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STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

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July 25, 2014

VIA E-MAIL & FEDERAL EXPRESS

Alva M. Lambert
State Health Planning & Development Agency
100 North Union Street, Suite 870
Montgomery, AL 36130

**Re: Project Modification Request
Renal Treatment Centers – Southeast, LP d/b/a North Jefferson Dialysis
Project No. AL 2013-067; CON 2654-ESRD**

Dear Mr. Lambert:

This Project Modification Request is hereby filed on behalf of our client, Renal Treatment Centers – Southeast, LP d/b/a North Jefferson Dialysis (“North Jefferson Dialysis”), a subsidiary of DaVita Healthcare Partners Inc. (“DaVita”), to modify Project No. AL 2013-067 and CON 2654-ESRD related to the approved establishment and operation of a new state-of-the-art end stage renal disease (“ESRD”) facility consisting of two (2) existing in-center hemodialysis stations to be relocated from DaVita’s Birmingham East Dialysis, plus the addition of eight (8) new in-center hemodialysis stations, for a total of ten (10) in-center hemodialysis stations, in north Jefferson County, Alabama (“Project”).

Pursuant to Certificate of Need (“CON”) Rule § 410-1-10-.03, North Jefferson Dialysis respectfully requests the approval of this Project Modification Request by the Executive Director of the State Health Planning and Development Agency (“SHPDA”) to modify the Project as follows: i) change the current Doing Business As (“DBA”) name from North Jefferson Dialysis to Birmingham Gateway Dialysis, and ii) increase the total estimated cost for the Project from \$4,490,000 to \$4,957,500 which is a net increase of only \$467,500.

This Project Modification Request is necessary for the following reasons:

1. The current DBA name, North Jefferson Dialysis, is too similar to an existing licensed health care provider in Alabama and must be changed to facilitate the ADPH licensure and certification process. Consequently, this Project Modification Request is being filed to modify the Project to change the current DBA from Renal Treatment Centers – Southeast, LP d/b/a North Jefferson Dialysis to Renal Treatment Centers – Southeast, LP d/b/a Birmingham Gateway Dialysis. Hence, only the DBA name will change; the legal entity remains unchanged.

2. North Jefferson Dialysis estimated in good faith in its CON Application that the Project would involve a 10-year lease with an annual rent of \$93,500 for a total estimated lease cost of \$935,000. It is now anticipated that the Project could involve a 15-year lease with an annual rent of \$93,500, for a total estimated

Birmingham Huntsville Mobile Pensacola



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lease cost of \$1,402,500. Therefore, this Project Modification Request is also being filed to increase the total estimated cost for the Project from \$4,490,000 to \$4,957,500, which is a net increase of only \$467,500.

Hence, this Project Modification Request falls below the financial thresholds for review provided in CON Rule § 410-1-4-.01; does not involve a physical relocation of the facility; does not involve a change in bed capacity; and does not involve the provision of new services. Thus, this Project Modification Request is due to be approved by the Executive Director of SHPDA only under CON Rule § 410-1-10-.03(2).

As required, enclosed are the revised pages to the original CON Application reflecting the new DBA name and the increase in the total estimated cost for Project No. AL 2013-067, including Pages 1-2, 4-7, 9-11, 13-16, 18, and a new executed Signature Page. Also enclosed is a filing fee of \$5,635.75 which is 25% of the original CON Application fee for this Project (\$22,543.00). As there was no opposition to this Project, there are no parties of record in the underlying administrative proceeding that must be notified regarding this Project Modification Request.

As always, we appreciate your assistance and look forward to receiving a modified CON for North Jefferson Dialysis reflecting the new DBA name and the increase in estimated Project cost. If you have any questions, please give me a call immediately.

Very truly yours,


Lenora W. Pate
FOR THE FIRM

LWP/lc
Enclosures

c: Nicole Horn
Gayle Ozbirn
Amy Sanford, Esq.
Kelli F. Robinson, Esq.

**ALABAMA
CERTIFICATE OF NEED
APPLICATION**

41115

JUL 28 2014

STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY

For Staff Use Only

INSTRUCTIONS: Please submit an original and twelve (12) copies of this form and the appropriate attachments to the State of Alabama, State Health Planning and Development Agency, 100 North Union Street, Suite 870, Montgomery, Alabama 36130-3025. (Post Office Box 303025)

Project # _____
Date Rec. _____
Rec by: _____

Attached is a check in the amount of \$ 22,543.00
Refer to Rule 410-1-7-06 of the Certificate of Need Program Rules and Regulations to determine the required filing fee.

