



STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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|  |  |                              |   |
|--|--|------------------------------|---|
| <b>DOCKET NO:</b><br>H-05                                | <b>BOARD MEETING:</b><br>October 7, 2014 | <b>PROJECT NO:</b><br>14-026 | <b>PROJECT COST:</b><br>Original: \$5,375,998 |
| <b>FACILITY NAME:</b><br>Fresenius Medical Care New City |  | <b>CITY:</b><br>New City     |   |
| <b>TYPE OF PROJECT:</b> Substantive                      |  |                              | <b>HSA:</b> VI                                |

**PROJECT DESCRIPTION:** The applicants (Fresenius Medical Care Chicagoland, LLC d/b/a Fresenius Medical Care New City, Fresenius Medical Care Holdings, Inc.) are proposing to establish a 16 station end stage renal dialysis (“ESRD”) facility in Chicago, Illinois. The cost of the project is \$5,375,998 and the project completion date is June 30, 2016.

## **EXECUTIVE SUMMARY**

### **PROJECT DESCRIPTION:**

- The applicants (Fresenius Medical Care Chicagoland, LLC d/b/a Fresenius Medical Care New City, Fresenius Medical Care Holdings, Inc.) are proposing to establish a 16 station end stage renal dialysis (“ESRD”) facility in Chicago, Illinois. The cost of the project is \$5,375,998 and the project completion date is June 30, 2016

### **WHY THE PROJECT IS BEFORE THE STATE BOARD:**

- This project is before the State Board because the project proposes to establish a health care facility as defined by Illinois Health Facilities Planning Act (20 ILCS 3960(3)).

### **PURPOSE OF THE PROJECT:**

- *According to the applicants the purpose of the project is “to provide life-sustaining dialysis services to residents living in the far south and west side of Chicago and address the determined need for 93 stations in HSA 6. The closest Fresenius clinics that currently serve the 300,000 residents living in this area, Fresenius Bridgeport to the north and Marquette Park to the south, are both full and additional access is needed to address the shortage of access to dialysis in these underserved neighborhoods.”*

### **NEED FOR THE PROJECT:**

- The State Board has projected a calculated need for 93 ESRD stations in the HSA VI ESRD planning area by CY 2015. The applicants have identified 213 pre ESRD patients that reside in the HSA 6 ESRD planning area that will need dialysis within the next 24 months of completion of the proposed facility. The facility will be located in a Medically Underserved Area/Population as determined by the federal Department of Health and Human Services. It appears there is a demand for the proposed facility as evidenced by the number of pre ESRD patients (213 patients) and that the proposed facility will serve the residents of the HSA 6 ESRD planning area because all of the pre ESRD patient reside in the HSA 6 ESRD planning area. It also appears that the proposed facility will improve access as the proposed facility will be located in a Medically Underserved Area/Population. In addition the area has been designated a Health Professional Shortage Area.
- No mal distribution of service will result should the State Board approve the project because the ratio of stations to population in the 30 minute area (adjusted time) is not 1.5 times the State of Illinois ratio.
- There are 57 ESRD facilities with 1,241 ESRD stations within 30 minutes (adjusted time) of the proposed facility. Of the 57 facilities one facility did not provide utilization data for the June 2014 quarter (Rush University Medical Center) and 3 facilities were recently approved by the State Board (DaVita Westside, SAH Dialysis, and NMFF Dialysis) and no data was available. 27 of the 57 facilities are operating at target occupancy. Average utilization of the 57 facilities is 67.15%. If the four facilities identified above (Rush University Medical Center, DaVita Westside, SAH Dialysis, and NMFF Dialysis) are not included average utilization of the 53 facilities is 74.34%.

**PUBLIC COMMENT:**

- An opportunity of a public hearing was provided however no hearing was requested. No letters of support or opposition were received by the State Board Staff.

**FINANCIAL:**

- The applicants are funding the project with cash and cash equivalents of \$2,404,533 and the fair market value of lease and equipment of \$2,971,465. The applicants have cash and cash equivalents of \$275,719,000 as of December 31, 2013.

**WHAT WE FOUND**

- The applicants addressed 22 criteria and did not meet the following:

| <b>State Board Criteria Not Met</b>                             |   |
|---|---|
| <b>Criteria</b>   | <b>Reasons for Non-Compliance</b>   |
| <b>77 IAC 1110.1430(d) - Unnecessary Duplication of Service</b> | Unnecessary Duplication of Service is characterized by existing facilities within 30 minutes (adjusted) providing the same service as the proposed facility not operating at the State Board's target occupancy of 80%.<br><br>27 of the 57 facilities within 30 minutes (adjusted) are currently not operating at the State Board's target occupancy of 80%. <b>State Board Staff Note:</b> This criterion assumes that all facilities within 30 minutes (adjusted) is operating 3 shifts a day, six days a week, 52 weeks a year. |

**STATE BOARD STAFF REPORT  
Fresenius Medical Care New City  
PROJECT #14-026**

| <b>APPLICATION SUMMARY</b>                          |   |
|---|---|
| Applicants(s)                                       | Fresenius Medical Care Chicagoland LLC d/b/a<br>Fresenius Medical Care New City, Fresenius Medical<br>Care Holdings, Inc. |
| Facility Name                                       | Fresenius Medical Care New City   |
| Location  | Chicago   |
| Application Received                                | June 20, 2014   |
| Application Deemed Complete                         | June 24, 2014   |
| Can applicants request a deferral?                  | Yes   |
| Review Period Extended by the State Board<br>Staff? | No  |

**I. The Proposed Project**

The applicants are proposing to establish a 16 station ESRD facility in Chicago, Illinois. The cost of the project is \$5,375,998 and the project completion date is June 30, 2016.

