b>	
<b>Need Methodology HSA VII ESRD Planning Area</b>	
Planning Area Population – 2015	3,466,100
In Station ESRD patients -2015	5,163
Area Use Rate 2013 <sup>(1)</sup>	1.472
Planning Area Population – 2020 (Est.)	3,508,600
Projected Patients – 2020 <sup>(2)</sup>	5,163
Adjustment	1.33x
Patients Adjusted	6,590
Projected Treatments – 2020 <sup>(3)</sup>	1,071,219
Existing Stations	1,458
Stations Needed-2020	1,430
<b>Number of Stations In Excess</b>	<b>28</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>	

V. **Project Costs and Sources of Funds**

The Applicants are funding the project with cash of \$687,425 and the FMV of leased space in the amount of \$1,594,399. The operating deficit as reported by the Applicants is \$930,873.

**TABLE TWO**  
**Project Uses and Sources of Funds**

<b>Uses of Funds</b>	<b>Reviewable</b>	<b>Total</b>	<b>% of Total</b>
New Construction Contracts	\$175,000	\$175,000	7.60%
Contingencies	\$16,625	\$16,625	2.40%
Architectural and Engineering Fees	\$45,000	\$45,000	1.90%
Movable or Other Equipment	\$450,800	\$450,800	19.50%
FMV of Leased Space	\$1,594,399	\$1,594,399	68.60%
<b>Total</b>	<b>\$2,281,824</b>	<b>\$2,281,824</b>	<b>100.00%</b>
<b>Source of Funds</b>			
Cash		\$687,425	30.10%
FMV of Leased Space		\$1,594,399	69.90%
<b>Total</b>		<b>\$2,281,824</b>	<b>100.00%</b>

**State Board Staff Notes:** Of the 62 ESRD facilities approved by the State Board for years 2014-2018, excluding the applicant’s facilities, the average project cost was \$4.3 million. The average cost for the six facilities submitted by the Applicants (Permit #16-020, #16-022 #16-058, #17-052, #17-061, and #17-070) was \$1,232,598. On average over the past four years (2014-2018) the cost per station of the 62 ESRD facilities approved to be established was approximately \$309,000 per station. These numbers do not include the Applicants’ facility. For the Applicants six facilities, the average cost per station was \$41,652. Staff is concerned that there are costs associated with the project that the Applicants have not disclosed.

VI. **Background of the Applicants**

A) **Criterion 1110.110(a) – 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 not had *adverse action*<sup>1</sup> taken against any facility they own or operate or a listing of adverse action taken against facilities that they own.**
1. The Applicants attested that there has been no adverse action taken against any of the facilities owned or operated by Dialysis Care Center Evergreen Park, LLC and Dialysis Care Center Holdings, LLC during the three (3) years prior to filing the application. [Application for Permit page 90-91]
  2. The Applicants authorized the Illinois Health Services Review Board and the Illinois Department of Public Health to have access to any documents necessary to verify information submitted in connection to 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 90-91]
  3. The site is owned by Prairieland Property, LLC and evidence of this can be found at page 36-68 of the application for permit in the Letter of Intent to lease the property at 9834 South Kedzie Avenue-1<sup>st</sup> Floor, Evergreen Park, Illinois.
  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).

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION BACKGROUND OF THE APPLICANTS (77 ILAC 1110.110(a) (1) & (3))**

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<sup>1</sup> <sup>1</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)

## VII. Purpose of the Project, Safety Net Impact, Alternatives to the Proposed Project

These three (3) criteria are for informational purposes only.