PART ONE: APPLICANT IDENTIFICATION AND PROJECT DESCRIPTION

I. APPLICANT IDENTIFICATION (Check One) HOSPITAL () NURSING HOME ()
OTHER (X) (Specify) ESRD

A. Renal Treatment Centers – Southeast, LP d/b/a Birmingham Gateway Dialysis
Name of Applicant (in whose name the CON will be issued if approved)

3500 Blue Lake Parkway Suite 230 Birmingham Jefferson
Address of DaVita Administrative Offices City County
(Address of Birmingham Gateway Dialysis in North Jefferson County to be determined upon award of CON)
Alabama 35243 (205) 986-0592
State Zip Code Phone Number

B. _____
Name of Facility/Organization (if different from A)

Address City County

State Zip Code Phone Number

C. _____
Name of Legal Owner (if different from A or B)

Address City County

State Zip Code Phone Number

D. Lenora W. Pate (Counsel for Applicant)
Name and Title of Person Representing Proposal and with whom SHPDA should communicate

Sirote & Permutt, P.C., 2311 Highland Ave. S. Birmingham Jefferson
Address City County
Alabama 35205 (205) 930-5162
State Zip Code Phone Number

I. APPLICANT IDENTIFICATION (continued)

E. Type Ownership and Governing Body

- | | | | |
|----|------------------------|-------------------------------------|--|
| 1. | Individual | <input type="checkbox"/> | |
| 2. | Partnership | <input type="checkbox"/> | |
| 3. | Corporate (for profit) | <input checked="" type="checkbox"/> | <u>DaVita Healthcare Partners Inc.</u> Name of Parent Corporation |
| 4. | Corporate (non-profit) | <input type="checkbox"/> | _____ Name of Parent Corporation |
| 5. | Public | <input type="checkbox"/> | |
| 6. | Other (specify) | <input type="checkbox"/> | _____ |

F. Names and Titles of Governing Body Members and Owners of This Facility

OWNERS

Renal Treatment Centers – Southeast, LP d/b/a Birmingham Gateway Dialysis is a subsidiary of DaVita Healthcare Partners Inc.

GOVERNING BOARD MEMBERS OF RENAL TREATMENT CENTERS, INC.:

Kim M. Rivera-Sanchez; Steven I Grieger; James K. Hilger; Dennis L. Kogod; Chetan P. Mehta; Javier J. Rodriguez; Thomas O. Usilton, Jr.; Arturo Sida; David Finn; and Soyon Ahn Hardy

GOVERNING AUTHORITY OF BIRMINGHAM GATEWAY DIALYSIS (as required by the Alabama State Board of Health, Alabama Department of Public Health):

Gayle Ozbirn; Stephen Busenlehner; and a Medical Director to be determined

II. PROJECT DESCRIPTION

Project/Application Type (check all that apply)

- | | |
|--|--|
| <input checked="" type="checkbox"/> New Facility Type <u>ESRD Facility</u> | <input type="checkbox"/> Major Medical Equipment Type _____ |
| <input type="checkbox"/> New Service Type _____ | <input type="checkbox"/> Termination of Service or Facility |
| <input checked="" type="checkbox"/> Construction/ <u>Expansion</u> /Renovation <u>Eight (8) new in-center hemodialysis stations in Jefferson County</u> | <input checked="" type="checkbox"/> <u>Other Capital Expenditure</u> Type <u>Relocation of two (2) existing in-center hemodialysis stations in Jefferson County</u> |
| <input type="checkbox"/> Change in Service | |

III. EXECUTIVE SUMMARY OF THE PROJECT (brief description)

Renal Treatment Centers – Southeast, LP d/b/a Birmingham Gateway Dialysis (“Birmingham Gateway Dialysis” or “Applicant”), a subsidiary of DaVita Healthcare Partners Inc. (“DaVita”), proposes to establish and operate a new state-of-the-art end stage renal disease (“ESRD”) facility in north Jefferson County consisting of two (2) existing in-center hemodialysis stations to be relocated from DaVita’s Birmingham East Dialysis, plus the addition of eight (8) new in-center hemodialysis stations.¹

¹ This CON Application is filed pursuant to LOI 2013-021 which was received by the State Health Planning and Development Agency (“SHPDA”) on January 22, 2013.

option for existing patients of Birmingham North Dialysis and Crown Dialysis, as well as future patients residing in the area. It is anticipated that at least twenty-five (25) patients of Birmingham North Dialysis and/or Crown Dialysis will transfer to Birmingham Gateway Dialysis if the proposed Project is approved.

Moreover, based on the State Health Plan methodology utilizing the present in-center hemodialysis stations in Jefferson County, there is currently a need for an additional 47 or 57 in-center hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified in-center hemodialysis stations in Jefferson County are currently operating at 114% of maximum optimal capacity as defined by the State Health Plan. The proposed Project will provide eight (8) new in-center hemodialysis stations to specifically address the unmet need for dialysis services in north Jefferson County.