**II. Summary of Findings**

- A. The State Board Staff finds the proposed project does **not** appear to be in conformance with the provisions of Part 1110.
- B. The State Board Staff finds the proposed project appears to be in conformance with the provisions of Part 1120.

**III. General Information**

The applicants are Fresenius Medical Care Chicagoland, LLC d/b/a Fresenius Medical Care Holdings New City and Fresenius Medical Care Holdings, Inc. Fresenius Medical Care Holdings, Inc., a New York corporation, is a subsidiary of Fresenius Medical Care AG & Co. KGaA, a German partnership. The facility is located at 4622 S. Bishop Street, Chicago. The operating entity is Fresenius Medical Care Chicago, LLC d/b/a Fresenius Medical Care New City. The owner of the site is 4622 South Bishop, LLC.

The project is a substantive project and is subject to Part 1110 and Part 1120 review. Obligation will occur after permit issuance. **The anticipated project completion date is June 30, 2016.**

The facility is located in the HSA 6 ESRD Planning Area. HSA 6 ESRD Planning Area includes the City of Chicago. The State Board is currently projecting a need for 93 ESRD stations in the HSA 6 ESRD Planning Area by CY 2015.

#### IV. **Federal Designations**

##### **Medically Underserved Area**

Medically Underserved Areas (MUAs) may be a whole county or a group of contiguous counties, a group of county or civil divisions or a group of urban census tracts in which residents have a shortage of personal health services. The designation of a Medically Underserved Area (MUA) by the federal government is based upon the Index of Medical Underservice (IMU), which generates a score from 0 to 100 for each service area (0 being complete under service and 100 being best served), with each service area with an IMU of 62.0 or less qualifying for designation as an MUA. The IMU involves four weighted variables (ratio of primary medical care physicians per 1,000 population, infant mortality rate, percentage of the population with incomes below the poverty level, and percentage of the population aged 65 or over). Medically Underserved Areas (MUAs) may be a whole county or a group of contiguous counties, a group of county or civil divisions or a group of urban census tracts in which residents have a shortage of personal health services.

##### **Medically Underserved Population**

Medically Underserved Populations (MUPs) may include groups of persons who face economic, cultural or linguistic barriers to health care. The designation of a Medically Underserved Population by the federal government involves the application of the Index of Medical Underservice (IMU) to data on an underserved population group within an area of residence to obtain a score for the population group. Population groups requested for MUP designation should be those with economic barriers (**low-income or Medicaid-eligible populations**), or cultural and/or linguistic access barriers to primary medical care services. This MUP process involves assembling the same data elements and carrying out the same computational steps as stated for MUAs. The population is now the population of the requested group within the area rather than the total resident civilian population of the area. The number of FTE primary care physicians would include only those serving the requested population group. The ratio of the FTE primary care physicians serving the population group per 1,000 persons in the group is used in determining weighted value V4. The weighted value for poverty (V1) is to be based on the percent of population with incomes at or below 100 percent of the poverty level in the area of residence for the population group. The weighted values for percent of population age 65 and over (V2) and the infant mortality rate (V3) would be those for the requested segment of the population in the area of residence, if available and statistically significant; otherwise, these

variables for the total resident civilian population in the area should be used. If the total of weighted values V1 - V4 is 62.0 or less, the population group qualifies for designation as an IMU-based MUP. Medically Underserved Populations (MUPs) may include groups of persons who face economic, cultural or linguistic barriers to health care. (Information found at <http://www.hrsa.gov/shortage/>)

**V. The Proposed Project – Details**

The applicants are proposing to establish a 16 station ESRD facility in 10,250 GSF of leased space at a cost of \$5,375,998. The proposed facility will be a joint venture between Bio-Medical Applications of Illinois, Inc. with 60% ownership and AIN Ventures, LLC with 40%. AIN Ventures, LLC members are part of the Associates in Nephrology (AIN) physician practice in Chicago and the north and south suburbs.

