



STATE OF ILLINOIS  
**HEALTH FACILITIES AND SERVICES REVIEW BOARD**

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<b>DOCKET ITEM:</b> C-04	<b>BOARD MEETING:</b> July 24, 2018	<b>EXEMPTION NUMBER:</b> E-038-18
<b>EXEMPTION APPLICANT(S):</b> DaVita Inc. and Nahant Dialysis, LLC		
<b>FACILITY NAME and LOCATION:</b> Northgrove Dialysis, Highland, Illinois		

**STATE BOARD STAFF REPORT**  
**CHANGE OF OWNERSHIP EXEMPTION REQUEST**

**I. The Exemption Application**

The Applicants propose a change of ownership (related party) of a health care facility Northgrove Dialysis a 12-station end stage renal dialysis facility located at 2491 Industrial Drive, Highland, Illinois (#E-038-18). The Applicants are DaVita Inc. and Nahant Dialysis, LLC. The operating entity is Nahant Dialysis, LLC and the owner of the site is Kunkel Commercial Group, Inc. The fair market value of the transaction is \$3,028,696. The anticipated project completion date is July 31, 2019.

This exemption application was called complete on **June 27, 2018**.

The exemption is before the State Board because the transaction is a change in control of a health care facility resulting in a change in the operating entity.

**II. Background**

Northgrove Dialysis was approved by the State Board as Permit #17-049 in April of 2018 to establish a 12-station dialysis facility in Highland Park, Illinois. Total Renal Care, Inc. was approved as the operating entity of Northgrove Dialysis at that time. The Applicants are now proposing to transfer the assets from Total Renal Care, Inc. to Nahant Dialysis, LLC. This transaction is being done to allow for joint venture partners to invest in the dialysis clinic. At the conclusion of the transaction Nahant Dialysis, LLC will be the operating entity and the owner of the site will remain Kunkel Commercial Group, Inc. Permit #17-049 has been financially obligated with the execution of the lease for the premises.

The Applicants provided an explanation why the operating entity was not established at the time of the approval of the Application for Permit.

*“As DaVita plans its new clinics, it works with a real estate broker to identify sites. Once that work comes to fruition and a feasible location is identified for a new clinic location, the landlord is eager to secure a tenant since it takes the real estate off the market while the CON application is pending. Therefore, DaVita files as quickly as possible following completion of a real estate lease letter of intent. Setting up different operating entity, that continues to be controlled by DaVita, is sometimes part of the plan but to move the process forward so as to minimize the risk of losing the site, DaVita filed these applications prior to setting up the operating entities. Before setting up an LLC, DaVita also needs to be clear that the planned joint venture party is committed to ownership of the planned clinic. DaVita cannot operate a single member LLC due to Medicaid enrollment issues so until that partner has committed, the arrangement remains in a wholly owned subsidiary of DaVita. A single member entity is a disregarded entity under HFS rules and cannot separately enroll.”*

### III. **Applicable Rules**

The Illinois Health Facilities Planning Act defines a change of ownership as

“. . . a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change in ownership is indicated by the following transactions: sale, transfer, acquisition, lease, change of sponsorship or other means of transferring control.”

"Related person" means any person that: (i) is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or (ii) owns, directly or indirectly, at least 50% of the health care facility.”

“Where a change of ownership is among related persons, and there are no other changes being proposed at the health care facility that would otherwise require a permit or exemption under this Act, the applicant shall submit an application consisting of a standard notice in a form set forth by the Board briefly explaining the reasons for the proposed change of ownership. Once such an application is submitted to the Board and reviewed by the Board staff, the Board Chair shall take action on an application for an exemption for a change of ownership among related persons within 45 days after the application has been deemed complete, provided the application meets the applicable standards under this Section,” [20 ILCS 3960/8.5]

The State Board's rule (77 IAC 1130.500 & 77 ILAC 1130.520) specifies the requirements necessary for a change of ownership exemption application to be filed with the State Board. The State Board may, by rule, delegate authority to the Chairman to grant permits or exemptions when applications meet all of the State Board's review criteria and are unopposed [20 ILCS 3960/5].

An exemption shall be approved when information required by the Board by rule is submitted [20 ILCS 3960/6].

**The State Board Staff Notes:** No support or opposition letters were submitted and there was no request for a public hearing. All of the requirements of the State Board have been met.

**STATE BOARD STAFF FINDS THE EXEMPTION FOR CHANGE OF OWNERSHIP IN CONFORMANCE WITH CRITERIA (77 ILAC 1130.500 & 77 ILAC 1130.520)**