In addition, the proposed Project will allow Birmingham East Dialysis, which is located at 1105 East Park Drive, Birmingham, Alabama, to address its overcrowded treatment floor currently consisting of twenty (20) in-center hemodialysis stations. Expansion of Birmingham East Dialysis is not possible due to the size constraints of the Birmingham East Dialysis lot. Therefore, relocation of two (2) in-center hemodialysis stations to Birmingham Gateway Dialysis will also help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services.

Thus, approval of the proposed Project by the Certificate of Need ("CON") Review Board will effectively meet the demonstrated, substantial unmet need of the population and significantly improve access to dialysis services in north Jefferson County and the surrounding areas. Moreover, approval of this proposed Project will enable DaVita, a nationally recognized provider of comprehensive dialysis services, to offer its Jefferson County patients meaningful patient choice through additional scheduling options and convenient location options.

| | |
|------------------------|---|
| Capacity | 84 Available Dialysis Treatments/Week |
| Optimal Utilization | x .80 |
| Optimal Capacity | 67.2 Available Dialysis Treatments/Week |
| Patient Usage | ÷ 3 Dialysis Treatments/Week |
| Maximum Optimal Census | 22.4 |

Applying the methodology in Section 410-2-3-.05 of the State Health Plan, the Maximum Optimal Census for a 7-station facility is 22 patients. Crown Dialysis currently has 32 patients and is, therefore, operating at approximately 145% of maximum optimal capacity as defined in the State Health Plan.

IV. COST

| | | |
|---|---|--------------------|
| A. Construction (includes modernization expansion) | | |
| 1. | Predevelopment | _____ |
| 2. | Site Acquisition | _____ |
| 3. | Site Development | _____ |
| 4. | Construction | \$875,000 |
| 5. | Architect and Engineering Fees | \$85,000 |
| 6. | Renovation | _____ |
| 7. | Interest during time period of construction | _____ |
| 8. | Attorney and consultant fees | _____ |
| 9. | Bond Issuance Costs | _____ |
| 10. | Other _____ | _____ |
| 11. | Other _____ | _____ |
| TOTAL COST OF CONSTRUCTION | | \$960,000 |
| B. Purchase | | |
| 1. | Facility | _____ |
| 2. | Major Medical Equipment | \$370,000 |
| 3. | Other Equipment | \$175,000 |
| TOTAL COST OF PURCHASE | | \$545,000 |
| C. Lease | | |
| 1. | Facility Cost Per Year \$93,500 x 15 Years = | \$1,402,500 |
| 2. | Equipment Cost per Month | |
| | _____ x _____ Months = | _____ |
| 3. | Land-only Lease Cost per Year | |
| | _____ x _____ Years | _____ |
| TOTAL COST OF LEASE(s) | | \$1,402,500 |
| (compute according to generally accepted accounting principles) | | |
| Cost if Purchased | | N/A |
| D. Services | | |
| 1. | X New Service Facility | |
| 2. | X Expansion by adding 8 new hemodialysis stations in Jefferson County | |
| 3. | _____ Reduction or Termination | |
| 4. | X Relocation of 2 existing hemodialysis stations in Jefferson County | |
| FIRST YEAR ANNUAL OPERATING COST⁴ | | \$2,050,000 |
| E. Total Cost of this Project (Total A through D) | | |
| (should equal V-C on page A-5) | | \$4,957,500 |

⁴ The estimated First Year Annual Operating Cost of \$2,050,000 includes the estimated first year lease cost of \$93,500. Hence, the first year lease cost is included under Section IV(C) (Lease) and Section IV(D) (First Year Annual Operating Cost).

IV. COST (continued)

F. Proposed Finance Charges

- | | | |
|----|---|----------|
| 1. | Total Amount to Be Financed | \$ _____ |
| 2. | Anticipated Interest Rates | _____ |
| 3. | Term of Loan | _____ |
| 4. | Method of Calculating Interest on Principal Payment | _____ |

V. ANTICIPATED SOURCE OF FUNDING

| A. | Federal | Amount | Source |
|----|---------------------------------------|-------------|------------------|
| 1. | Grants | \$ _____ | _____ |
| 2. | Loans | _____ | _____ |
| B. | Non-Federal | | |
| 1. | Commercial Loan | _____ | _____ |
| 2. | Tax-exempt Revenue Bonds | _____ | _____ |
| 3. | General Obligation Bonds | _____ | _____ |
| 4. | New Earning and Revenues | _____ | _____ |
| 5. | Charitable Fund Raising | _____ | _____ |
| 6. | Cash on Hand | \$4,957,500 | Applicant and/or |
| 7. | Other | _____ | DaVita, Inc. |
| C. | TOTAL (should equal IV-E on page A-3) | | \$4,957,500 |

VI. TIMETABLE

- | | | |
|----|-------------------------------|---|
| A. | Projected Start/Purchase Date | <u>Upon award of CON</u> |
| B. | Projected Completion Date | <u>Within 12 months of receipt of CON</u> |

PART TWO: PROJECT NARRATIVE

Note: In this part, please submit the information as an attachment. This will enhance the continuity of reading the application.

