



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: C-04	BOARD MEETING: October 22, 2019	PROJECT NO: E-042-19	PROJECT COST:
FACILITY NAME: Marion Dialysis		CITY: Marion	Original: \$0
TYPE OF PROJECT: Substantive			HSA: V

PROJECT DESCRIPTION: The Applicants (DaVita Inc. and Renal Life Link, Inc.) propose to discontinue a 13-station ESRD facility in Marion, Illinois. There is no cost to this project. The anticipated completion date is October 23, 2019.

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STATE BOARD STAFF REPORT

Marion Dialysis

EXECUTIVE SUMMARY

PROJECT DESCRIPTION

- The Applicants (DaVita Inc. and Renal Life Link, Inc.) propose to discontinue a 13-station ESRD facility in Marion, Illinois. There is no cost to this project. The anticipated completion date is October 23, 2019.

BACKGROUND:

- Public Act 101-0083 effective July 15, 2019 amended the Illinois Health Facilities Planning Act and required the discontinuation of a health care facility be submitted as an Application for Permit. This amendment required the State Board to determine if there was a need for the discontinuation. Previously a discontinuation of a health care facility was submitted as an exemption and the State Board had to approve the discontinuation if all the information required by the State Board had been submitted. Evidence of need was not required for an exemption.
- This application for discontinuation was submitted as an exemption after the effective date of the Public Act 101-0083. Rather than have the Applicants resubmit the material on the certificate of need application Board Staff accepted the submittal and have reviewed the submittal as a certificate of need application. Any additional questions submitted by the Board Staff to the Applicants have been appropriately addressed. The fee for a discontinuation submitted as an exemption or as a certificate of need is the same \$2,500.

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The proposed project is before the State Board because the project discontinues a health care facility (20 ILCS 3960/8.7).

PUBLIC HEARING/COMMENT:

- No public hearing was requested, and no letters of support or opposition were received by the State Board.

SUMMARY:

- The Applicants have met all the requirements of the State Board.

STATE BOARD STAFF REPORT
Project #E-044-19
DaVita Marion Dialysis

APPLICATION/ CHRONOLOGY/SUMMARY	
Applicants(s)	DaVita Inc., Renal Life Link, Inc.
Facility Name	Marion Dialysis
Location	324 South Fourth Street, Marion, Illinois
Exemption Holder	DaVita Inc., Renal Life Link, Inc.
Operating Entity	Renal Life Link, Inc.
Owner of Site	Steven J. Zelman, M.D.
Application Received	08/30/2019
Anticipated Completion Date	October 23, 2019

I. Project Description

The Applicants (DaVita Inc., and Renal Life Link, Inc.) propose to discontinue a 13-station ESRD facility. There is no cost to this project and the expected completion date is October 23, 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. 77 ILAC 1120 (Part 1120) is not applicable for projects that have no cost.

III. General Information

The Applicants are DaVita Inc. and Renal Life Link, Inc. DaVita Inc., a Fortune 500 company, is the parent company of Renal Life Link, Inc. DaVita Inc. provides kidney dialysis services through a network of 2,664 outpatient dialysis centers in the United States, serving 202,700 patients, and 241 outpatient dialysis centers in other countries. DaVita operates in 45 states and the District of Columbia. The five states where DaVita is not located are: Alaska, Delaware, Mississippi, Vermont, and Wyoming. DaVita serves patients with low incomes, racial and ethnic minorities, women, handicapped persons, elderly, and other underserved persons in its facilities in the State of Illinois.

This project is subject to a Part 1110 review only.

IV. Health Service Area

Marion Dialysis is the HSA V ESRD Planning Area. As of September 2019, there is a calculated excess of 20 ESRD stations in this planning area. HSA V includes the geographic service area that includes the Illinois Counties of Alexander, Bond, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, and Williamson.

V. Background of the Applicants

A) Criterion 1110.110(a) - Background of the Applicant

To address this criterion the applicants must provide a list of all facilities currently owned in the State of Illinois and an attestation documenting that no adverse actions¹ have been taken against any applicant's facility by either Medicare or Medicaid, or any State or Federal regulatory authority during the 3 years prior to the filing of the Application with the Illinois Health Facilities and Services Review Board or a certified listing of adverse action taken against any applicant's facility; and authorization to the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of the application for permit.

