

**Holly S. Hosford**

hhosford@bradley.com  
205.521.8376



CO2022-076

RECEIVED

Mar 24 2022

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

March 24, 2022

Via Electronic Filing  
(shpda.online@shpda.alabama.gov)

Ms. Emily Marsal, Esq.  
Executive Director  
State Health Planning and Development Agency  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104

RE: Change in Ownership; Fresenius Kidney Care Gadsden Acq, LLC d/b/a Fresenius  
Kidney Care Gadsden

Dear Ms. Marsal:

We respectfully submit to the State Health Planning and Development Agency (“SHPDA”) this letter as an attachment to the Notice of Change of Ownership/Control form (the “Notice”) that we are filing pursuant to Chapter 410-1-7-.04, Rules and Regulations of the Alabama Certificate of Need Program (the “Rules”). The proposed change of ownership involves transfer of twenty-nine percent (29%) of the equity interest of Fresenius Kidney Care Gadsden Acq, LLC (the “CON Holder”) to Regional Dialysis of Gadsden, LLC (“Regional Dialysis”). The CON Holder operates Fresenius Kidney Care Gadsden, a 24-station dialysis facility located in Etowah County (the “Facility”).

### **I. Overview of Proposed Transaction.**

Bio-Medical Applications of Alabama, Inc. (“Fresenius”), an indirect wholly-owned subsidiary of Fresenius Medical Care Holdings, Inc., currently holds eighty percent (80%) of the equity interest in the CON Holder. Fresenius plans to transfer twenty-nine percent (29%) of the equity interest in the CON Holder to Regional Dialysis (the “Transaction”). In consideration for the equity interest being transferred, Regional Dialysis will make a fair market value payment to Fresenius. The Transaction is anticipated to take place as soon as approval is received from the State Health Planning and Development Agency.

Organizational charts showing the ownership of the CON Holder before and after the Transaction are attached as Attachment A. We understand that the Transaction does not constitute a “transfer, assignment, or conversion” of the CON, as described in Rule 410-1-11-.09. However, we are submitting the enclosed Notice because the Notice of Change of Ownership/Control is the method by which parties have historically notified SHPDA of a change in the indirect ownership of a CON.

## **II. SHPDA Requirements for Change of Ownership**

Concerning the questions posed in the Change of Ownership Application, please note the following:

1. The Financial Scope of the Project. The transaction involves transfer of ownership of twenty-nine percent (29%) equity interest in the CON Holder in exchange for a fair market value cash payment. The transaction does not involve new cost associated with the Facility exceeding the following expenditure thresholds: (i) \$3,165,569 for major medical equipment; (ii) \$1,266,226 for new annual operating costs; and (iii) \$6,331,138 for capital expenditures.

2. Services to be Offered. The contemplated transaction will not result in any new or additional services to those already authorized to be provided by the Facility.

3. Whether the Proposal will Include the Addition of Any New Beds. The contemplated transaction will not result in the addition of new beds.

4. Whether the Proposal will Involve the Conversion of Beds. The contemplated transaction will not result in the conversion of beds.

5. Whether the Assets and Stock (if any) will be acquired. As described more particularly above, twenty-nine percent (29%) equity interest in the CON Holder will be transferred to Regional Dialysis.

## **III. Requested Action**

Based upon the above description of the proposed transaction and a showing that there will be no change in health services, conversion of beds, or increase or decrease in bed capacity, we respectfully request that you exercise your authority under Chapter 410-1-7-.04(2) of the Rules and determine that a Certificate of Need is not required for the consummation of this proposed transaction. In accordance with the Rules, I am enclosing with this request a check in the amount of \$2,500 made payable to the Alabama State Health Planning and Development Agency.

Should you have any questions or need further information, please feel free to contact me at the number or address listed above. Thank you in advance for your assistance with this matter.