The applicant should address the items that are applicable to the project.

I. MEDICAL SERVICE AREA

- A. Identify the geographic (medical service) area by county (ies) or city, if appropriate, for the facility or project. Include an 8 ½ x 11" map indicating the service area and the location of the facility.**

The proposed facility will be located in north Jefferson County. The primary health service area will be Jefferson County. A map identifying the health service area and the proposed location of the facility is attached as Exhibit A.

A secondary health service area will be Walker, Cullman, Blount, and Winston Counties.

- B. What population group(s) will be served by the proposed project? Define age groups, location and characteristics of the population to be served.**

Birmingham Gateway Dialysis will serve patients in need of dialysis therapy twelve (12) years of age and older. The population to be served by the proposal is as follows:

Primary population to be served by the Proposal:

| | Total Population | White | Non-White |
|--------------|------------------|----------------|----------------|
| Jefferson | 660,442 | 352,601 | 307,841 |
| TOTAL | 660,442 | 352,601 | 307,841 |

Secondary population to be served by the Proposal:

| | Total Population | White | Non-White |
|--------------|------------------|----------------|--------------|
| Walker | 65,330 | 60,550 | 4,780 |
| Cullman | 82,267 | 79,935 | 2,332 |
| Blount | 60,857 | 59,088 | 1,769 |
| Winston | 24,227 | 23,629 | 598 |
| TOTAL | 232,681 | 223,202 | 9,479 |

SOURCE: All population statistics are as determined by the Center for Business and Economic Research, The University of Alabama (CBER), January 2013.

Kidney failure or ESRD occurs when the kidneys are no longer able to provide waste removal functions for the body. At this point, dialysis or kidney transplantation becomes necessary for survival.

- About 110,000 patients in the United States started treatment for ESRD in 2007.
- Leading causes of ESRD are diabetes and hypertension. In 2006, 7 out of 10 new cases of ESRD in the United States had diabetes or hypertension listed as the primary cause. Less common causes include glomerulonephritis, hereditary kidney disease, and malignancies such as myeloma.

II. HEALTH CARE REQUIREMENTS OF THE MEDICAL SERVICE AREA

A. What are the factors (inadequacies) in the existing health care delivery system which necessitate this project?

The proposed Project will address the demonstrated, substantial unmet need for dialysis services in Jefferson County and, specifically, the capacity issues at DaVita's Birmingham North Dialysis and DaVita's Crown Dialysis. Birmingham North Dialysis, which is located at 1917 32nd Avenue North, Birmingham, Alabama, currently has twenty-four (24) in-center hemodialysis stations and operates two (2) shifts per day, six (6) days per week. It currently has 106 in-center hemodialysis patients and is, therefore, operating at 138% of its maximum optimal capacity according to the State Health Plan guidelines.

Crown Dialysis, which is located at 3007 27th Street North, Birmingham, Alabama, currently has seven (7) in-center hemodialysis stations and operates two (2) shifts per day, six (6) days per week. It currently has 32 in-center hemodialysis patients and is, therefore, operating at 145% of its maximum optimal capacity according to the State Health Plan guidelines. The proposed Project will provide a convenient location option for existing patients of Birmingham North Dialysis and Crown Dialysis, as well as future patients residing in the area. It is anticipated that at least twenty-five (25) patients of Birmingham North Dialysis and/or Crown Dialysis will transfer to Birmingham Gateway Dialysis if the proposed Project is approved.

Moreover, based on the State Health Plan methodology utilizing the present in-center hemodialysis stations in Jefferson County, there is currently a need for an additional 47 or 57 in-center hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified in-center hemodialysis stations in Jefferson County are currently operating at 114% of maximum optimal capacity as defined by the State Health Plan.

Therefore, the development of Birmingham North Dialysis is necessary to: 1) help address the demonstrated substantial unmet need for dialysis services in Jefferson County; 2) help address the capacity issues at DaVita's Birmingham North Dialysis and DaVita's Crown Dialysis; and 3) provide dialysis patients in north Jefferson County and surrounding counties with scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

B. How will the project correct the inadequacies?

The establishment and operation of a new state-of-the-art ESRD facility consisting of two (2) existing in-center hemodialysis stations to be relocated from Birmingham East Dialysis, plus eight (8) new in-center hemodialysis stations in north Jefferson County will correct the inadequacies in the existing system.

