

E-007-14

**NORTHWESTERN MEDICAL FACULTY FOUNDATION  
DIALYSIS CENTER, LLC**

March 18, 2014

**RECEIVED**

**VIA FEDEX**

**MAR 19 2014**

Mr. Michael Constantino  
c/o Illinois Health Facilities and  
Services Review Board  
525 West Jefferson  
Springfield, IL 62761

**HEALTH FACILITIES &  
SERVICES REVIEW BOARD**

RE: Northwestern Medical Faculty Foundation  
Dialysis Center, LLC

Dear Mr. Constantino:

Please accept the following in response to your recent request.

1. It is affirmed that Northwestern Medical Faculty Foundation Dialysis Center, LLC ("NMFFDC") will provide chronic renal dialysis as its sole IDPH-designated category of service and that the number of dialysis stations identified in the IDPH's *Inventory* will not substantially change for a minimum of 12 months following the project's completion date.
2. It is affirmed that Northwestern Memorial HealthCare ("NMHC") or a subsidiary thereof intends to maintain control of NMFFDC through its majority ownership position for a minimum of three years.
3. It is affirmed that any projects for which Certificate of Need or Certificate of Exemption Permits have been issued have been obligated, completed, or will be completed or altered in accordance with the provisions Section 1130.520.
4. It is affirmed that failure to complete the project in accordance with the applicable provisions of Section 1100.500(d) no later than 24 months from the date of exemption approval (or by a later date established by HFSRB upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of Section 1130.520 will invalidate the exemption.

Project #12-099, proposing the establishment of a 36-station in-center dialysis facility on the NMHC Medical Center campus in Chicago, was approved by the HFSRB on March 26, 2013. Project #12-099 was obligated, consistent with IHFSRB rules, on August 27, 2013.

Project #12-099's sole applicant was, and subsequent Permit Holder is Northwestern Medical Faculty Foundation Dialysis Center, LLC ("the LLC"). Northwestern Medical Faculty Foundation ("NMFF") held/holds an 80% interest in the LLC. On September 1, 2013, NMFF

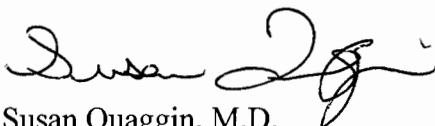
(now doing business as Northwestern Medical Group, or NMG) became a wholly owned subsidiary of Northwestern Memorial HealthCare ("NMHC") pursuant to a clinical affiliation agreement by and between NMHC and NMFF. As a result, and consistent with technical assistance discussions with IHFSRB staff, NMHC is the sole corporate member of NMFF d/b/a NMG, resulting in "ultimate control" over the LLC, necessitating a change of ownership application.

NMFF's potential acquisition by NMHC was generally known, and noted by HFSRB Staff at the time of the March 26, 2013 hearing and subsequent approval of Project #12-099.

Following approval of Project #12-099, on May 6, 2013, Fresenius Medical Care Holdings, Inc. and Dialysis Centers of America-Illinois, Inc. ("Fresenius") sued the Illinois Health Facilities and Services Review Board, Northwestern Medical Faculty Foundation Dialysis Center, LLC, Northwestern Medical Faculty Foundation, and Ambulatory Services of America, Inc., in the Circuit Court of Cook County, Chancery Division, seeking administrative review of the decision of the Illinois Health Facilities and Services Review Board ("State Board") to approve the LLC's application for a permit to establish a 36-station end stage renal dialysis facility. The complaint requested that the Court reverse the decision of the State Board, reverse the permit issued in connection with the project, direct that the State Board compile, certify and file with the Clerk of the Court the complete record of proceedings, and grant other relief as the Court deems appropriate. The parties filed briefs and the Honorable Peter Flynn, Judge of the Circuit Court of Cook County, after hearing extensive oral arguments on October 3, 2013, upheld the decision of the State Board. Fresenius filed its notice of appeal in the Appellate Court of Illinois, First Judicial District, on October 31, 2013. The appeal is still pending and briefs have not yet been filed.

The LLC, consistent with HFSRB rules, elected to proceed with the establishment of the approved ESRD facility, and anticipates Project #12-099 to be completed consistent with its Permit. Technical assistance conferences have been conducted between representatives of the Permit Holder and HFSRB staff concerning, among other issues, the timing of the filing of the Change of Ownership Certificate of Exemption application, as related to the ongoing judicial appeals of the HFSRB's approval of Project # 12-099. Because of the protracted appeal process, the decision has been made to proceed with the COE's application preparation and filing processes at this time.

Sincerely,



Susan Quaggin, M.D.  
President

303 E. Superior Street  
Suite 10-109  
Chicago, IL 60611

Cc: Jack Axel