### A) **Criterion 1110.110(b) – 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 applicant shall define the planning area or market area, or other area, per the applicant's definition.**

*“The purpose of this project is to create additional life-sustaining dialysis accessibility to the large, growing population of ESRD patients in the HSA 7 market area - specifically, Evergreen Park and Cook County residents. The project will address the current State Board determined need for 25 additional hemodialysis stations needed in Planning area, HSA-07. Not only would Dialysis Care Center Evergreen Park simply be fulfilling a number of stations to provide dialysis, but would be providing quality, patient-centered healthcare and education to patients using our facility. The addition of Dialysis Care Center Evergreen Park in this community will provide additional treatment options for patients in the specific market area, as well as for patients in Cook County overall, and other surrounding cities. The market area to be served by the applicant is approximately within a 5-mile radius of the proposed facility location. As of 2010, the total population of Cook County was 5.195 million, while the population of the city of Evergreen Park was 19,852. Historically, these areas have seen a tremendous and concerning growth of ESRD patients, as indicated by the 70%-80% utilization of most ESRD facilities in the surrounding area. This project will aid in addressing the clear and crucial needs of this community for hemodialysis treatment options.” [Application for Permit page 92]*

### B) **Criterion 1110.110 (c) - Safety Impact Statement**

**To demonstrate compliance with this criterion the Applicants must document the safety net impact if any of the proposed project. Safety net services are the services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation. [20 ILCS 3960/5.4]**

A Safety Impact Statement was provided as required. [See end of this report]

### C) **Criterion 1110.110 (d) – Alternatives to the Proposed Project**

**To demonstrate compliance with this criterion the Applicants must document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.**

The Applicants considered three alternatives to the proposed project.

1. Project of Greater or Lesser Size/Scope/Cost
2. Pursuing a joint venture for the establishment of a new facility
3. Using existing facilities

- 1) The option of a project of lesser scope/cost was initially considered, but was later rejected because of its inability to address the need for additional ESRD stations in HSA-07. This option would cause the existing facilities to reach and eventually exceed their operational capacities, resulting in access issues in the service area.

- 2) The Applicants deemed this alternative inapplicable. The proposed facility will be 100% owned and operated by physicians practicing in the service area. This is unique in the sense that there are no facilities in the service area that are solely physician owned. The Applicants have chosen this model to allow the physicians the independence needed to make quality patient care decisions for the benefit of the patient.
- 3) The option of utilizing existing facilities was considered, but there is no alternative. The Applicants reiterate that there are no physician-owned facilities in the service area, which allow the physician/owners the independence to make clinical decisions that improve patient access/service, and clinical outcomes. The growing ESRD population in the Evergreen Park/suburban Cook County/HSA-07 service area requires the introduction of additional ESRD stations/facilities.

Although the Applicants gave equal consideration to the alternatives mentioned above, it was determined that the establishment of an additional 14-station ESRD facility (project cost: \$2,281,824), is the most practical and economical alternative for the service area. The Applicants identified no project costs with the above-mentioned alternatives.

#### **VIII. Size of the Project, Projected Utilization, and Assurances**

##### **A) Criterion 1110.120(a) –Size of the Project**

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

The Applicants are proposing a 14-station ESRD facility in 7,000 GSF of space or approximately 500 GSF per station. This is within the State Board Standard of 650 GSF per station or a total of 9,100 GSF.

#### **STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SIZE OF THE PROJECT (77 ILAC 1110.120 (a))**

##### **B) Criterion 1110.120(b) – Projected Utilization**

**To demonstrate compliance with this criterion the Applicants must document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Part 1110 Appendix B. The number of years projected shall not exceed the number of historical years documented.**

The Applicants have identified 74 Stage IV and Stage V pre-ESRD patients with lab values indicative of active kidney failure who live in the Evergreen Park/HSA-VII service areas. [See Supplemental Material dated November 9, 2018]

Pre-ESRD Patients				
City	ZIP Code	Stage V	Stage IV	Stage III
Burbank	60459	5	6	22
Evergreen Park	60805	6	57	73
Chicago Ridge	60415	4	11	39
TOTAL		15	74	134

The Board Staff accepted historical referral data that indicates 16 patients were referred from the Kidney Care Center to area facilities in 2016, 32 patients in 2017, and 22 patients in 2018 (application, pgs. 206-208). The Applicants also expect to refer 74 of its current pre-ESRD patients to the proposed facility, after project completion. If those 74 patients materialize the Applicant will be at target occupancy 2-years after project completion which is July 2022.

$$\begin{aligned}
 &74 \text{ patients} \times 156 \text{ treatments per year} = 11,554 \text{ treatments} \\
 &14 \text{ stations} \times 936 \text{ treatments per station per year} = 13,104 \text{ treatments} \\
 &11,554 \text{ treatments} \div 13,104 \text{ treatments} = 88.09\%
 \end{aligned}$$

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION PROJECTED UTILIZATION (77 ILAC 1110.120(b))**

**C) Criterion 1110.120(e) - Assurances**

To demonstrate compliance with this criterion the Applicants submit a signed and dated statement attesting to the applicant's understanding that, by the end of the second year of operation after the project completion, the applicant will meet or exceed the utilization standards specified in Appendix B.