Approval of the proposed Project will allow DaVita to 1) help address the demonstrated substantial unmet need for dialysis services in Jefferson County; 2) help address the capacity issues at DaVita's Birmingham North Dialysis and DaVita's Crown Dialysis by adding eight (8) new in-center hemodialysis stations; 3) help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services by relocating two (2) of its existing in-center hemodialysis stations; and 4) provide all dialysis patients in north Jefferson County and surrounding counties with much-needed scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

Based on the State Health Plan methodology utilizing the present in-center hemodialysis stations in Jefferson County, there is currently a need for an additional 47 or 57 in-center hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified hemodialysis stations in Jefferson County are currently operating at 114% of maximum optimal capacity as defined by the State Health Plan.

This proposed Project will help address the demonstrated, substantial unmet need for dialysis services in Jefferson County and, specifically, the capacity issues for dialysis services at DaVita's Birmingham North Dialysis and DaVita's Crown Dialysis. Furthermore, because of the cost and operational efficiencies involved in this proposed Project, the proposed Project will not only correct the inadequacies present in the current system, it will do so in the most cost-effective way to meet the demonstrated, substantial unmet need in the Jefferson County health service area.

C. Why is your facility/organization the appropriate facility to provide the proposed project?

DaVita Healthcare Partners, Inc. (DaVita), the parent corporation of Birmingham Gateway Dialysis, is the largest independent provider of dialysis services in the United States. DaVita serves nearly 1,900 outpatient dialysis centers, serving approximately 149,000 patients.

Birmingham Gateway Dialysis is the most appropriate applicant for this proposed Project based on the long history of operations in Jefferson County of DaVita's ten (10) existing dialysis facilities. DaVita enjoys an established relationship with the Jefferson County community, nephrologists serving Jefferson County, and ESRD patients living in Jefferson County and other surrounding counties and states. DaVita has excellent professional, management, and manpower capabilities to meet the current health needs in Jefferson County. Additionally, DaVita works collaboratively with the Alabama Kidney Foundation to improve ESRD care and quality of life for ESRD patients in Jefferson County.

DaVita will continue to use utilization monitoring and quality improvement processes to address unmet and undermet health needs in Jefferson County, including the continued acceptance of Medicaid patients and other medically underserved patients for which dialysis services would be appropriate.

DaVita is also committed to communicating and cooperating with all planning, regulatory, and utility agencies and organizations that influence the facility's destiny. DaVita has its own Licensure and Certification Division which has excellent relationships with all Alabama agencies. Birmingham Gateway Dialysis will be reviewed, licensed and certified by the Alabama Department of Public Health prior to opening.

D. Describe the need for the population served or to be served for the proposed project and address the appropriate sections of the State Health Plan and the Rules and Regulations under 410-1-6-.07. Provide information about the results of any local studies which reflect a need for the proposed project.

The following analysis is based on the total population of Jefferson County plus the only contiguous county that does not currently have a licensed dialysis center, Bibb County.⁵

Based on the methodology provided in Section 410-2-3-.05(2)(b)(2) of the State Health Plan, the present need is as follows:

| | |
|--|---------------------------|
| 2016 Jefferson County Population Projection ⁶ | 660,442 (352,601/307,841) |
| Plus 2016 Bibb County Population Projection | 23,439 (18,214/5,225) |

⁵ According to Section 410-2-3-.05(2)(b)(2)(i) of the State Health Plan, new end stage renal disease patient projections shall be based on the total population of the county in which the hemodialysis stations are to be located plus any contiguous county that does not have a dialysis center.

⁶ All population statistics are as determined by the Center for Business and Economic Research, The University of Alabama, January 2013. The numbers in parentheses represent the white and non-white population for the specified county.

| | |
|--|--------------------------------|
| Total 2016 Population Projection | 683,881 (370,815/313,066) |
| Incidence Rate ⁷ | 289 <u>or</u> 331 new patients |
| Existing Patients | 1446 |
| Total Patients | 1735 <u>or</u> 1777 |
| Less Deaths (14.4%) | (250 <u>or</u> 256) |
| Less Transplants (2.6%) | (45 <u>or</u> 46) |
| Less Home Training (8.2% of new patients) | (24 <u>or</u> 27) |
| Projected 2016 Patients | 1416 <u>or</u> 1448 |
| Patients Per Station | 3.2 |
| Required In-Center Stations | 443 <u>or</u> 453 |
| Existing In-Center Stations in Jefferson County ⁸ | 396 |
| Additional In-Center Stations Needed | 47 <u>or</u> 57 |

The establishment of Birmingham Gateway Dialysis consisting of two (2) existing in-center hemodialysis stations to be relocated from Birmingham East Dialysis, plus eight (8) new in-center hemodialysis stations, would help address this demonstrated, substantial unmet need, allowing for better and more efficient health service of dialysis patients in Jefferson County and the surrounding counties.

- E. If the application is for a specialized or limited-purpose facility or service, show the incidence of the particular health problem.**

Not Applicable.

