



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET ITEM: C-05	BOARD MEETING: December 4, 2018	EXEMPTION NUMBER: E-037-18
APPLICANT(S): DaVita Inc. and Strower Dialysis, LLC		
FACILITY NAME and LOCATION: Edgemont Dialysis, East St. Louis, Illinois		

STATE BOARD STAFF REPORT
RELINQUISHMENT OF EXEMPTION

I. Background

On January 9, 2018 the State Board approved the establishment of a 12-station ESRD facility in East St. Louis, Illinois at a cost of \$2,714,157 as Permit #17-040. The Applicants for Permit #17-040 are DaVita Inc. and Total Renal Care, Inc. a wholly owned subsidiary of DaVita Inc.

On July 24, 2018 the State Board approved a change of ownership for permit #17-040 which would change the operating entity to Strower Dialysis, LLC (#E-037-18). A change in the operating entity of a dialysis facility necessitates approval by the State Board. The members of Strower Dialysis, LLC will be Total Renal Care, Inc. (90%) and Bentley Midwest Dialysis, LLC (10%). DaVita Inc. will own 90% of the Strower Dialysis, LLC indirectly through Total Renal Care, Inc. and Felicia R. Bentley, M.D, will own 10% of Strower Dialysis, LLC indirectly through Bentley Midwest Dialysis, LLC.

On October 24, 2018 the State Board received notice that the proposed change of ownership could not go forward because DaVita's proposed joint venture partner decided it would not invest in the Edgemont Dialysis clinic. There are no other potential joint venture partners, so a joint venture for this clinic is no longer viable. Further, single member limited liability companies are considered disregarded entities¹ for tax filing and are not eligible to enroll in the Illinois Medicaid program. In order to ensure, Edgemont Dialysis can accept Medicaid patients, it needs to revert back to the original organizational structure with Total Renal Care, Inc. as the operating entity.

II. Relinquishment of an Exemption

The holder of an HFSRB exemption may request to withdraw that exemption. The relinquishment request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the exemption is considered null and void. Requests for relinquishment shall be considered only for

¹ An LLC is an entity created by state statute. Depending on elections made by the LLC and the number of members, the IRS will treat an LLC either as a corporation, partnership, or as part of the owner's tax return (a "disregarded entity"). Specifically, a domestic LLC with at least two members is classified as a partnership for federal income tax purposes unless it files Form 8832 and affirmatively elects to be treated as a corporation. And an LLC with only one member is treated as an entity disregarded as separate from its owner for income tax purposes (but as a separate entity for purposes of employment tax and certain excise taxes), unless it files Form 8832 and affirmatively elects to be treated as a corporation.

exemptions that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the exemption.

- a) **Relinquishment Procedure**
The permit holder shall notify HFSRB in writing, prior to the execution of the withdrawal of a project. The notice shall include:
 - 1) A description of the exemption and related costs;
 - 2) A detailed explanation of the reasons for relinquishment; and
 - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for relinquishment and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.
- c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
- d) Decisions on requests for relinquishment shall be transmitted in writing to the exemption holder.
- e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- f) A request for relinquishment shall be assessed an application-processing fee of \$1,000 (see Section 1130.230(h)(8)(B)).

III. Conclusion

The exemption holder has met all of the requirements of 77 ILCS 580 Relinquishment of an Exemption.