The necessary attestation is provided at page 135 of the application for permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.120(e))**

## IX. In-Center Hemodialysis Projects

### A) **Criterion 1110.230(b)(1), (2), (3) & (5) - Planning Area Need**

To demonstrate compliance with this criterion the Applicants must document that the number of stations to be established or added is necessary to serve the planning area's population.

#### 1) **77 Ill. Adm. Code 1100 (Formula Calculation)**

To demonstrate compliance with this sub-criterion the Applicants must document that the number of stations to be established is in conformance with the projected station need.

The State Board is estimating an excess of 28 ESRD stations by 2020 in the HSA-VII ESRD Planning Area per the October 31, 2018 Inventory Update.

#### 2) **Service to Planning Area Residents**

To demonstrate compliance with this sub-criterion the Applicants must document that the primary purpose is to serve the residents of the planning area.

The Applicants have stated: *“the primary purpose of this project is to ensure that the ESRD patient population of the greater Evergreen Park area, market area, and planning area HSA-07 has access to life sustaining dialysis. We anticipate that well over 80% of Dialysis Care Center Hickory Hills will be residents of the planning area HSA-07.”*

#### 3) **Service Demand – Establishment of In-Center Hemodialysis Service**

To demonstrate compliance with this sub-criterion the Applicants must document that there is sufficient demand to justify the twelve stations being proposed.

The State Board requires that the projected referrals include the following information

- i) The physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, as reported to The Renal Network at the end of the year for the most recent three years and the end of the most recent quarter;
- ii) The number of new patients (by facility and zip code of residence) located in the area, as reported to The Renal Network, that the physician referred for in-center hemodialysis for the most recent year;
- iii) An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience. The anticipated number of referrals cannot exceed the physician's documented historical caseload;
- iv) An estimated number of existing patients who are not expected to continue requiring in-center hemodialysis services due to a change in health status (e.g., the patients received kidney transplants or expired);
- v) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;
- vi) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services; and

- vii) Each referral letter shall contain a statement attesting that the information submitted is true and correct, to the best of the physician's belief.

The Applicants submitted a referral letter [dated November 9, 2018] that was signed by Dr. Sushant Taksande, M.D., Medical Director for the proposed facility, that contains referral information, attesting to the provision of care to 208 Stage 3-4 pre-ESRD patients. As part of this submittal, the Applicants estimate 74 patients will require in-center hemodialysis services by 2-years after project completion. In addition, Dr. Taksande submitted historical referral data for years 2016-2018, in which 300 pre-ESRD patients were identified by zip code of residence as required.

City	ZIP Code	Stage V	Stage IV	Stage III
Burbank	60459	5	6	22
Evergreen Park	60805	6	57	73
Chicago Ridge	60415	4	11	39
TOTAL		15	74	134

**5) Service Accessibility**

**To demonstrated compliance with this sub-criterion the Applicants must document that the number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant must document 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;
- iv) 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.

1. There is no absence of the proposed service within the planning area as there are 80 existing dialysis facilities in the HSA VII ESRD Planning Area.
2. There has been no evidence of the access limitations due to payor status of the patients.
3. There has been no evidence of restrictive admission policies of existing providers.
4. There has been no evidence that the area population and existing care system exhibits indicators of medical care problems.
5. There are 22 facilities within a 5-mile radius. Of these 22 facilities 5 are under construction or are in ramp-up. Of the remaining 17 facilities, 9 (53%) are not at target occupancy and the average utilization of these 17 facilities is approximately 74.1%. (See Table at the end of this report)