- F. Describe the relationship of this project to your long-range development plans, if you have such plans.**

The goal of DaVita is to meet the needs of its dialysis patients by providing quality, compassionate, cost-effective care. The establishment of Birmingham Gateway Dialysis is directly in line with DaVita's mission of providing the dialysis patient community with efficient state-of-the-art service. Thus, the proposed Project is fully compatible with DaVita's long range plans.

⁷ The Alabama State Health Plan allows for two different methodologies to determine the incidence rate of new patients. The higher number of new patients (331) reflects the sum of 719 cases per million non-white population per year plus (+) 285 cases per million white population per year. This is calculated as follows: 313,066 (total non-white population) multiplied by .000719 (719 cases per million non-white population per year) equals 225.094454 new patients. 370,815 (total white population) multiplied by .000285 (285 cases per million white population per year) equals 105.682275. The combination of the white and non-white totals equals 330.776729 or (rounded) 331 new patients.

The lower number of new patients (35) reflects 422 cases per million per year. This calculation is as follows: 683,881 (total population) multiplied by .000422 (422 cases per million per year) equals 288.597782 or (rounded) 289 new patients.

⁸ Home Training Stations and Isolation Stations are not included in the State Health Plan need methodology. Ala. Admin. Code R. 410-2-3-.05(2)(a).

- 22. RCG –West (633 Lomb Avenue, Birmingham, AL 35211); and
- 23. Steel City Dialysis (1809 Avenue H, Birmingham, AL 35218) currently operating at 145% of maximum optimal capacity.

B. How will the proposed project affect existing or approved services and facilities in the medical service area?

This proposed Project will compliment the existing services, as there is a demonstrated, substantial unmet need for additional in-center hemodialysis stations in the health service area.

C. Will there be a detrimental effect on existing providers of the service? Discuss methodologies and assumptions.

No, two (2) of the existing in-center hemodialysis stations at Birmingham East Dialysis must be relocated to help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services.

Additionally, the proposed Project should have no detrimental effect on existing providers since there is a demonstrated, substantial unmet need for an additional 47 or 57 in-center hemodialysis stations in Jefferson County. The existing CON-approved, licensed and certified in-center hemodialysis stations in Jefferson County are currently operating at 114% of maximum optimal capacity as defined by the State Health Plan.

Moreover, this proposed Project will specifically address the unmet need for dialysis services at Birmingham North Dialysis and Crown Dialysis allowing DaVita—a nationally recognized, comprehensive provider of dialysis services—to help alleviate its own capacity issues and better serve its existing patients of Birmingham North Dialysis and Crown Dialysis, as well as future patients residing in the north Jefferson County area, by providing scheduling options and a new convenient location option.

D. Describe any coordination agreements or contractual arrangements for shared services that are pertinent to the proposed project.

Not applicable.

E. List the new or existing ancillary and/or supporting services required for this project and briefly describe their relationship to the project.

Birmingham Gateway Dialysis will provide all services required for operation of the facility through either employee or independent contractor staff. Transplantation services will be available through arrangements with the University of Alabama Transplant Team in Birmingham ("UAB"). Routine laboratory services will be provided by DaVita Labs in Florida, and stat laboratory services will be provided at the University of Alabama Hospital in Birmingham ("UAB").

IV. POTENTIAL LESS COSTLY OR MORE EFFECTIVE ALTERNATIVES

A. What alternatives to the proposed project exist? Why was this proposal chosen?

One alternative to this Project is to leave all existing hemodialysis stations at the space-constrained Birmingham East Dialysis. This alternative is not a viable option because the treatment floor at Birmingham East Dialysis is currently crowded with twenty (20) in-center hemodialysis stations. Expansion of Birmingham East Dialysis is also not a viable option due to the size constraints of the Birmingham East Dialysis lot.

DaVita could also add a third shift at Birmingham North Dialysis and/or Crown Dialysis; however, it has been determined that this alternative is not a viable option. Both Birmingham North Dialysis and Crown Dialysis currently operate two (2) shifts per day, six (6) days per week. Birmingham North Dialysis currently has 106 in-center hemodialysis patients and is, therefore, operating at 138% of its maximum optimal capacity according to the State Health Plan guidelines. Crown Dialysis currently has 32 in-center hemodialysis patients and is, therefore, operating at 145% of its maximum optimal capacity according to the State Health Plan guidelines.

For many patients, the third shift schedule is not feasible due to the lack of public and private (paid) transportation after 6 p.m. and the inconvenience for family and friends to transport them in the evening. Notably, Section 410-2-3-.05(2)(a)(3) of the 2004-2007 State Health Plan does not consider a third shift in calculating patient capacity, since “patient demand for this shift is erratic and unpredictable.”

