

Constantino, Mike

From: Lori Wright [Lori.Wright@fmc-na.com]
Sent: Tuesday, April 19, 2011 4:28 PM
To: Constantino, Mike
Cc: Michelle Wiest; Brian Brandenburg; Simon Castellanos; Julie Hawkins; clare.ranalli@hklaw.com
Subject: #11-010
Attachments: #11-010 Opposition.pdf

Mike,

Please see attached communication in regards to #11-010.

*Thank you,
Lori Wright
Senior CON Specialist*

*Phone: 708-498-9121
Fax: 708-498-9334*

*Fresenius Medical Care
One Westbrook Corporate Center
Tower One, Suite 1000
Westchester, IL 60154*



Fresenius Medical Care

April 19, 2011

Via Electronic Mail & UPS Overnight

Ms. Courtney Avery
Administrator
Illinois Health Facilities and Services Review Board
525 W. Jefferson, 2nd Floor
Springfield, IL 62716

Re: Opposition to #11-010, DaVita Barrington Creek

Dear Ms. Avery:

While Fresenius Medical Care generally does not oppose other dialysis provider's CON applications, we feel it is necessary at this time to formally oppose project #11-010, DaVita Barrington Creek on several substantiated grounds. We feel that there is no need for the project at this time, and that it will negatively impact area facilities. We also question the pre-ESRD patient information used to support the DaVita Barrington Creek CON.

1. Need

There is currently no documented need for a new facility in Barrington Creek, as there is an excess of 35 stations in HSA 8. We recognize that Fresenius Medical Care and other providers often maintain that, despite an excess number of stations, there is a need in some part of an HSA due to the distribution of existing facilities, patient/population demographics, transportation issues, or population growth. Those factors are not present here.

Although the Board approved the original DaVita Barrington Creek, #09-036, application on January 12, 2010, this is not the same application, and there is no continuing need for a facility in Barrington Creek. Since January 12, 2010, the Board has approved an additional 40 ESRD stations at locations within 30 minutes of the proposed site for DaVita Barrington Creek, #11-010, as indicated in the chart below. In addition, the current Barrington Creek application is supported by a different physician group, and the pre-ESRD patients supporting this application are not the same 42 patients identified in the original DaVita Barrington Creek application. Those 42 patients did not reside near Barrington and appear to have been absorbed in other underutilized area facilities. As discussed further below, we have several concerns about the pre-ESRD patients used to support the new DaVita Barrington Creek application.

Fresenius Medical Services ♦ Dialysis Services

One Westbrook Corporate Center, Suite 1000 Westchester, IL 60154 708-562-0371 Fax: 708-498-9283

Stations Approved Within 30 Minutes of DaVita Barrington Creek since January 12, 2010

Facility	Address	City	Zip Code	MapQuest		MapQuest Adjusted	Newly Approved Stations
				Miles	Time		
Fresenius Palatine	691 E. Dundee Road	Palatine	60074	9.57	16	18.4	+12
DaVita Crystal Springs	720 Cog Circle	Crystal Lake	60014	6.86	12	13.8	+6
ARA Crystal Lake	6220 Northwest Highway	Crystal Lake	60014	8.32	15	17.25	+7
ARA South Barrington	33 W. Higgins Road	South Barrington	60010	11.26	18	20.7	+3
Fresenius Mundelein	1400 Townline Road	Mundelein	60060	15.3	23	26.45	+12
						Total	40

DaVita contends throughout its application that there is a "High (80.1%) occupancy of dialysis stations currently operating in the market area." However, the utilization rate drops to 61.05% if the **actual approved** stations, as opposed to those currently operating, are considered. According to December 31, 2010 patient data used in DaVita's application, the utilization for facilities in the 30-minute travel zone would be as reflected below using the approved stations (some of which are already operating and awaiting certification), and 202 additional ESRD patients could be accommodated within this 30-minute travel radius before all facilities would reach 80% target utilization. We realize that the CON applications for the newly approved stations identified estimated patient referrals to bring them to 80% capacity, but we suspect that some of those same patients have been used to support DaVita's application, and the capacity exists at older facilities as well as newly constructed ones.