1. A listing of DaVita Dialysis Facilities in Illinois has been provided at pages 44-48 of the Application for Permit. DaVita has 120 ESRD facilities in the State of Illinois. Average CMS Star Rating² for the Illinois DaVita facilities that have the necessary data to compile a rating is 3.9.
2. The Applicants provided the necessary attestation that no adverse action has been taken against any facility owned or operated by the Applicants and authorization allowing the State Board and IDPH access to all information to verify information in the Application for Permit. DaVita has had no history of decertification of its facilities in Illinois. [Application for Permit page49]
3. Neither the Centers for Medicare and Medicaid Services nor the Illinois Department of Public Health ("IDPH") has taken any adverse action involving civil monetary penalties or restriction or termination of participation in the Medicare or Medicaid programs against any Illinois health care clinics owned or operated by the Applicants. directly or indirectly, within three years preceding the filing of this application. [Application for Permit page 68]
4. Organizational relationships can be found at pages 32-33 of the Application for Permit.
5. A Certificate of Good Standing has been provided as required for Renal Life Link, Inc., as a foreign entity with permission to transact business in the State of Illinois. An Illinois Certificate of Good Standing is evidence that an Illinois business franchise (i.e. Illinois Corporation, LLC or LP) is in existence, is authorized to transact business

¹ "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)

² CMS Star Rating system is a rating system developed by Medicare that assigns 1 to 5 stars to dialysis facilities by comparing the health of the patients in their clinics to the patients in other dialysis facilities across the country. Each dialysis center is graded on nine separate health statistics. These include: mortality ratios (deaths), hospitalizations, blood transfusions, incidents of hypercalcemia (too much calcium in the blood), percentage of waste removed during hemodialysis in adults and children, percentage of waste removed in adults during peritoneal dialysis, percentage of AV fistulas, percentage of catheters in use over 90 days. Causes of death and reasons for hospitalization may not necessarily be related to the care at a dialysis facility. The statistics merely represent how many patients who attend that facility died or were hospitalized. Based on these nine statistics, each facility is given a summary rating of 1 to 5 stars. In addition, each facility is graded on a curve and ranked against one another nationwide. This results in clinics being rated in a bell-shaped curve where about 30% of facilities receive only one or two stars, 40% receive 3 stars, and 30% receive 4 or 5 stars. In theory, it's possible that every facility in a bell-shaped curve might deliver good or excellent care. [source: National Kidney Foundation]

in the state of Illinois and complies with all state of Illinois business requirements and therefore is in "Good Standing" in the State of Illinois. [Application for Permit page 31]

VI. Discontinuation

A) Criterion 1110.290 - Discontinuation

These criteria pertain to the discontinuation of categories of service and health care facilities.

a) *Information Requirements – Review Criterion*

The applicant shall provide at least the following information:

- 1) *Identification of the categories of service and the number of beds, if any, that are to be discontinued;*
- 2) *Identification of all other clinical services that are to be discontinued;*
- 3) *The anticipated date of discontinuation for each identified service or for the entire facility;*
- 4) *The anticipated use of the physical plant and equipment after discontinuation occurs;*
- 5) *The anticipated disposition and location of all medical records pertaining to the services being discontinued and the length of time the records will be retained;*
- 6) *For applications involving discontinuation of an entire facility, certification by an authorized representative that all questionnaires and data required by HFSRB or the Illinois Department of Public Health (IDPH) (e.g., annual questionnaires, capital expenditures surveys, etc.) will be provided through the date of discontinuation and that the required information will be submitted no later than 60 days following the date of discontinuation.*

b) *Reasons for Discontinuation – Review Criterion*

The applicant shall document that the discontinuation is justified by providing data that verifies that one or more of the following factors (and other factors, as applicable) exist with respect to each service being discontinued:

- 1) *Insufficient volume or demand for the service;*
- 2) *Lack of sufficient staff to adequately provide the service;*
- 3) *The facility or the service is not economically feasible, and continuation impairs the facility's financial viability;*
- 4) *The facility or the service is not in compliance with licensing or certification standards.*

c) *Impact on Access – Review Criterion*

The applicant shall document whether the discontinuation of each service or of the entire facility will have an adverse impact upon access to care for residents of the facility's market area. The facility's market area, for purposes of this Section, is the established radii outlined in 77 Ill. Adm. Code 1100.510(d). Factors that indicate an adverse impact upon access to service for the population of the facility's market area include, but are not limited to, the following:

- 1) *The service will no longer exist within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the applicant facility;*
- 2) *Discontinuation of the service will result in creating or increasing a shortage of beds or services, as calculated in the Inventory of Health Care Facilities, which is described in 77 Ill. Adm. Code 1100.70 and found on HFSRB's website;*
- 3) *Facilities or a shortage of other categories of service at determined by the provisions of 77 Ill. Adm. Code 1100 or other Sections of this Part.*
- 4) *The applicant shall provide copies of notification letters sent to other resources or health care facilities that provide the same services as those proposed for discontinuation and that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d). The notification letter must include at least the anticipated date of discontinuation of the service and the total number of patients that received care, or the number of treatments provided (as applicable) during the latest 24-month period.*

The Applicants propose to discontinue a 13-station ESRD facility in Marion, Illinois. The facility is expected to close on October 23, 2019 after Board approval. The facility is in leased space; therefore, the Applicants have no control over the use of the vacated space.

The Applicants determined the clinic is no longer viable because of the low census at the facility. The Applicants stated *“The care of existing patients will be transferred to either Fresenius' Marion clinic or DaVita's clinic in Benton. Both clinics are currently underutilized, and the influx of patients will allow these clinics to operate closer to the State Board's 80% utilization standard. Currently, there is an excess of 29 stations in HSA 5. The closure of Marion Dialysis will reduce the inventory of stations in the planning area to a level closer to the State Board's calculated need.”*

The Applicants believe the closure of Marion Dialysis will not affect access to in-center dialysis services in the planning area. As of September 2019, there is currently an excess of 20 stations in HSA V ESRD Planning Area. The closure of Marion Dialysis will reduce that excess to 7 stations. There are four dialysis clinics within the Marion Dialysis 19-mile GSA. As of June 30, 2019, average utilization of these clinics was 62.7%, with no clinic meeting the State Board's 80% utilization standard.

TABLE ONE
Facilities within the 19-mile GSA

Facilities	Ownership	City	Stations	Miles	March	June
Renal Life Link d/b/a Marion Dialysis	DaVita	Marion	13	0	33.33%	35.90%
BMA - Williamson County	Fresenius	Marion	14	2.9	73.81%	75.00%
BMA - Carbondale	Fresenius	Carbondale	24	14.3	60.42%	61.81%
Nephroplex Dialysis of Benton	DaVita	Benton	13	19.1	48.72%	51.28%
Average Utilization					61.2%	62.7%

Patients from Marion Dialysis will transfer to either Fresenius' Marion clinic or DaVita's clinic in Benton. Collectively, both clinics can accommodate Marion Dialysis' 28 patients. The Applicants do not believe the discontinuation of Marion Dialysis will not adversely affect patient access to dialysis in Marion and the surrounding communities.

Notification letters were sent to all providers within the 19-mile geographical service area notifying the providers of the discontinuation and what if any impact the discontinuation will have on their facility.