The proposed Project was chosen because the establishment and operation of Birmingham Gateway Dialysis in north Jefferson County will allow DaVita to 1) help address the demonstrated substantial unmet need for dialysis services in Jefferson County; 2) help address the capacity issues at DaVita’s Birmingham North Dialysis and DaVita’s Crown Dialysis by adding eight (8) new in-center hemodialysis stations; 3) help Birmingham East Dialysis reach an appropriate size for optimal efficiency and quality patient services by relocating two (2) of its existing in-center hemodialysis stations; and 4) provide all dialysis patients in north Jefferson County and surrounding counties with much-needed scheduling options and convenient location options, thus providing meaningful patient choice and quality of life.

B. How will this project foster cost containment?

This proposed Project will foster cost containment through improved efficiency and productivity. Specifically, the Project will maximize efficient use of space in which to provide patient services. The Project will also increase efficiency via physical plant design and state-of-the-art dialysis machines and water systems. Furthermore, the existing DaVita support structure will support Birmingham Gateway Dialysis.

C. How does the proposal affect the quality of care and continuity of care for the patients involved?

The proposed Project will improve quality of care and quality of life by improving patient accessibility to dialysis services in a new, state-of-the-art facility. If approved, the proposed Project will afford patients more flexibility in much-needed scheduling and a new location option, making both their lives and the lives of their families easier. In addition, the same physicians serving patients at the existing Birmingham North Dialysis and Crown Dialysis will also be serving patients at Birmingham Gateway Dialysis. Therefore, the proposed Project will have a positive impact on both quality and continuity of care, as well as overall quality of life.

V. DESCRIBE COMMUNITY REACTION TO THE PROJECT (Attach endorsements if desired)

Both the medical and patient communities, as well as the community at large, are supportive of this Project. Attached to this Application as Exhibit B is fifty-three (53) letters of support.

VI. NON-PATIENT CARE

If appropriate, describe any non-patient care objectives of the facility, i.e., professional training programs, access by health professional schools and behavioral research projects which are designed to meet a national need.

Birmingham Gateway Dialysis intends to provide internships to local college and Certified Clinical Hemodialysis Technician (CCHT) graduates. These internships would increase exposure to dialysis services during a student’s college experience, thus allowing students to have a better overall understanding

of the relationship between ESRD and the variety of co-morbid conditions that contribute to ESRD. Birmingham Gateway Dialysis also intends to participate in clinical studies with its nephrologists.

VII. MULTI-AREA PROVIDER

If the applicant holds itself as a multi-area provider, describe those factors that qualify it as such, including the percentage of admissions which resides outside the immediate health service area in which the facility is located.

Not applicable.

VIII. HEALTH MAINTENANCE ORGANIZATION

If the proposal is by or on behalf of a health maintenance organization (HMO), address the rules regarding HMOs, and show that the HMO is federally qualified.

Not applicable.

IX. ENERGY-SAVING MEASURES

Discuss as applicable the principal energy-saving measures included in this project.

This proposed Project will increase efficiency via state-of-the-art dialysis machines and water systems. If approved, the proposed Project will also include energy-saving measures, such as occupancy sensors in rooms for lighting; a high efficiency heating, ventilating and air conditioning ("HVAC") system; high efficiency (R30) building insulation; high efficiency double-paned insulated windows; all fluorescent lighting; programmable thermostats so HVAC set points change based on occupancy; photo cell for exterior lighting versus a time clock; insulated doors; and solar shades on exterior windows.

X. OTHER FACTORS

Describe any other factor(s) that will assist in understanding and evaluating the proposed project, including the applicable criteria found at 410-1-6 of the Alabama Certificate of Need Program Rules and Regulations which are not included elsewhere in the application.

410-1-6-.02 State Health Plan or Plans

"(1) The proposed new institutional health service shall be consistent with the appropriate state health facility and services plans effective at the time the application was received by the State Agency, which shall include the latest approved revisions of the following plans: (a) the most recent Alabama State Health Plan;"

In summary, as has been addressed throughout this CON Application, this proposed Project by Birmingham Gateway Dialysis meets all applicable criteria found at Section 410-1-6 of the CON Rules and Regulations. The proposed Project is consistent with all applicable provisions of the 2004-2007 State Health Plan. The proposed Project is fully compatible with DaVita's overall long range development plan, as well as DaVita's long range development plan in Jefferson County. The proposed Project is the least costly, most efficient, most appropriate, and most effective means for addressing the need for dialysis services in Jefferson County.

Furthermore, the proposed Project is financially feasible; specific data in support of this proposed Project in Jefferson County for Birmingham Gateway Dialysis is reasonable, relevant and appropriate; the proposed Project has been carefully evaluated and is consistent with the overall health and health-related plans of DaVita; the proposed Project is location appropriate with access to transportation, available manpower, and the Applicant is committed to communicating and cooperating with all planning, regulatory, and utility agencies and organizations that influence the facility's destiny; and the facility will meet all required licensure standards.