There is a calculated excess of 28-ESRD stations in this planning area and service accessibility will not be improved should this project be approved as there are 22 facilities within the 5-mile service area. Six of the facilities are in ramp-up and the remaining 16 facilities the average utilization is approximately 81%. Fifty percent

(50%) of the 16 facilities (8 facilities) are not operating at target occupancy. Based upon the above service access will not be improved should this facility be approved.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION PLANNING AREA NEED (77 ILAC 1110.230(b)(1), (2), (3) and (5))**

**B) Criterion 1110.230(c)(1) to (3) - Unnecessary Duplication/Mal-distribution**

To demonstrate compliance with this criterion the Applicants must document that the proposed project will not result in

1. An unnecessary duplication of service
2. A mal-distribution of service
3. An impact on other area providers

1. To determine if there is an unnecessary duplication of service the State Board identifies all facilities within five (5) miles and determines if there is existing capacity to accommodate the demand identified in the application for permit. There are 22 facilities within the prescribed five mile radius. Of these 22 facilities, 5 are under construction or in ramp-up. Of the remaining 17 facilities, 9 (53%) are not at target occupancy and the average utilization of these 17 facilities is approximately 74%. (See Table at the end of this report) Therefore, there is existing capacity to accommodate the demand identified in the application for permit.

2. To determine a **mal-distribution (i.e. surplus) of stations** in the five (5) mile service area the State Board compares the ratio of the number of stations per population in the five (5) mile service area to the ratio of the number of stations in the State of Illinois to the population in the State of Illinois. To determine a surplus of stations the number of stations per resident in the thirty-minute service area must be 1.5 times the number of stations per resident in the State of Illinois.

	Population	Stations	Ratio
5 Mile Service Area	981,062	430	1 Station per every 2,281 residents
State of Illinois (2015 est.)	12,978,800	4,909	1 Station per every 2,644 residents

The population in the 5-mile service area is 981,062 residents. The number of stations in the 5-mile service area is 430. The ratio of stations to population is one (1) station per every 2,281 residents. The number of stations in the State of Illinois is 4,909 stations (*as of October 31, 2018*). The 2015 estimated population in the State of Illinois is 12,978,800 residents (*Illinois Department of Public Health Office of Health Informatics Illinois Center for Health Statistics-2014 Edition*). The ratio of stations to population in the State of Illinois is one (1) station per every 2,644 resident. To have a surplus of stations in this thirty (30) minute service area the number of stations per population would need to be one (1) station per every 1,763 resident. Based upon this methodology there is not a surplus of stations in this service area.

3. The Applicants stated the following regarding the **impact on other facilities**. “*The proposed dialysis facility will not have an adverse impact on existing facilities in the*

*proposed geographic service area. All the identified patients will be referrals from identified physicians and are on pre-ESRD list. **No patients will be transferred from other existing dialysis facilities.** The proposed dialysis facility will not lower utilization of other area providers that are operating below the target utilization standard.”* Board Staff reiterates that the facility will be in HSA-VII where there is an excess of 2 stations based on the monthly updates to the Inventory of Health Care Facilities and Services as of September, 2018.

There is a calculated excess of 28-ESRD stations in this planning area and service accessibility will not be improved should this project be approved as there are 22 facilities within the 5-mile service area. Six of the facilities are in ramp-up and the remaining 16 facilities the average utilization is approximately 81%. Fifty percent (50%) of the 16 facilities (8 facilities) are not operating at target occupancy. With six facilities not yet operational and eight of the facilities are not at target occupancy should this project be approved there will result in an unnecessary duplication of service in this planning area. The Applicants have not met the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION OF SERVICE, MALDISTRIBUTION OF SERVICE IMPACT ON OTHER FACILITIES (77 ILAC 1110.230 (c) (1), (2) and (3))**

**C) Criterion 1110.230(e) - 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. Sushant Taksande M.D. will serve as the Medical Director for Dialysis Care Center Evergreen Park. A physician curriculum vitae for Dr. Taksande is provided as required.