Facilities within 30 minutes travel time of DaVita Barrington Creek

Facility	Address	City	Zip Code	MapQuest		MapQuest Adjusted	Stations	As of December 31, 2010		
				Miles	Time			Patients	Capacity	Occupancy
DaVita Crystal Springs	720 Cog Circle	Crystal Lake	60014	6.86	12	13.8	12	18	72	25.00%
ARA Crystal Lake	6220 Northwest Highway	Crystal Lake	60014	8.32	15	17.25	16	52	96	54.17%
Fresenius Palatine	691 E. Dundee Road	Palatine	60074	9.57	16	18.4	12	0	72	0.00%
Fresenius Hoffman Estates	3150 W. Higgins Road	Hoffman Estates	60195	10.58	18	20.7	17	112	102	109.80%
ARA South Barrington	33 W. Higgins Road	South Barrington	60010	11.26	18	20.7	14	48	84	57.14%
DSI Buffalo Grove	1291 W. Dundee Road	Buffalo Grove	60089	13.05	20	23	16	58	96	60.42%
Fresenius Rolling Meadows	4180 Winnetka Avenue	Rolling Meadows	60008	11.29	22	25.3	24	97	144	67.36%
Fresenius Mundelein	1400 Townline Road	Mundelein	60060	15.3	23	26.45	12	0	72	0.00%
ORC Carpentersville	2203 Randall Road	Carpentersville	60110	15.34	23	26.45	13	72	78	92.31%
Fresenius Round Lake	401 W. Nippersink	Round Lake	60073	16.75	23	26.45	16	85	96	88.54%
DaVita Cobblestone	836 Dundee Road	Elgin	60120	15.08	26	29.9	14	61	84	72.62%
Fresenius McHenry	4312 W. Elm Street	McHenry	60050	15.46	26	29.9	12	49	72	66.06%
Totals							178	652	1,068	61.05%

2. Adverse Impact on Area Facilities

We also believe that approval of the Barrington Creek facility would have an adverse impact on the Fresenius Palatine facility. Fresenius Medical Care Palatine, #09-058, was permitted by the Board on January 12, 2010. The Palatine application was supported by the same physician group supporting the Barrington Creek application. We are concerned that there are not enough pre-ESRD patients in the overlapping service area to support both the Palatine and Barrington Creek facilities.

In the Barrington Creek application, the referring physicians certify that they would refer 33 patients who live in Palatine zip code 60067 to Barrington. Conversely, in the Palatine application, the group indicated they would refer 34 patients from Barrington zip code 60010 to Palatine for dialysis. The proposed Barrington facility is almost 20 minutes from the Palatine facility. We question whether these patients will be referred to a facility 20 minutes away, if there is availability in a facility in the patient's own town where their physicians could see them, and are concerned that approval of the Barrington Creek application may result in underutilization of the Fresenius Palatine facility.

3. Pre-ESRD Data

The Fresenius Palatine facility began operations on March 28, 2011 and is expected to be Medicare certified by August 2011. The proposed DaVita Barrington facility is projected to open on December 28, 2011 and be Medicare certified by March 2012. There is a gap of approximately 7 months between the dates each facility is expected to be Medicare certified. Given this short amount of time, it is reasonable that many of the patients identified for each facility were projected to require dialysis services at the same time, and we are concerned that the same patient data for three zip codes may have inadvertently been used to support both applications

In its October 2009 letter in support of the Palatine CON application, the physician group identified 82 patients in these three zip codes that they believed would begin dialysis between the end of 2011 and the end of 2013. As of February 2011, in its letter in support of the Barrington CON application, the group identified 62 patients in those same zip codes who would begin dialysis in nearly the same time frame. This would equate to roughly a 57% growth of pre-ESRD patients, to a total of 144, for these three zip codes in 16 months. The patient population and incidence of ESRD in these zip codes does not reflect this type of growth historically.

**Comparison of Certified Patient Referrals for
Fresenius Palatine & DaVita Barrington Creek**

City	Zip Code	Patients Identified For Palatine #09-058	Patients Identified For Barrington Creek #11-010
Barrington	60010	34	20
Lake Zurich	60047	13	9
Palatine	60067	35	33
Totals		82	62
Grand Total 144			

Finally, as can be seen on the map below, the physician group submitting physician referral information for Barrington Creek also supported the CON applications for 3 other facilities within a ten mile radius of this proposed facility. Two of these facilities, Fresenius Elgin and Palatine have just begun operations and will not be certified for 5 more months. The other, DaVita Crystal Springs, was just approved to relocate and add 6 ESRD Stations. We are