**VI. Project Costs and Sources of Funds**

The applicants are funding the project with cash and securities of \$2,404,533 and a lease with a FMV of \$2,971,465. All costs are considered clinical costs. The expected start up costs and operating deficit is \$233,176.

| <b>TABLE ONE</b>   |                    |
|--|--------------------|
| <b>Project Costs and Sources of Funds</b>                  |                    |
| <b>USE OF FUNDS</b>  | <b>TOTAL</b>       |
| Modernization Contracts                                    | \$1,650,250        |
| Contingencies  | \$164,000          |
| Architectural/Engineering Fees                             | \$163,283          |
| Movable or Other Equipment (not in construction contracts) | \$427,000          |
| Fair Market Value of Leased Space or Equipment             | \$2,971,465        |
| <b>TOTAL USES OF FUNDS</b>                                 | <b>\$5,375,998</b> |
| <b>SOURCE OF FUNDS</b>                                     | <b>TOTAL</b>       |
| Cash and Securities  | \$2,404,533        |
| Leases (fair market value)                                 | \$2,971,465        |
| <b>TOTAL SOURCES OF FUNDS</b>                              | <b>\$5,375,998</b> |

**VII. Section 1110.230 - Purpose of Project, Safety Net Impact Statement and Alternatives – Information Requirements**

**A) Criterion 1110.230 (a) - Purpose of the Project – Information Requirements**

**The applicants stated the following:** *The purpose of this project is to provide life-sustaining dialysis services to residents living in the far south and west side of Chicago and address the determined need for 93 stations in HSA 6. The closest Fresenius clinics that currently serve the 300,000 residents living in this area, Fresenius Bridgeport to the north and Marquette Park to the south, are both full and additional access is needed to address the shortage of access to dialysis in these underserved neighborhoods. New City is a neighborhood on the south side of Chicago in HSA 6 consisting of the sub neighborhoods of Back of the Yards (where the facility will be located) and Canaryville. It sits between the Bridgeport and Marquette Park neighborhoods. Due to the high utilization in these areas and neighboring Englewood, the facility will serve a small but densely populated area that is a federally Designated Medically Underserved Population (a total of 156,000 residents). Both the Fresenius Bridgeport and Marquette Park dialysis clinics have been operating above target utilization to capacity for several years. To the east the Ross-Englewood facility is also at capacity. This is a medically underserved area and area patients no longer have access in their healthcare market. Both the Bridgeport and Marquette Park facilities have expanded and cannot expand further. The Englewood facility is also not able to expand. Additional access is needed to serve this immediate area. Station inventory data was obtained from the IHFSRB quarterly utilization report. All population/demographic data were obtained from the U.S. Census Bureau and patient data was obtained from Associates in Nephrology. Area MUA/MUP data was obtained from the Health Resources and Services Administration. Establishing a 16-station facility between the two full clinics at Bridgeport and Marquette Park in this underserved area will maintain access to dialysis services for the area residents within their healthcare market. Having convenient access to healthcare services reduces overall healthcare costs. Patients are more likely to make and keep health related appointments. Missed dialysis treatments are reduced when patients have access to their treating facility. Missed dialysis treatments relate to increased hospital visits and worsening of patient's co-morbid conditions and lower quality of life. The goal of Fresenius Medical Care is to provide dialysis accessibility to a large patient population residing in a MUA/MUP and to address the need for stations in HSA 6. There is no direct empirical evidence relating to this project other than that when chronic care patients have adequate access to services, it tends to reduce overall healthcare costs and results in less complications. It is expected that this facility would have similar quality outcomes as the Bridgeport and Marquette Park facilities. See page 58 of the application for permit.*

**B) Criterion 1110.230 (b) - Safety Net Impact Statement – Information Requirements**

The applicants stated the following: *The establishment of the Fresenius Medical Care New City dialysis facility will not have any impact on safety net services in the New City (Back of the Yards) area of Chicago. Outpatient dialysis services are not typically considered “safety net” services, to the best of our knowledge. However, we do provide care for patients in the community who are economically challenged and/or who are undocumented aliens, who do not qualify for Medicare/Medicaid. We assist patients who do not have insurance in enrolling when possible in Medicaid and/or Medicaid as applicable, and also our social services department assists patients who have issues regarding transportation and/or who are wheel chair bound or have other disabilities which require assistance with respect to dialysis services and transport to and from the unit. This particular application will not have an impact on any other safety net provider in the area, as no hospital within the area provides dialysis services on an outpatient basis. Fresenius Medical Care is a for-profit publicly traded company and is not required to provide charity care, nor does it do so according to the Board's definition. However, Fresenius Medical Care provides care to all patients regardless of their ability to pay. There are patients treated by Fresenius who either do not qualify for or will not seek any type of coverage for dialysis services. These patients are considered "self-pay" patients. These patients are invoiced as all patients are invoiced, however payment is not expected and Fresenius does not initiate any collections activity on these accounts. These unpaid invoices are written off as bad debt. Fresenius notes that as a for profit entity, it does pay sales, real estate and income taxes. It also does provide community benefit by supporting various medical education activities and associations, such as the Renal Network and National Kidney Foundation. See pages 108-112 of the application for permit.*

| <b>TABLE TWO</b>                               |               |               |               |
|--|---------------|---------------|---------------|
| <b>Safety Net Information per PA 96-0031</b>   |               |               |               |
| <b>CHARITY CARE</b>                            |               |               |               |
|  | <b>2011</b>   | <b>2012</b>   | <b>2013</b>   |
| Net Revenue                                    | \$353,355,908 | \$387,393,758 | \$398,570,288 |
| Charity * (# of self-pay patients)             | 93            | 203           | 642           |
| Charity (cost In dollars)                      | \$632,154     | \$1,536,372   | \$5,346,976   |
| Ratio Charity Care Cost to Net Patient Revenue | 0.18%         | 0.40%         | 1.34%         |
|  |               |               |               |
| <b>MEDICAID</b>                                |               |               |               |
| Medicaid (# of patients)                       | 1,865         | 1,705         | 1,660         |
| Medicaid (revenue)                             | \$42,367,328  | \$36,254,633  | \$31,373,534  |

| <b>TABLE TWO</b>                             |     |       |       |
|--|-----|-------|-------|
| <b>Safety Net Information per PA 96-0031</b> |     |       |       |
| Ratio Medicaid to Net Patient Revenue        | 12% | 9.36% | 7.87% |