Ms. Marsal  
Fresenius Kidney Care Gadsden  
March 24, 2022  
Page 3

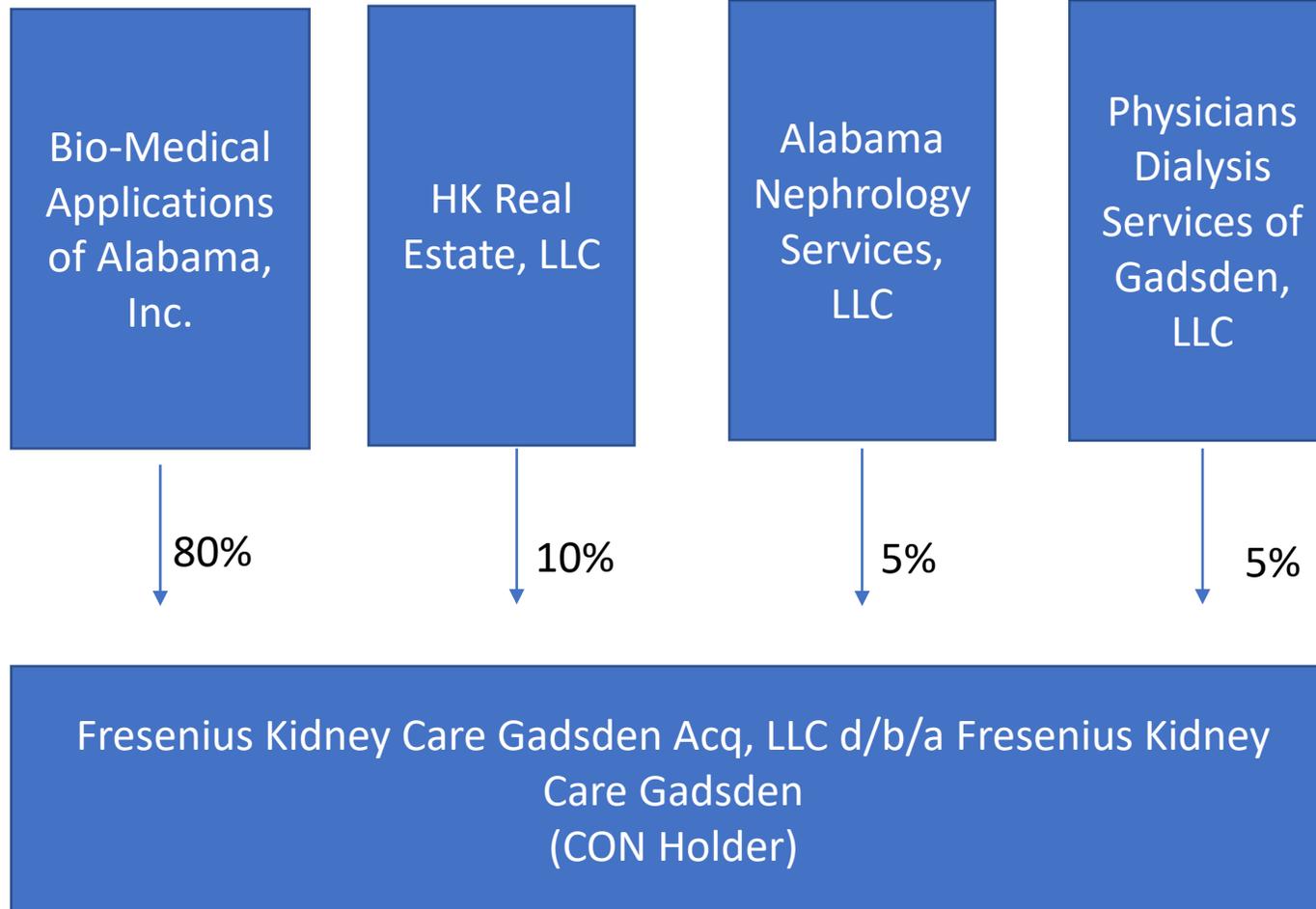
---

Best regards,

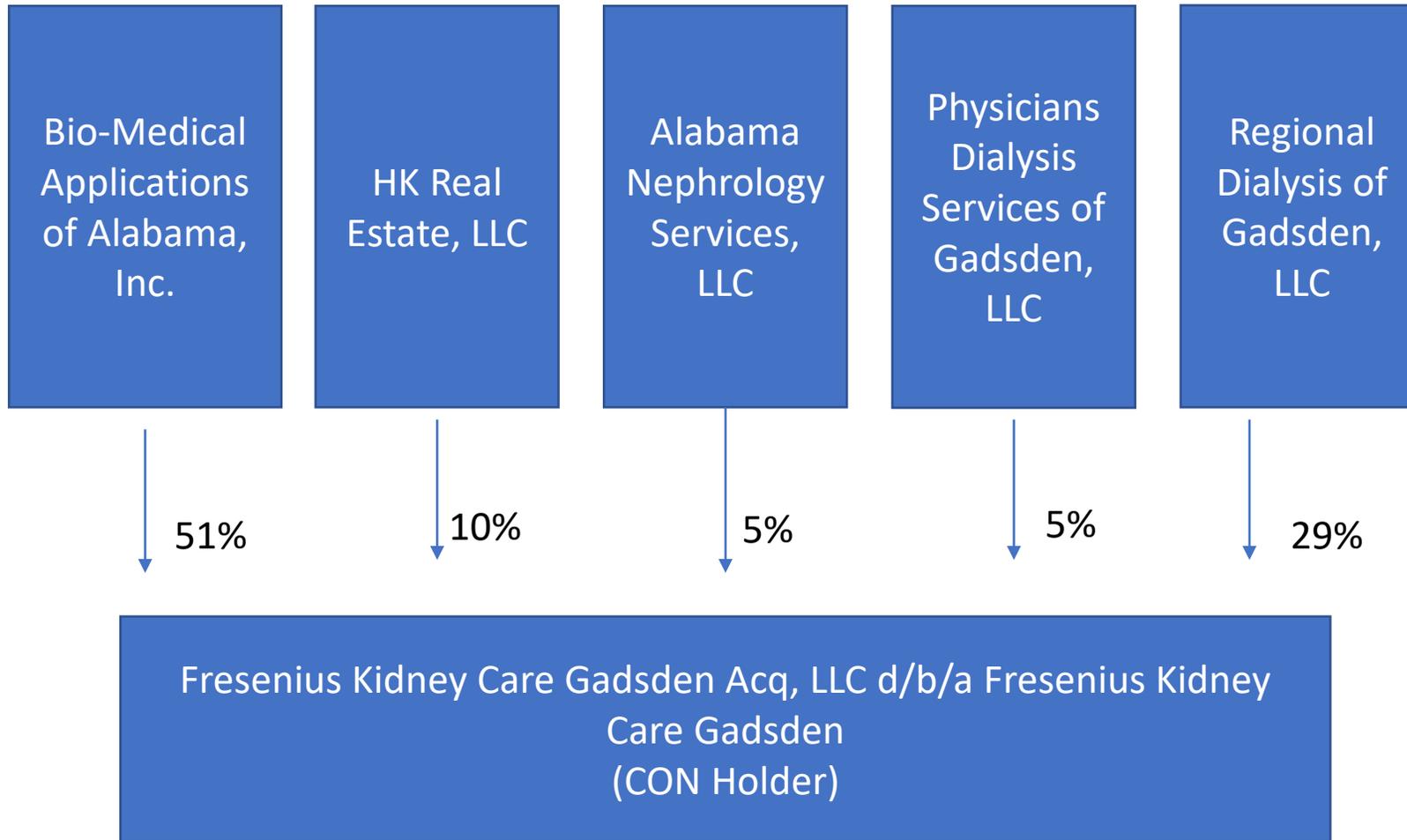
A handwritten signature in black ink, appearing to read "Holly S. Hosford". The signature is written in a cursive style with a large, looped initial "H".

Holly S. Hosford

## Ownership Prior to Transaction



## Ownership Post Transaction



**NOTICE OF CHANGE OF OWNERSHIP/CONTROL**

The following notification of intent is provided pursuant to all applicable provisions of ALA. CODE § 22-21-270 (1975 as amended) and ALA. ADMIN. CODE r. 410-1-7-.04. This notice must be filed at least twenty (20) days prior to the transaction.

