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August 6, 2015

**VIA E-MAIL & FEDERAL EXPRESS**

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

RECEIVED

AUG 10 2015

STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY

**Re: Renal Treatment Centers - Southeast, LP d/b/a DaVita Hokes Bluff  
Non-Reviewability Determination Request**

Dear Mr. Lambert:

Our firm has the pleasure of representing Renal Treatment Centers - Southeast, LP d/b/a DaVita Hokes Bluff ("DaVita Hokes Bluff"), a subsidiary of DaVita Healthcare Partners Inc. DaVita Hokes Bluff is a kidney disease treatment center in Gadsden, Alabama, located in Etowah County, consisting of nine (9) in-center hemodialysis stations and one (1) home training station.

On behalf of DaVita Hokes Bluff, and pursuant to Section 410-1-7-.02 of the Alabama Certificate of Need Program Rules and Regulations ("CON Rules") and Alabama Code § 22-21-260 et seq., this letter is to request ("Request") your determination that DaVita Hokes Bluff may convert its home training station to an in-center hemodialysis station, for a total of ten (10) in-center hemodialysis stations, in Gadsden, Alabama, located in Etowah County, without requiring CON review ("Proposal").

The following factual and legal information is submitted for your review and consideration in support of this Request. Also, enclosed is a check in the amount of \$1000.00 for the fee required by the State Health Planning and Development Agency ("SHPDA") for this Request.

1. Facts and Analysis

1.1 DaVita Hokes Bluff, a kidney disease treatment center located at 300 Medical Center Drive, Suite 100, Gadsden, Alabama, is licensed and certified for nine (9) in-center hemodialysis stations and one (1) home training station.

1.2 Due to the lack of patient demand for home training services, and the increased need for in-center hemodialysis services, DaVita Hokes Bluff proposes to convert its home training station to an in-center hemodialysis station, for a total of ten (10) in-center hemodialysis stations.

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1.3 DaVita Hokes Bluff does not anticipate any cost associated with this expansion. No construction is necessary as the in-center hemodialysis station was previously built-out and plumbed; the necessary equipment has already been purchased; and no additional staffing nor any increase in annual operating cost will be required to place the in-center hemodialysis station in operation.

## 2. Legal Analysis

2.1 Pursuant to Ala. Code § 22-21-278, CON approval is not required for a kidney disease treatment center located in a Class 3, 4, 5, 6, 7, or 8 municipality, as defined by Ala. Code § 11-40-12(a), which contains no more than ten (10) freestanding hemodialysis stations. However, this exemption from CON approval does not apply to a kidney disease treatment center located in a Class 4, 5, 6, 7, or 8 municipality if such municipality, or any part of such municipality, is located in a county in which a Class 1, 2, or 3 municipality, or any part thereof, is located.

2.2 Section 410-2-3-.05(1)(b) of the State Health Plan further states that Ala. Code § 22-21-278 allows kidney disease treatment centers with no more than ten (10) freestanding hemodialysis stations to operate in 61 of 67 counties without CON approval. Kidney disease treatment centers in Jefferson, Limestone, Madison, Mobile, Montgomery and Shelby counties are required to receive CON approval for any dialysis stations.

2.3 DaVita Hokes Bluff is located in Gadsden, Alabama, a Class 5 municipality,<sup>1</sup> located entirely in Etowah County. Etowah County does not contain any part of a Class 1, 2, or 3 municipality.<sup>2</sup> Hence, no part of Gadsden, Alabama, is located in a county in which a Class 1, 2 or 3 municipality or any part thereof is located.

## 3. Conclusion and Request

3.1 Pursuant to Ala. Code § 22-21-278 and Section 410-2-3-.05(1)(b) of the State Health Plan, a CON would not be required to convert a home training station to an in-center hemodialysis station, for a total of ten (10) in-center hemodialysis stations, in Gadsden, Alabama, located in Etowah County.

3.2 Therefore, this Proposal is due to be determined as non-reviewable in accordance with the Alabama CON law, rules, and regulations.

Thank you for your prompt consideration of this Request. We look forward to receiving written confirmation from you that no further regulatory approvals are required for the DaVita Hokes Bluff Proposal by you, SHPDA, or the CON Review Board, in accordance with the laws and regulations cited above.

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<sup>1</sup> As defined by Ala. Code § 11-40-12(a), a Class 5 municipality is a city with a population of not less than 25,000 and not more than 49,999 inhabitants. The population of Gadsden is approximately 36,856 (based on 2010 U.S. Census Bureau statistics located at <http://www.census.gov/popfinder/>).

<sup>2</sup> As defined by Ala. Code § 11-40-12(a), a Class 1 municipality is a city with a population of 300,000 inhabitants or more; a Class 2 municipality is a city with a population of not less than 175,000, and not more than 299,999 inhabitants; and a Class 3 municipality is a city with a population of not less than 100,000, and not more than 174,999 inhabitants.



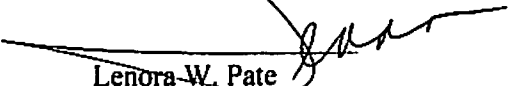
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Please give me a call if you have any questions.

Very truly yours.

  
Lenora W. Pate  
FOR THE FIRM

LWP/ac  
Enclosure

c: Nicole Horn  
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Sarah Talley  
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