**C) Criterion 1110.230 (c) - Alternatives to the Proposed Project – Information Requirements**

***A. Proposing a project of greater or lesser scope and cost.***

*The only alternative that would entail a lesser scope and cost than the project proposed in this application would be to do nothing and maintain the status quo. This is not feasible because area clinics are full and have no additional access for new patients and there are over 200 pre-ESRD patients identified from this immediate area. Action needs to be taken now to maintain access to dialysis treatment to these underserved neighborhoods of south Chicago. While this option has no monetary cost, the cost is to the patients who have no access in their healthcare market.*

***B. Pursuing a joint venture or similar arrangement with one or more providers of entities to meet all or a portion of the project's intended purposes' developing alternative settings to meet all or a portion of the project's intended purposes.***

*This facility will be a joint venture between Bio-Medical Applications of Illinois, Inc. with 60% ownership and AIN Ventures, LLC with 40%. AIN Ventures, LLC members are part of the Associates in Nephrology (AIN) physician practice in Chicago and the north and south suburbs.*

***C. Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project***

*There are no reasonable dialysis facilities available to New City residents who begin dialysis. As can be seen in the chart below, facilities serving this area are operating near capacity.*

| Facility                 | City    | Stations | Utilization |
|--------------------------|---------|----------|-------------|
| Fresenius Bridgeport     | Chicago | 27       | 90.12%      |
| Fresenius Marquette Park | Chicago | 16       | 90.63%      |
| Fresenius Ross-Englewood | Chicago | 16       | 98.96%      |
| Fresenius Garfield       | Chicago | 22       | 82.58%      |
| DaVita Emerald           | Chicago | 24       | 82..64%     |

*The closest facilities with capacity, DaVita Woodlawn at 62% and Kenwood at 59% are not facilities that the AIN physician's see patients at. Most of the patients at these facilities are from within the University of Chicago health system and the patients identified for New City cannot all be accommodated at these facilities. The alternative of utilizing other providers may seem like an easy one, given the number of facilities that are underutilized within 30 minutes. However, this is a very misleading finding for the City of Chicago, which is one of the largest cities*

*in the United States. The fact of the matter is, the MapQuest travel times, even adjusted; simply do not reflect the reality of traveling from one place to another within the City. They do not accurately reflect traffic congestion (especially during rush hours). Also, the MapQuest travel time anticipates someone is in a car driving to and fro, but in the City many individuals utilize public transportation. This is particularly true in certain neighborhoods where people do not even own cars, let alone use them regularly. The Back of the Yards neighborhood is just such a neighborhood. While we cannot know with any certainty how many of the 200 plus patients identified for this unit use public transportation, a number of them will do so. Also, the reality of the City is that many people will not regularly travel from one neighborhood to another for health care. It is simply not realistic to assume that individuals living at 4th and Ashland will travel to, as an example, 3157 Lincoln Avenue (the DaVita Lincoln Park facility at 68% utilization) for dialysis. While MapQuest puts the travel time at 28.75 minutes, it would most likely take 35 minutes easily in good traffic conditions to get from one location to the other. In rush hour it could take an hour and 15 minutes. Also, the complexity and number of dialysis clinics make it impossible for nephrologists to travel to all of them within 30 minutes. What this means for patients of AIN (Dr. Crawford's practice) is that if they were scattered to the 6 clinics within 16 minutes (via MapQuest) of the proposed New City clinic site, some would probably have to see a new nephrologist for care. It is costly, and detrimental to quality of care, for a chronically ill patient who has been seeing a physician in some cases for years, to have to make a switch at a critical time - when beginning dialysis. Therefore the alternative of allowing the patients to use other health care facilities is not a truly viable alternative in this instance. There is no monetary cost to this alternative. As discussed further in this application, the most desirable alternative to keep access to dialysis services available in the underserved New City area market is to establish the Fresenius New City facility centrally located between the facilities AIN admits to that are full. The cost of this project is \$5,375,998. See pages 59-61 of the application for permit.*

**VIII. Section 1110.234 - Project Scope and Size, Utilization and Unfinished/Shell Space**

**A) Criterion 1110.234 (a) - Size of Project**

The applicants are proposing 10,250 GSF of space for the proposed 16 station facility or 641 GSF per station. This appears reasonable when compared to the State Board Standard of 650 GSF per station. See page 61 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH CRITERION SIZE OF PROJECT CRITERION (77 IAC 1110.234 (a))**

**B) Criterion 1110.234 (b) - Project Services Utilization**

**The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B.**

There are a total of 300 pre-ESRD patients from the New City area who are being treated by Associates in Nephrology S.C. (“AIN”). Accounting for patient attrition, it is estimated that approximately 213 will begin dialysis at the New City facility. The facility is expected to open with approximately 20 transfer patients; however this could be higher as patients learn of the new facility opening. It would appear that the applicants will be at target occupancy within 2 years after project completion. See page 62 of the application for permit.