- Change in Direct Ownership or Control (of a vested Facility; ALA. CODE §§ 22-20-271(d), (e))
  - Change in Certificate of Need Holder (ALA. CODE § 22-20-271(f))
  - Change in Facility Management (Facility Operator)
- Any transaction other than those above-described requires an application for a Certificate of Need.

**Part I: Facility Information**

SHPDA ID Number: 055-D2804  
(This can be found at [www.shpda.alabama.gov](http://www.shpda.alabama.gov), Health Care Data, ID Codes)

Name of Facility/Provider: Fresenius Kidney Care Gadsden  
(ADPH Licensure Name)

Physical Address: 800 Goodyear Avenue  
Gadsden, AL 35903

County of Location: ETOWAH

Number of Beds/ESRD Stations: 24

CON Authorized Service Area (Home Health and Hospice Providers Only). Attach additional pages if necessary. Not applicable.

**Part II: Current Authority** (Note: If this transaction will result in a change in direct ownership or control, as defined under ALA. CODE § 22-20-271(e), please attach organizational charts outlining current and proposed structures.)

Owner (Entity Name) of Facility named in Part I: Fresenius Kidney Care Gadsden Acq, LLC

Mailing Address: 920 Winter Street  
Waltham, Massachusetts 02451

Operator (Entity Name): Fresenius Management Services, Inc.

**Part III: Acquiring Entity Information**

Name of Entity: Fresenius Kidney Care Gadsden Acq, LLC

Mailing Address: 920 Winter Street  
Waltham, Massachusetts 02451

Operator (Entity Name): Fresenius Management Services, Inc.

Proposed Date of Transaction is on or after: Upon approval from State Health Planning and Development Agency

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ See attached letter.

Type of Beds: Not applicable.

Number of Beds/ESRD Stations: 24

**Financial Scope:** to Include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:

Projected Equipment Cost: \$ See attached letter.

Projected Construction Cost: \$ \_\_\_\_\_

Projected Yearly Operating Cost: \$ \_\_\_\_\_

Projected Total Cost: \$ \_\_\_\_\_

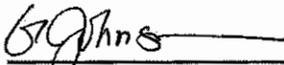
**On an Attached Sheet Please Address the Following:** See attached letter.

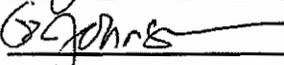
- 1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).
- 2.) Whether the proposal will include the addition of any new beds.
- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

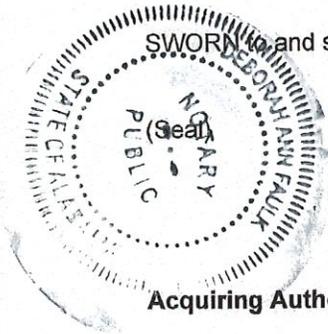
**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s):  Gary Johnson

Operator(s):  Gary Johnson

Title/Date: Regional Vice President 3/24/ 2022



SWORN to and subscribed before me, this 24<sup>th</sup> day of March, 2022

Deborah Ann Faulk  
Notary Public

My Commission Expires: 1/29/2024

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): G. Johnson Gary Johnson

Operator(s): G. Johnson Gary Johnson

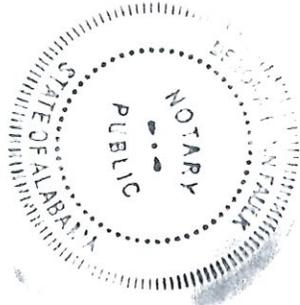
Title/Date: Regional Vice President 3/24/ 2022

SWORN to and subscribed before me, this 24<sup>th</sup> day of March, 2022

Deborah Ann Faulk  
Notary Public

My Commission Expires: 1/29/2024

(Seal)



Author: Alva M. Lambert

Statutory Authority: § 22-21-271(c), Code of Alabama, 1975

History: New Rule