**TABLE TWO
ESRD Facilities in HSA V Planning Area**

Facilities	Ownership	City	Stations	Miles	Utilization	
					March	June
Renal Life Link d/b/a Marion Dialysis	DaVita	Marion	13	0	33.33%	35.90%
BMA - Williamson County	Fresenius	Marion	14	2.9	73.81%	75.00%
BMA - Carbondale	Fresenius	Carbondale	24	14.3	60.42%	61.81%
Nephroplex Dialysis of Benton	DaVita	Benton	13	19.1	48.72%	51.28%
BMA - Saline County Harrisburg	Fresenius	Harrisburg	18	26.2	48.15%	47.22%
FMC Dialysis Services - DuQuoin	Fresenius	DuQuoin	13	37.3	48.72%	47.44%
Nephroplex Dialysis of Mt. Vernon	DaVita	Mount Vernon	16	44.1	54.17%	56.25%
Fresenius Medical Care of Metropolis	Fresenius	Metropolis	8	47.8	70.83%	62.50%
BMA - Randolph County	Fresenius	Chester	8	55	60.42%	58.33%
Nephroplex Dialysis of Centralia	DaVita	Centralia	12	64	84.72%	75.00%
Wayne County Dialysis	DaVita	Fairfield	8	81	39.58%	37.50%
Davita Red Bud Dialysis	DaVita	Red Bud	8	90	37.50%	35.42%
Vandalia Dialysis	DaVita	Vandalia	8	100	52.08%	54.17%
GAMBRO Healthcare - Effingham	DaVita	Effingham	16	109	48.96%	51.04%
Olney Dialysis Unit Olney	DaVita	Olney	7	116	80.95%	76.19%
Robinson Dialysis	DaVita	Robinson	9	152	55.56%	57.41%
Total Stations			195			

VII. Safety Net

The Applicants stated the following:

“The discontinuation of Marion Dialysis will not impact the ability of other health care providers or health care systems to cross-subsidize safety net services. All patients of Marion Dialysis will transfer to either to Fresenius' dialysis clinic in Marion or DaVita's clinic in Benton which have similar patient acceptance policies.

The discontinuation of Marion Dialysis will not impact safely net providers in the community. Excluding Marion Dialysis, there are three dialysis clinics within the Marion Dialysis GSA. Collectively, these clinics operate at 62.7%, with no clinic meeting the State Board's 80% utilization standard. Collectively, they have sufficient capacity to accommodate Marion Dialysis' patients.”

Charity and Medicaid Information for the DaVita Illinois Facilities.

TABLE THREE
Charity Care and Medicaid Information for Illinois DaVita Dialysis Facilities

	2016	2017	2018
Net Patient Revenue	\$353,226,322	\$357,821,315	\$394,665,498
Amt. of Charity Care (charges)	\$2,400,299	\$2,818,603	\$2,711,788
Cost of Charity Care	\$2,400,299	\$2,818,603	\$2,711,788
% of Charity Care/Net Patient Revenue	0.68%	.78%	.69%
Number of Charity Care Patients (self-pay)	110	98	128
Number of Medicaid Patients	297	407	298
Medicaid Revenue	\$4,692,716	\$9,493,634	\$7,951,548
% of Medicaid to Net Patient Revenue	1.33%	2.65%	2.01%

1. The Applicants do not define charity care per the Illinois Health Facilities Planning Act. "Charity Care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer." [20 ILCS 3960/3] For profit entities do not have charity care. These costs are considered a bad debt expense.

VIII. Statute

Health Facilities Planning Act (20 ILCS 3960/8.7)

Application for permit for discontinuation of a health care facility or category of service; public notice and public hearing.

- (a) Upon a finding that an application to close a health care facility or discontinue a category of service is complete, the State Board shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on 3 consecutive days. The legal notice shall also be posted on the Health Facilities and Services Review Board's website and sent to the State Representative and State Senator of the district in which the health care facility is located. In addition, the health care facility shall provide notice of closure to the local media that the health care facility would routinely notify about facility events.
- (b) No later than 30 days after issuance of a permit to close a health care facility or discontinue a category of service, the permit holder shall give written notice of the closure or discontinuation to the State Senator and State Representative serving the legislative district in which the health care facility is located.
- (c) If there is a pending lawsuit that challenges an application to discontinue a health care facility that either names the Board as a party or alleges fraud in the filing of the application, the Board may defer action on the application for up to 6 months after the date of the initial deferral of the application.

(d) The changes made to this Section by this amendatory Act of the 101st General Assembly shall apply to all applications submitted after the effective date of this amendatory Act of the 101st General Assembly.

E-042-19 DaVita Marion Dialysis - Marion