The Applicants stated the following:

*“Upon opening, the facility will hire a Clinic Manager who is a Registered Nurse (RN). This nurse will have at least a minimum of twelve months experience in a hemodialysis center. Additionally, we will hire one Patient Care Technician (PCT). After we have more than one patient, we will hire another RN and another PCT. All personnel will undergo an orientation process, led by the Medical Director and experienced members of the nursing staff prior to participating in any patient care activities.*

*Upon opening we will also employ:*

*Part-Time Registered Dietician*

*Part-Time Registered Master Level Social Worker (MSW)*

*Part-Time Equipment Technician*

*Part-Time Secretary*

*These positions will go full time as the clinic census increases. Additionally, the patient care staff will increase to the following:*

*One Clinic Manager*

*Four Registered Nurses*

*Ten Patient Care Technicians*

*All patient care staff and licensed/registered professionals will meet the State of Illinois requirements. Any additional staff hired must also meet these requirements along with completing an orientation training program. Annually all clinical staff must complete OSHA training, compliance training, CPR certification, skills competency, CVC competency, water quality training and pass the competency exam. Dialysis Care Center Evergreen Park will maintain at least a 4 to 1 patient-staff ratio at all times on the treatment floor. An RN will be at the facility at all times when the facility is operational.”*

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION STAFFING (77 ILAC 1110.230(e))**

**D) Criterion 1110.230(f) - 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 125 of the application for permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SUPPORT SERVICES (77 ILAC 1110.230(f))**

**E) Criterion 1110.230 (g) - 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 14-station facility will be located in the Chicago-Naperville-Joliet 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 ILAC 1110.230(g))**

**F) Criterion 1110.1430(h) - 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 an unsigned affiliation agreement with Advocate Christ Medical Center, Oak Lawn. A signed copy of the affiliation agreement is expected to follow, and will be stored in the project file. A negative finding results for this criterion because the affiliation agreement is not signed.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION CONTINUITY OF CARE (77 ILAC 1110.230(h))**



**G) Criterion 1110.230(j) - 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 135 of the application for permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.230 (j))**

## **X. Financial Viability**

Purpose of the Act *This Act shall establish a procedure (1) which requires a person establishing, constructing or modifying a health care facility, as herein defined, to have the qualifications, background, character and financial resources to adequately provide a proper service for the community; (2) that promotes the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of such facilities; and (3) that promotes planning for and development of health care facilities needed for comprehensive health care especially in areas where the health planning process has identified unmet needs.*

### **A) Criterion 1120.120 – Availability of Funds**

**To demonstrate compliance with this criterion the Applicants must document that the resources are available to fund the project.**

The Applicants are funding the project with cash of \$687,425 and the FMV of leased space in the amount of \$1,594,399. The lease is an operating lease<sup>2</sup> to be paid over the life of the facility. The Applicants provided an audited financial statement for DCC Holdings, LLC which shows that as of December 31, 2017 that the Applicants had over \$11 million in cash. The Applicants have sufficient resources to fund this project.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS (77 ILAC 1120.120)**

### **B) Criterion 1120.130 - Financial Viability**

**To document compliance with this criterion the Applicants must document that they have a Bond Rating of “A” or better, or they meet the State Board’s financial ratio standards for the past three (3) fiscal years or the project will be funded from internal resources.**

The Applicants are funding the project with cash of \$687,425 and the FMV of leased space in the amount of \$1,594,399. The Applicants stated that approximately 67% of the revenue for this facility will come from Medicare, 12% from Medicaid and the balance from commercial insurance (21%).

The Board Staff notes that Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. CMS implemented an ESRD Prospective Payment System (PPS). Under the new ESRD PPS, Medicare pays dialysis facilities a bundled rate per treatment. The rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate. However, there are a number of adjustments both at the facility and at patient-specific level that affects the final reimbursement rate each facility will receive. What a dialysis facility receives from its commercial payers will also vary. Even if two different dialysis providers billed the same

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<sup>2</sup> An operating lease is a contract that allows for the use of an asset but does not convey rights of ownership of the asset. An operating lease represents an off-balance sheet financing of assets, where a leased asset and associated liabilities of future rent payments are not included on the balance sheet of a company. In February 2016, the Financial Accounting Standards Board (FASB) revised rules governing lease accounting by requiring that all leases, except for short-term leases with terms less than a year, must be capitalized. The new rules become effective for public companies for their fiscal periods beginning on Dec. 15, 2018. Capitalizing all types of long-term leases is expected to have a significant effect on balance sheets of retail, airline, and hotel operating companies.

commercial payer the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payer from each individual provider.