Birmingham Gateway Dialysis anticipates no adverse effect of the proposed Project on any of the existing kidney disease treatment centers in Jefferson County. The medical and patient communities, as well as the community at large, are supportive of this proposed Project.

The proposed Project will contribute in meeting the health related needs of traditionally medically underserved groups including low income persons, racial and ethnic minorities, women, and handicapped persons. The proposed ESRD facility will be accessible to all in the Jefferson County community, including the medically underserved.

The proposed Project will be complimentary to and supportive of the existing health system. Birmingham Gateway Dialysis is the most appropriate applicant for this proposed Project based on DaVita's established relationships in Jefferson County and ESRD patients living in Jefferson County and the surrounding area, and has excellent professional, management, and manpower capabilities to meet the current health needs and the unmet need for dialysis services in Jefferson County.

The proposed Project maximizes cost containment, protects the environment, and conserves energy. The proposed Project conforms to local zoning ordinances and building codes and complies with all applicable state statutes and regulations for the protection of the environment. Furthermore, the proposed Project will be developed and operated in compliance with the appropriate state licensure rules, regulations, and standards.

PART FOUR: UTILIZATION DATA AND FINANCIAL INFORMATION

This part should be completed for projects under \$500,000.00 and/or those projects for ESRD and home health. If this project is not one of the items listed above, please omit Part Four and complete Part Five. Indicate N/A for any questions not applicable.

| I. | UTILIZATION | Years: | PROJECTED | PROJECTED |
|----|--------------------|--------|---------------------|---------------------|
| | | | <u>thru 12/2015</u> | <u>thru 12/2016</u> |
| A. | ESRD | | | |
| | # Patients | | 39 | 47 |
| | # Procedures | | 5130 | 6200 |
| B. | Home Health Agency | | | |
| | # Patients | | | |
| | # of Visits | | | |
| C. | New Equipment | | | |
| | # Patients | | | |
| | # Procedures | | | |
| D. | Other | | | |
| | # Patients | | | |
| | # Procedures | | | |

II. Percent of Gross Revenue

| Source of Payment | Projected | | |
|----------------------------|--------------|--------------|--------------|
| | 2015 | 2016 | 2017 |
| ALL Kids* | 0 | 0 | 0 |
| Blue Cross/Blue Shield | 17.21 | 17.21 | 17.21 |
| Champus/Tricare | 0 | 0 | 0 |
| Charity Care** | 0 | 0 | 0 |
| Medicaid | 2.99 | 2.99 | 2.99 |
| Medicare | 46.90 | 46.90 | 46.90 |
| Other commercial insurance | 14.01 | 14.01 | 14.01 |
| Self pay | 1.49 | 1.49 | 1.49 |
| Medicare Assigned | 15.08 | 15.08 | 15.08 |
| Veterans Administration | 2.32 | 2.32 | 2.32 |
| Workers' Compensation | 0 | 0 | 0 |
| TOTAL | 100 % | 100 % | 100 % |

Note: Refer to the Healthcare Financial Management Association (HFMA) Principles and Practices Board Statement Number 15, Section II.

*ALL Kids uses Blue Cross/Blue Shield of Alabama

** Birmingham Gateway Dialysis is willing to provide uncompensated care in appropriate circumstances.

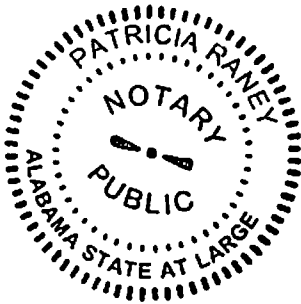
I. CERTIFICATION

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

**RENAL TREATMENT CENTERS –
SOUTHEAST, LP
D/B/A BIRMINGHAM GATEWAY
DIALYSIS**

(“APPLICANT”)

**By: Renal Treatment Centers, Inc.
Its: General Partner**

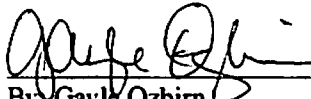



By: Gayle Ozbirn

Its: Regional Operations Director

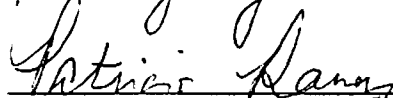
DAVITA HEALTHCARE PARTNERS INC.

(“PARENT COMPANY”)


By: Gayle Ozbirn

Its: Regional Operations Director

24th day of July 2014


Notary Public (Affix seal on Original)

MY COMMISSION EXPIRES 5/25/16

Author: Alva M. Lambert

Statutory Authority: §§ 22-21-267, -271, -275, Code of Alabama, 1975

History: Amended: March 19, 1996; July 25, 2002; Filed: July 22, 2013; effective August 26, 2013.