$(213 \text{ patients} \times 3 \text{ treatments per week} \times 52 \text{ weeks}) / (16 \text{ stations} \times 3 \text{ shifts per day} \times 6 \text{ days per week} \times 52 \text{ weeks}) = > 80\%$ .

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH CRITERION PROJECT SERVICES UTILIZATION (77 IAC 1110.234 (b))**

**C) Criterion 1110.234 (e) - Assurances**

The applicants have attested that the proposed facility will be at target occupancy of 80% by the second year after project completion. See page 63 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH CRITERION ASSURANCES (77 IAC 1110.234 (e))**

**IX. Section 1110.1430 - In-Center Hemodialysis Projects**

| PROJECT TYPE                          | REQUIRED REVIEW CRITERIA   |
|---------------------------------------|--|
| Establishment of Services or Facility | (b)(1) & (3) – Background of the Applicant   |
|                                       | (c)(1) – Planning Area Need – 77 Ill. Adm. Code 1100 (formula calculation)             |
|                                       | (c)(2) – Planning Area Need – Service to Planning Area Residents                       |
|                                       | (c)(3) – Planning Area Need – Service Demand – Establishment of In-Center Hemodialysis |
|                                       | (c)(5) – Planning Area Need – Service Accessibility                                    |
|                                       | (d)(1) – Unnecessary Duplication of Services   |
|                                       | (d)(2) – Maldistribution   |
|                                       | (d)(3) – Impact of Project on Other Area Providers                                     |
|                                       | (f) – Staffing   |
|                                       | (g) – Support Services   |
|                                       | (h) – Minimum Number of Stations   |
|                                       | (I) – Continuity of Care   |
|                                       | (j) – Relocation (if applicable)   |
| (k) – Assurances                      |  |

**A) Criterion 1110.1430 (b) - Background of Applicant**

**An applicant must demonstrate that it is fit, willing and able, and *has the qualifications, background and character to adequately provide a proper standard of health care service for the community.* [20 ILCS 3960/6]**

The applicants have provided the necessary information at pages 37-58 of the application for permit to address this criterion.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION BACKGROUND OF APPLICANT (77 IAC 1110.1430 (b) (1) (3))**

**B) Criterion 1110.1430 (c) - Planning Area Need**

**The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:**

- 1) 77 Ill. Adm. Code 1100 (Formula Calculation)**
- 2) Service to Planning Area Residents**
- 3) Service Demand**
- 4) Service Accessibility**

To address this criterion the applicants provided a referral letter from Associates in Nephrology S.C. ("AIN") signed by Dr. Crawford **that attested** that AIN was treating 621 hemodialysis patients at the end of 2011, 591 patients at the end of 2012 and 669 patients at the end of 2013, as reported to The Renal Network. As of the most recent quarter, AIN was treating 681 hemodialysis patients. Over the past twelve months AIN has referred 129 new patients for hemodialysis services to Fresenius South Chicago, South Shore, Roseland, Ross-Englewood, Midway, Southside, South Deering, South Chicago, Marquette Park and Evergreen Park. Per the referral letter AIN has over 300 pre ESRD patients in the New City area, of which 213 pre ESRD patients are expected to begin dialysis within 24 months of project completion. All 213 pre ESRD patients reside in the HSA 6 ESRD planning area. It would appear that there is sufficient demand for the service and the proposed facility will serve the residents of the planning area.

The State Board is projecting a calculated need for 93 ESRD stations in the HSA 6 ESRD planning area by CY 2015. This calculation assumes that all facilities are operating 3 shifts a day six days a week 52 weeks a year. In addition New City has been identified as a Medically Underserved Area/Population by the federal Department of Health and Human Services. Given the need for ESRD stations in the HSA VI ESRD planning area and the identification of the New City area being identified as a medically underserved area/ population it would appear the proposed facility will improve access. The applicants have met the requirements of this criterion. See pages 64-75 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEAR TO BE IN CONFORMANCE WITH CRITERION PLANNING AREA NEED (77 IAC 1110.1430 (c))**

**C) Criterion 1110.1430 (d) - Unnecessary Duplication/Maldistribution**

- The applicant shall document that the project will not result in an unnecessary duplication.**
- The applicant shall document that the project will not result in maldistribution of services.**

- **The applicant shall document that, within 24 months after project completion, the proposed project will not lower the utilization of other area providers.**

Unnecessary duplication of service is characterized by facilities within 30 minutes (adjusted time) operating at less than the State Board’s target occupancy of 80%. The applicants stated the following as it relates to unnecessary duplication of service: *The establishment of the New City facility will not result in unnecessary duplication as area facilities are operating at high utilization rates some up to capacity, and there is a determined need for 93 additional stations in HSA 6.*”