With the submittal of the Financial Audit the Applicants have qualified for the financial waiver<sup>3</sup>.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION FINANCIAL VIABILITY (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**

To demonstrate compliance with these criteria the Applicants must document that leasing of the space is reasonable. The State Board considers the leasing of space as debt financing.

The Applicants are funding the project with cash of \$687,425 and the FMV of leased space in the amount of \$1,594,399. The operating lease is considered debt financing under current State Board rule. The term of the lease is for seven (10) years with two (2) five (5) year renewal options stated. The base rent is \$2.35 for the first year, with annual 3% increases through year ten. The lease terms appears reasonable.

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

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

To demonstrate compliance with this criterion the Applicants must document that the project costs are reasonable by meeting the State Board Standards in Part 1120 Appendix A.

Only Clinical Costs are reviewed in this criterion.

**New Construction and Contingencies Costs** are \$191,625 or \$27.37 per GSF for 7,000 GSF of clinical space. This appears reasonable when compared to the State Board Standard of \$286.54 per GSF, with 2019 listed as mid-point of construction.

**Contingencies** – These costs total \$16,625, and are 9.5% of the new construction costs identified for this project. This is in compliance with the State standard of 10%.

**Architectural Fees** are \$45,000 and are 23.4% of new construction and contingencies. This appears **high** when compared to the State Board Standard of 9.15% to 13.73%.

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Financial Viability Waiver

- 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.

**Movable or Other Equipment** – These costs are \$450,800 or \$32,200 per station (14 stations). This appears reasonable when compared to the State Board Standard of \$55,293 per station.

**Fair Market Value of Leased Space and Equipment** – These costs are \$1,594,399. The State Board does not have a standard for these costs.

The applicant has exceeded the State Board standard for Architectural Fees. A negative finding results for this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 ILAC 1120.140(c))**

**D) Criterion 1120.140(d) – Projected Operating Costs**

To demonstrate compliance with this criterion the Applicants must document that the projected direct annual operating costs for the first full fiscal year at target utilization but no more than two years following project completion. Direct costs mean the fully allocated costs of salaries, benefits and supplies for the service.

The Applicants are projecting \$243.44 operating expense per treatment.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION PROJECTED OPERATING COSTS (77 ILAC 1120.140(d))**

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

To demonstrate compliance with this criterion the Applicants must provide the total projected annual capital costs for the first full fiscal year at target utilization but no more than two years following project completion. Capital costs are defined as depreciation, amortization and interest expense.

The Applicants are projecting capital costs of \$6.72 per treatment.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS (77 ILAC 1120.140(e))**

## **SAFETY NET IMPACT STATEMENT**

The establishment of Dialysis Care Center Evergreen Park will not have any impact on safety net services in the Evergreen Park area. Outpatient dialysis facilities services are not typically considered or viewed as "safety net" services. As a result, the presence of Dialysis Care Center Evergreen Park as a provider is not expected to alter the way any other healthcare providers function in the community.

Dialysis Care Center Evergreen Park has no reason to believe that this project would have any adverse impact on any provider or health care system to cross-subsidize safety net services.

Dialysis Care Center Evergreen Park will be committed to providing ESRD services to all patients with or without insurance or patients to no regards for source of payment. Dialysis Care Center Evergreen Park will not refuse any patients. Medicaid patients wishing to be served at Dialysis Care Center Evergreen Park will not be denied services. Because of the Medicare guidelines for qualification for ESRD, a few patients with ESRD are left uninsured for their care.

The policy of Dialysis Care Center Evergreen Park is to provide services to all patients regardless of race, color, national origin. Dialysis Care Center Evergreen Park will provide services to patients with or without insurance, as well as to patients who may require assistance in determining source of payment. Dialysis Care Center will not refuse any patient. Medicaid patients wishing to be served will not be denied services. Through Medicare guidelines, patients who are prequalified for ESRD or for the few that are currently ESRD status and are left uninsured, Dialysis Care Center will be committed to providing continued care.

