



Fresenius Medical Care

June 6, 2011

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

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

Re: Opposition to #11-016, ARA McHenry Dialysis Center

Dear Ms. Avery:

I am writing on behalf of Fresenius Medical Care in opposition of project #11-016, ARA McHenry Dialysis Center. We feel that 1) there is no need for this particular project, 2) that it will negatively impact Fresenius Medical Care McHenry & Round Lake and 3) that there are technical errors/omissions that require addressing in order to comply with Board rules.

Need

There is currently an excess of 35 stations in HSA 8. Fresenius Medical Care often comes before the Board, as do other providers, with projects in service areas with a computed excess of stations and believe there is often a need in some parts of an HSA due to the distribution of existing facilities, patient/population demographics, transportation issues as well as other deciding factors such as population growth. However, due to the selected site/market area identified for the ARA McHenry facility, there is not a documented need for a new facility.

In its application, ARA states, "*The potential availability is only in those facilities that are newly permitted projects that are still being completed*". As can be seen in the chart below, there is current availability less than 5 minutes away from the ARA McHenry site, at Fresenius Medical Care McHenry, currently operating at 62.5% utilization with room for expansion when utilization makes it necessary. DaVita Lake Villa is also an established facility operating at only 44.44% utilization and has availability. Overall the facilities within thirty minutes are operating at 63.79% utilization as of the 1st quarter 2011 Renal Network data. These facilities can accommodate another 79 patients before reaching 80% utilization, still leaving room for another 97 patients before reaching capacity. These figures do not account for normal patient losses that occur in dialysis facilities yearly, leaving room for even more additional patients.

Facilities Within 30 Minutes Travel Time of ARA McHenry - Per #11-016

| Facility | City | Stations | MapQuest | | Adjusted Time | Patients | Utl 3/31/2011 |
|------------------------|-----------------|-----------|----------|------|---------------|------------|---------------|
| | | | Miles | Time | | | |
| Fresenius McHenry | McHenry | 12 | 1.76 | 4 | 4.6 | 45 | 62.50% |
| DaVita Crystal Springs | Crystal Lake | 12 | 4.05 | 5 | 5.75 | 32 | 44.44% |
| ARA Crystal Lake | Crystal Lake | 16 | 8.26 | 14 | 16.1 | 52 | 54.17% |
| Fresenius Round Lake | Round Lake | 16 | 12.43 | 20 | 23 | 78 | 81.25% |
| Quality Renal Care | Carpentersville | 13 | 16.04 | 22 | 25.3 | 71 | 91.03% |
| DaVita Lake Villa | Lake Villa | 12 | 13.22 | 22 | 25.3 | 32 | 44.44% |
| | | 81 | | | | 310 | 63.79% |

Adverse Impact on Fresenius Medical Care McHenry and Round Lake

There are several reasons for concern regarding the impact ARA McHenry would have on the Fresenius McHenry facility. One is its proximity. It is only 1.76 miles driving distance between Fresenius McHenry and the proposed ARA facility. This may not be an issue if the Fresenius facility was operating above target utilization; however it is only at 62.50% utilization and 11 of the 45 patients, 24%, are treated by Dr. Zahid.

It appears the ARA facility would pose an imminent threat to the Fresenius facility due to Dr. Zahid's intentions as stated several times in the application, "*It is my desire to consolidate my in-center practice to approximately half the number of centers that I currently visit*". (This statement is also found in #10-046, the ARA Crystal Lake expansion CON.) Page 43 of the McHenry application further states that "*The nephrologists currently have approximately 16 patients dialyzing in another area ESRD facility. It is the nephrologists' preference, for a variety of reasons, to centralize their patients in the ARA facilities*". It further states that, "*Patients in non-ARA facilities will continue to use those facilities, if they desire to do so, and the justification for this project does not assume the re-locating of any of those patients*". So, while the application states that they do not assume any patients will transfer, it appears that may be the ultimate goal. If the 11 patients from Fresenius McHenry choose to transfer to ARA McHenry, it would leave the Fresenius facility at only **47% utilization**.

Fresenius Medical Care Round Lake treats the other 6 of Dr. Zahid's patients in "non-ARA facilities". That facility is currently at 81.25%. If these 6 patients choose to transfer to ARA McHenry, that facility would be reduced to 75% utilization.

Fresenius Medical Care understands the struggle that nephrologists encounter when seeing each patient every week when there are several facilities at which to make rounds. Rounding at fewer facilities offers a greater continuity of care. However, Dr. Zahid states he rounds at 11 clinics and has hopes of cutting this number in half. This is quite understandable, though we do not see how establishing another facility in McHenry, when he already sees patients at Fresenius McHenry, is going to result in fewer facilities at which to round. The number of facilities will not change by substituting ARA McHenry for Fresenius McHenry. In fact, it may increase the facilities he must round at to 12, if all of the Fresenius McHenry patients do not choose to transfer to ARA McHenry.

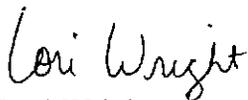
Technical Errors/Omissions

The ARA McHenry application fails to meet the criteria with regards to 1110.1430 (b) Planning Area Need – Projected Referrals.

1. The physicians provided pre-ESRD patient information as required by Board rules. However, the application states that the 55 pre-ESRD patients would be requiring dialysis in the next 12-18 months (pages 40, 46, 47, 49, 51, 57, 61, 63, 65 & 69). The ARA McHenry facility is not going to be operational until September 2012 according to the applicant. The identified patients will have likely begun dialysis before the facility is even operating. The Board rules specifically require identification of pre-ESRD patients the physician will refer to the facility **annually within the 24 month period after project completion**. ARA needs to identify pre-ESRD patients who will begin dialysis 18-42 months out from the time the application was submitted.
2. ARA also failed to provide:
 - a. the last three years historical patient data as reported to The Renal Network at the end of the year listed by facility and zip code;
 - b. the most recent quarter patient data as reported to The Renal Network listed by facility and zip code;
 - c. new referrals for the most recent year listed by facility and zip code;
 - d. and an estimated number of patients who are not expected to continue requiring in-center dialysis services.
3. The 55 pre-ESRD patients which ARA did identify, although they will begin dialysis before the opening of the facility, would not be equivalent to 80% utilization, but only 76% utilization. Given the fact that there was no patient attrition accounted for in that number the utilization would be significantly lower.

We respectfully ask the Board to take our concerns into consideration when reviewing the ARA McHenry dialysis project.

Sincerely,



Lori Wright
Senior CON Specialist

cc: Clare Ranalli