There are 57 ESRD facilities with 1,241 ESRD stations within 30 minutes (adjusted time) of the proposed facility. Of the 57 facilities one facility did not provide utilization data for the June 2014 quarter (Rush University Medical Center) and 3 facilities were recently approved by the State Board (DaVita Westside, SAH Dialysis, and NMFF Dialysis) and no data was available. 27 of the 57 facilities are operating at target occupancy. Average utilization of the 57 facilities is 67.15%. If the four facilities identified above (Rush University Medical Center, DaVita Westside, SAH Dialysis, and NMFF Dialysis) are not included average utilization of the 53 facilities is 74.34%.

| <b>TABLE THREE</b>  |             |                      |                           |                              |                                |
|---|-------------|----------------------|---------------------------|------------------------------|--------------------------------|
| <b>Facilities within 30 minutes (adjusted) of the proposed facility</b> |             |                      |                           |                              |                                |
| <b>Facility</b>   | <b>City</b> | <b>Adjusted Time</b> | <b>Number of Stations</b> | <b>June 2014 Utilization</b> | <b>Met Occupancy Standard?</b> |
| DaVita Emerald  | Chicago     | 5                    | 24                        | 82.64%                       | Yes                            |
| DaVita Woodlawn   | Chicago     | 7.5                  | 32                        | 67.71%                       | No                             |
| Fresenius Bridgeport  | Chicago     | 7.5                  | 27                        | 90.12%                       | Yes                            |
| Fresenius Garfield  | Chicago     | 8.75                 | 22                        | 82.58%                       | Yes                            |
| Fresenius Ross-Englewood  | Chicago     | 10                   | 16                        | 98.96%                       | Yes                            |
| DaVita Kenwood  | Chicago     | 11.25                | 32                        | 60.42%                       | No                             |
| Fresenius Marquette Park  | Chicago     | 12.5                 | 16                        | 90.63%                       | Yes                            |
| Fresenius Chatham   | Chicago     | 13.75                | 16                        | 69.79%                       | No                             |
| Fresenius Prairie   | Chicago     | 15                   | 24                        | 75.00%                       | No                             |
| DaVita Grand Crossings  | Chicago     | 15                   | 12                        | 86.11%                       | Yes                            |
| DaVita Little Village   | Chicago     | 15                   | 12                        | 90.63%                       | Yes                            |
| DaVita Loop   | Chicago     | 16.25                | 24                        | 52.38%                       | No                             |
| Fresenius Polk  | Chicago     | 16.25                | 24                        | 56.25%                       | No                             |
| University of Illinois  | Chicago     | 16.25                | 26                        | 86.54%                       | Yes                            |
| Stroger   | Chicago     | 17.5                 | 9                         | 48.15%                       | No                             |
| Fresenius Chicago Westside  | Chicago     | 17.5                 | 31                        | 48.92%                       | No                             |
| Fresenius South Chicago   | Chicago     | 17.5                 | 36                        | 81.02%                       | Yes                            |
| Fresenius Northwestern  | Chicago     | 18.75                | 44                        | 59.85%                       | No                             |
| Circle Medical Management   | Chicago     | 18.75                | 27                        | 65.43%                       | No                             |