Dialysis Care Center Evergreen Park will be committed to work with any patient to try and find any financial resources and any programs for which they may qualify for. Dialysis Care Center will be an "open dialysis unit" meaning through our policy, any nephrologist will be able to refer their patients and apply for privileges to round at the facility, if they desire. Dialysis Care Center will participate in American Kidney Fund (AKF) to assist patients with insurance premiums which will be at no cost to the patient. Currently, as Dialysis Care Center Evergreen Park will be a new entity. There is no current charity documentation that can be provided to the board; however the charity policy has been provided.

The Applicants were asked to provide an update to concerns expressed at the April 17, 2018 State Board Meeting regarding their contract status with the following State of Illinois Managed Care Providers: *[Applicants response in Italics]*

### **For Option A – Statewide**

- Blue Cross Blue Shield of Illinois – *Yes, Contracted with both Medicaid and dual eligible*
- Harmony Health Plan – *Yes, submitted contracting application on 3/29/18; awaiting on approval from plan*
- IlliniCare Health Plan – *Yes, submitted contracting application on 3/26/18; awaiting on approval from plan*
- Meridian Health – *Yes, submitted contracting application on 3/28/18; awaiting on approval from plan*
- Molina Healthcare of IL – *Yes, submitted contracting application on 3/29/18; awaiting on approval from plan*

### **For Option B – Cook County Only**

- CountyCare Health Plan – *Yes, submitted contracting application on 5/7/18; awaiting on approval from plan*

- NextLevel Health. *Yes, submitted contracting application on 3/27/18; awaiting on approval from plan*

**For DCFS Youth**

- IlliniCare Health Plan – *N/A as we do not currently accept Pediatric patients*

Facility	City	Stations	Distance Miles	Utilization	Met Standard	Star Rating
Fresenius Kidney Care Evergreen Park	Evergreen Park	30	1.2	41.60%	No	NA
DaVita Little Village	Chicago	16	1.5	97.90%	Yes	1
DaVita Mt. Greenwood Dialysis	Chicago	16	1.8	90.60%	Yes	4
Fresenius Kidney Care	Merrionette Park	24	2.3	98.60%	Yes	4
Fresenius Kidney Care Southside	Chicago	39	2.9	79%	No	2
Dialysis Care Center Oak Lawn	Oak Lawn	11	2.9	77.20%	No	N/A
DaVita Beverly Dialysis	Chicago	16	3.2	87.50%	Yes	3
Fresenius Kidney Care Blue Island	Blue Island	28	4	69.60%	No	3
Fresenius Kidney Care Greenwood	Chicago	28	4.1	69.60%	No	N/A
Stony Creek Dialysis	Oak Lawn	14	4.3	100%	Yes	3
DaVita West Lawn Dialysis	Chicago	12	4.6	88.80%	Yes	4
US Renal Care Scottsdale	Chicago	36	4.7	54.60%	No	3
Fresenius Kidney Care Alsip	Alsip	20	4.9	68.30%	No	5
Fresenius Kidney Care Burbank	Burbank	26	5	69.80%	No	3
Fresenius Kidney Care Chatham	Chicago	16	5	94.70%	Yes	3
Fresenius Kidney Care Marquette Park	Chicago	16	5	97.90%	Yes	4
<b>Total Stations/Average Occupancy</b>		<b>348</b>		<b>80.36%</b>		
Dialysis Care Center Beverly	Chicago	14	2.2	0.0%*	No	N/A
DaVita Oak Meadows Dialysis	Oak Lawn	12	2.7	0.0%*	No	N/A
DaVita Auburn Park Dialysis	Chicago	12	3.4	0.0%*	No	N/A
Washington Heights Dialysis	Chicago	16	4	25%	No	N/A
Ford City Dialysis	Chicago	12	4.1	0.0%*	No	N/A
Fresenius Kidney Care	Chicago	16	3.4	18.7%*	No	N/A
		430		57.		

# 18-019 Dialysis Care Center Evergreen Park - Evergreen Park

