

Holland & Knight

131 South Dearborn Street | Chicago, IL 60603 | T 312.263.3600 | F 312.578.6666
Holland & Knight LLP | www.hklaw.com

Clare Connor Ranalli
312-578-6567
clare.ranalli@hklaw.com

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

September 21, 2011

Via U.S. Mail and E-Mail

Ms. Courtney Avery
Executive Director
Illinois Health Facilities & Services Review Board
525 West Jefferson
Springfield, Illinois 62761

Re: Project 11-061/Comment Letter

Dear Ms. Avery:

Fresenius notes that Satellite Dialysis of Glenview (the owner and operator of the proposed facility) chose to indicate that its "status" was NFP, despite the fact that the LLC is not organized as an Illinois or Delaware (it is incorporated in Delaware) not for profit and does not have 501c3 status like its parent. Thus, it has absolutely no legal (whether State or Federal) obligation to provide charity care. ***We also note that the status of an organization (for profit or not for profit) is not relevant to the Board's criteria under the Illinois Health Facilities Planning Act or the Board's rules and regulations. Rather, the issue is one of access - does an organization's admitting policies (whether that organization is for profit or not for profit) impede access to care based on the patient's ability to pay, or payer status.***

The applicants for this Glenview based facility state that it will provide access to all individuals regardless of ability to pay and it is an open clinic model (i.e. open to all nephrologists who meet credentialing criteria). Fresenius Medical Care also provides access to all dialysis patients at any of its clinic regardless of ability to pay and has open clinics. Nonetheless, Fresenius Medical Care is open and transparent with the Board, and acknowledges that as a provider of dialysis services it does not provide "charity care" as that term is defined by the Board. We acknowledge Satellite Dialysis of Glenview for also admitting at pages 210-212 that they will not provide charity care as defined by the Board.

The applicants note, as Fresenius has on many occasions, that patients on dialysis receive insurance coverage typically through Medicare, in Illinois also via Medicaid (for undocumented patients not eligible for Medicare) and also via funded programs through the American Kidney

Fund. Very few patients are not entitled to some form of coverage. However, both Satellite and Fresenius do see these patients and provide uncompensated care to them, and write off all charges or portions thereof (co-pays etc.) for those patients. These write offs of "bad debt" do not constitute charity care via the Board's definition.

Having said this, throughout its application, Satellite Dialysis of Glenview, LLC, a Delaware entity qualified to do business in Illinois, continually references the not for profit and charitable status of its parent entity. This is irrelevant to the issue of access, as mentioned above. Also, most of the charitable endeavors listed by Satellite detail the same types of programs and services that Fresenius Medical Care (and other large providers of dialysis) offers as well. These include:

- 1) Making life better for those with kidney disease by donating and investing in research to improve the delivery of dialysis and to projects to decrease morbidity and mortality associated with diabetes (the leading cause of kidney disease);
- 2) Acting as a sponsor for the National Kidney Foundation (Fresenius donated well over \$250,000.00 to NKF in the past year, and to date in 2011 has donated an additional \$35,000 to the NKFI - the Illinois chapter of the NKF);
- 3) Offering a program called TOPS (free of charge offered to all patients, not just ESRD patients) similar to the Satellite "Optimal Start" program. The TOPS program offers patients education on in center, home dialysis and transplant options. It also provides additional information on kidney disease treatment, diet control and other social services provided by Fresenius (such as transportation assistance);
- 4) Maintains similar tools as referenced on page 75 of the Satellite application (and in fact Fresenius manufactures dialysis equipment used by most of the large dialysis providers in the United States - and was the first of the larger providers to implement no re-use, which significantly decreases infection rates);
- 5) Contributes millions of dollars annually to the American Kidney Fund, which undertakes a number of initiatives to improve the lives of those with Kidney Disease and which also funds insurance programs (which cover the cost of dialysis and all other health care needs) for people who cannot otherwise afford it and who do not qualify for Medicare and/or Medicaid.

In addition to these initiatives, Fresenius sponsors a Food Network show which features a section on healthy eating for those with diabetes. It also offers various education sessions in communities throughout the United States on managing diabetes and kidney disease and supports local community hospitals and nephrology providers to expand the network of care for this patient population. As the largest provider of dialysis in the USA as well as in Illinois, Fresenius also supports the economy through employing thousands of individuals, supporting economic development of professional office buildings and other buildings as very frequently the "Anchor Tenant" of same and paying significant sales, real estate and other taxes. We note that as the

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largest provider of services, while Fresenius is in communities such as Glenview, it also is in communities such as Humboldt Park, Roseland, Chatham, Englewood, South Shore, South Deering, West and South Loop, Austin, inner city Joliet, Waukegan and Aurora - all of which have a significantly higher number of patients who are undocumented, are Medicaid recipients and/or who have never worked and do not qualify for Medicare. Fresenius, through its financial services and social services departments, assists these patients in obtaining some form of coverage if possible - which does provide benefit to Fresenius, but also benefits the patients enormously.

The "not for profit" Satellite does little that Fresenius, a for profit provider, does not do. Attached is Satellite's Form 990, which indicates toward the end a number of "excluded" entities for reporting. These entities are undoubtedly the same types of entities that the Glenview LLC will be - for profit entities whose income is not included on the 990 returns of the not for profit parent.

Satellite's argument that patients should have a "choice" of providers is not relevant to the Board's rules and analysis of need or access. The Board's rules do not require patients have a choice of a "not for profit" provider over a for profit provider, as long as the patient has access to services and care necessary, without any impediment as a result of a patients ability to pay or payer source. Satellite states that it presents no such barriers, and Fresenius has made this commitment to the Board on numerous occasions.

Satellite urges the Board approve its application so patients will have a choice of quality care. Fresenius indicators on quality generally exceed those provided by Satellite at pages 76 through 84 of its application (see attached) using the same comparative data. We are not challenging that the Glenview facility will provide quality care - but do challenge the implication that the other providers of dialysis in the area do not.

Thank you for your consideration.

Sincerely yours,



Clare Connor Ranalli

CCR/mjy

cc: Lori Wright
Julie Hawkins
Michelle Wiest

Of quality indicators cited by Satellite (9) Fresenius Medical Care is better on two, worse on one and the same on the remainder (note: exit site infections is not a measure Fresenius has statistics on).

Lori Wright
Lori Wright

Subscribed and sworn to before me this
21ST day of SEPTEMBER, 2011.

Cynthia S. Turgeon
Notary Public