**TABLE THREE**  
**Facilities within 30 minutes (adjusted) of the proposed facility**

| <b>Facility</b>            | <b>City</b>      | <b>Adjusted Time</b> | <b>Number of Stations</b> | <b>June 2014 Utilization</b> | <b>Met Occupancy Standard?</b> |
|----------------------------|------------------|----------------------|---------------------------|------------------------------|--------------------------------|
| Fresenius Jackson Park     | Chicago          | 18.75                | 24                        | 70.14%                       | No                             |
| Fresenius Greenwood        | Chicago          | 18.75                | 28                        | 80.95%                       | Yes                            |
| Fresenius Southside        | Chicago          | 18.75                | 39                        | 85.90%                       | Yes                            |
| DaVita Beverly             | Chicago          | 18.75                | 14                        | 90.48%                       | Yes                            |
| Fresenius Cicero           | Cicero           | 20                   | 16                        | 36.46%                       | No                             |
| Fresenius South Shore      | Chicago          | 20                   | 16                        | 83.33%                       | Yes                            |
| Mt Sinai Dialysis          | Chicago          | 20                   | 16                        | 89.58%                       | Yes                            |
| DaVita Stony Island        | Chicago          | 21.25                | 32                        | 75.52%                       | No                             |
| Fresenius Congress Parkway | Chicago          | 21.25                | 30                        | 76.67%                       | No                             |
| DaVita West Lawn           | Chicago          | 21.25                | 12                        | 91.67%                       | Yes                            |
| Fresenius Roseland         | Chicago          | 21.25                | 12                        | 98.61%                       | Yes                            |
| Fresenius South Deering    | Chicago          | 22.5                 | 20                        | 30.83%                       | No                             |
| Fresenius West Willow      | Chicago          | 22.5                 | 12                        | 43.06%                       | No                             |
| Fresenius Chicago Dialysis | Chicago          | 22.5                 | 21                        | 49.42%                       | No                             |
| Fresenius Evergreen Park   | Evergreen Park   | 22.5                 | 30                        | 87.78%                       | Yes                            |
| DaVita Lawndale            | Chicago          | 23.75                | 16                        | 22.92%                       | No                             |
| DSI Scottsdale             | Chicago          | 23.75                | 35                        | 67.59%                       | No                             |
| Fresenius Blue Island      | Blue Island      | 23.75                | 24                        | 93.06%                       | Yes                            |
| Fresenius Lakeview         | Chicago          | 25                   | 14                        | 69.05%                       | No                             |
| Fresenius Merrionette Park | Merrionette Park | 25                   | 24                        | 69.44%                       | No                             |
| DaVita Stony Creek         | Oak Lawn         | 25                   | 12                        | 91.67%                       | Yes                            |
| DaVita Mt. Greenwood       | Chicago          | 26.25                | 16                        | 89.59%                       | Yes                            |
| DaVita Garfield            | Chicago          | 26.25                | 16                        | 90.63%                       | Yes                            |
| Fresenius Uptown           | Chicago          | 26.25                | 12                        | 95.83%                       | Yes                            |
| Fresenius Midway           | Chicago          | 26.25                | 12                        | 101.39%                      | Yes                            |
| Fresenius Logan Square     | Chicago          | 27.5                 | 12                        | 26.39%                       | No                             |
| DaVita Logan Square        | Chicago          | 27.5                 | 28                        | 76.19%                       | No                             |
| Fresenius Austin           | Chicago          | 28.75                | 16                        | 65.63%                       | No                             |
| Maple Avenue Kidney Ctr    | Oak Park         | 28.75                | 18                        | 69.44%                       | No                             |
| DaVita Lincoln Park        | Chicago          | 28.75                | 22                        | 75.00%                       | No                             |
| Fresenius Northcenter      | Chicago          | 28.75                | 16                        | 80.21%                       | Yes                            |
| Fresenius West Sub         | Oak Park         | 28.75                | 46                        | 86.96%                       | Yes                            |
| Fresenius Berwyn           | Berwyn           | 28.75                | 28                        | 93.45%                       | Yes                            |
| Fresenius Burbank          | Burbank          | 28.75                | 26                        | 93.59%                       | Yes                            |
| <b>Total</b>               |                  |                      | <b>1169</b>               | <b>74.37%</b>                |                                |
| Rush Hospital              | Chicago          | 17.5                 | 5                         | 0.00%                        |                                |
| DaVita Westside            | Chicago          | 13.75                | 16                        | 0.00%                        |                                |
| SAH Dialysis               | Chicago          | 13.75                | 15                        | 0.00%                        |                                |

| <b>TABLE THREE</b>  |             |                      |                           |                              |                                |
|---|-------------|----------------------|---------------------------|------------------------------|--------------------------------|
| <b>Facilities within 30 minutes (adjusted) of the proposed facility</b>   |             |                      |                           |                              |                                |
| <b>Facility</b>   | <b>City</b> | <b>Adjusted Time</b> | <b>Number of Stations</b> | <b>June 2014 Utilization</b> | <b>Met Occupancy Standard?</b> |
| NMFF Dialysis   | Chicago     | 22.5                 | 36                        | 0.00%                        |                                |
| <b>Total</b>  |             |                      | <b>1,241</b>              | <b>69.15%</b>                |                                |
| <ol style="list-style-type: none"> <li>1. Rush University Medical Center did not provide June 2014 utilization data</li> <li>2. Davita West Side approved as Permit #12-102 on August 13, 2013 not yet complete</li> <li>3. SAH Dialysis approved as Permit 12-090 February 5, 2013 project completed December 31, 2013, no data provided.</li> <li>4. NMFF Dialysis approved as Permit #12-099 March 26, 2013 not yet completed.</li> <li>5. Adjusted time in accordance with 77 IAC 1100.510 (d) for projects within HSA 6 ESRD planning area adjusted at 1.25x</li> <li>6. Utilization information provided by the facilities as of June 30, 2014</li> </ol> |             |                      |                           |                              |                                |

Maldistribution of service is characterized by a surplus of stations within 30 minutes (adjusted time) of the proposed project. The ratio of ESRD stations to population in the zip codes within a 30-minute radius (adjusted time) of Fresenius New City is one station per every 2,237 residents. The State ratio is 1 station per 3,123 residents. The applicants stated: *“Even though the New City area's ratio is higher than the State ratio mal distribution will not occur due to the dense population and higher incidence of kidney disease in Chicago. One out of every 560 Chicago residents requires dialysis therapy. For the State of Illinois, one of every 795 residents requires dialysis. The need for an additional 93 stations in HSA 6 also confirms this.*

The applicants stated the following regarding the impact of the proposed facility on other providers: *“All patients being referred to the New City facility are pre-ESRD patients of Associates in Nephrology (AIN) on the south side of Chicago. The AIN physicians treat the majority of patients in the New City area at the Fresenius Bridgeport, Marquette Park, Ross-Englewood, Roseland, Chatham, Evergreen Park and South Deering facilities. All of these facilities except two are full. Two facilities, Chatham and South Deering are on target for reaching 80% within the time allotted by the Board. Any effect on the above over utilized facilities will be a positive one as the New City facility will open up much needed access to alleviate high area utilization. No patients have been identified to transfer from any other area facilities except Bridgeport, Marquette Park and Roseland, all of which are full.*

It does not appear there is a maldistribution of service because the area ratio is not 1.5 x the state ratio as the State Board requires for maldistribution. Nor does it appear that the proposed facility will impact other facilities in the area as it appears there are a sufficient number of patients (213 pre ESRD patients) that will utilize the proposed facility. However, because there are facilities not operating at target occupancy it would appear that unnecessary duplication of service may result with the establishment of the proposed facility.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION MALDISTRIBUTION OF SERVICE (77 IAC 1110.1430 (c))**

- E) Criterion 1110.1430 (f) -Staffing**
- F) Criterion 1110.1430 (g) -Support Services**
- G) Criterion 1110.1430 (h) - Minimum Number of Stations**
- H) Criterion 1110.1430 (j) - Continuity of Care**
- I) Criterion 1110.1430 (k) -Assurances**

The applicants have provided the necessary information to successfully address criteria listed above at pages 84-100 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION STAFFING, SUPPORT SERVICES, MINIMUM NUMBER OF STATIONS, CONTINUITY OF CARE AND ASSURANCES (77 IAC 1110.1430 (f) (g) (h) (j) (k))**

**FINANCIAL**

**X. Section 1120.120 - Availability of Funds**

**The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources.**

The applicants are funding the project with cash and cash equivalents of \$2,404,533 and the fair market value of lease and equipment of \$2,971,465. The applicants have cash and cash equivalents of \$275,719,000 as of December 31, 2013. The applicants have sufficient resources available to fund the proposed project.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS (77 IAC 1120.120)**

**XI. Section 1120.130 - Financial Viability**

**The applicant is NOT required to submit financial viability ratios if all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges).**

The applicants have qualified for the financial viability waiver because all capital expenditures are being funded from internal resources.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION FINANCIAL VIABILITY WAIVER (77 IAC 1120.130)**

**XII. Section 1120.140 - Economic Feasibility**

**A) Criterion 1120.140 (a) – Reasonableness of Financing Arrangements**  
**The applicant shall document the reasonableness of financing arrangements.**

The applicants are funding the project with cash and cash equivalents of \$2,404,533 and the fair market value of lease and equipment of \$2,971,465. Per the Board's rules the entering of a lease is treated as borrowing. The applicants are leasing 10,250 GSF of space for an initial term of 15 years at \$23.50 per rental square foot with a 2.5% escalation clause annually. This lease appears reasonable when compared to prior leases presented to the State Board for approval. See pages 26-28 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION REASONABLENESS OF FINANCING ARRANGEMENTS (77 IAC 1120.140(a))**

**B) Criterion 1120.140 (b) - Conditions of Debt Financing**  
**The applicant shall document that the conditions of debt financing are reasonable.**

The applicants are paying for the project with cash on hand, and not borrowing any funds for the project. Per the Board's rules the entering of a lease is treated as borrowing. The applicants are attesting that the entering into a lease (borrowing) is less costly than the liquidation of existing investments which would be required for the applicants to buy the property and build a structure itself to house a dialysis clinic. Further, should the applicant be required to payoff the lease in full, its existing investments and capital retained could be converted to cash or used to retire the outstanding lease obligations within a sixty (60) day period. The expenses incurred with leasing the proposed facility and cost of leasing the equipment is less costly than constructing a new facility or purchasing new equipment. See page 106 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION CONDITIONS OF DEBT FINANCING (77 IAC 1120.140(b))**

**C) Criterion 1120.140 (c) - Reasonableness of Project and Related Costs**  
**The applicant shall document that the estimated project costs are reasonable and shall document compliance with State Board Standards.**

All costs are clinical. Itemization of these costs can be found at page 33 of the application of permit.

**Modernization and Contingencies** – These costs are \$1,814,250 or \$177 per GSF. This appears reasonable when compared to the State Board Standard of \$194.87.

**Contingencies** – These costs are \$ 164,000 or 9.93% of modernization costs. This appears reasonable when compared to the State Board Standard of 10-15%.

**Architectural and Engineering Fees** – These costs are \$163,283 or 9% of modernization and contingency costs. This appears reasonable when compared to the State Board Standard of 6.65-9.99%.

**Movable Equipment** – These costs are \$427,000 or \$26,688 per station. This appears reasonable when compared to the State Standard of \$53,683 per station.

**Fair Market Value of Leased Space and Equipment** – These costs are \$2,971,465. The State Board does not have a standard for these costs.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 IAC 1120.140 (c))**

**D) Criterion 1120.140 (d) - Projected Operating Costs**

**The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion.**

The projected operating cost per treatment is \$179. This appears reasonable when compared to previously approved ESRD projects.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION PROJECTED OPERATING COSTS (77 IAC 1120.140 (d))**

**E) Criterion 1120.140 (e) - Total Effect of the Project on Capital Costs**

**The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.**

The projected capital cost per treatment is \$26. This appears reasonable when compared to previously approved ESRD projects.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS (77 IAC 1120.140(e))**

