

Holly S. Hosford

hhosford@bradley.com
205.521.8376

Bradley

RV2024-032

RECEIVED

July 18, 2024

STATE HEALTH PLANNING AND
DEVELOPMENT AGENCY

July 18, 2024

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: Request for Reviewability Determination
Fresenius Mobile Transitional Care and Home Therapies (ADPH Facility ID
S4919)
Home Hemodialysis at Arabella Health & Wellness of Mobile

Dear Ms. Marsal:

The purpose of this letter is to request your determination, pursuant to Section 401-1-7-.02 of the Alabama Certificate of Need Program Rules & Regulations ("Regulations"), that the proposed provision of home dialysis services on site at Arabella Health & Wellness of Mobile (ADPH Facility ID N4908), located in Mobile County at 1758 Spring Hill Avenue, Mobile, AL 36607 (the "Arabella Facility") by Fresenius Medical Care Mobile Area, LLC d/b/a Fresenius Mobile Transitional Care and Home Therapies¹ ("Fresenius") to residents of the Arabella Facility does not require a Certificate of Need ("CON") from the State Health Planning and Development Agency. In order to assist with this determination, we offer the following information:

Fresenius is a licensed end stage renal disease ("ESRD") facility located in Mobile County with CON authorized home dialysis training stations, which are used interchangeably to train patients to perform home hemodialysis and home peritoneal dialysis. Fresenius is licensed and Medicare certified to provide home hemodialysis and home peritoneal dialysis training and support services. For the benefit of ESRD patients residing or staying in the Arabella Facility, a licensed skilled nursing facility ("SNF"), sometimes referred to as a nursing home or long term care facility, Fresenius wishes to provide home hemodialysis services on site at the Arabella Facility, pursuant to a written agreement between Fresenius and Arabella. This proposal will not involve new costs to Fresenius exceeding the following expenditure thresholds: (i) \$3,322,582.00 for major medical equipment; (ii) \$1,327,734.00 for new annual operating costs; and (iii) \$6,638,679.00 for capital expenditures.

¹ Fresenius Medical Care Mobile Area, LLC is a joint venture between Bio-Medical Applications of Alabama, Inc. and Mobile Dialysis, LLC. Bio-Medical Applications of Alabama, Inc. is an indirect wholly-owned subsidiary of Fresenius Medical Care Holdings, Inc. Fresenius Medical Care Holdings, Inc. is an indirect wholly-owned subsidiary of Fresenius Medical Care AG & Co. KGaA is the corporate parent of Fresenius entities providing dialysis services in North America.

Residents of a SNF may receive chronic dialysis treatments through two options: (1) in-center dialysis, and (2) home dialysis, in which the resident receives dialysis treatments in the SNF administered by the patient, a family member or friend, dialysis facility staff, or SNF personnel. Currently in Alabama, SNF residents requiring chronic dialysis treatments are typically transported to an off-site ESRD facility for in-center treatment. Transporting SNF residents off-site for dialysis treatments is not ideal for the following reasons:

- (i) Risk of patient injury and discomfort due to inclement weather;
- (ii) Expensive transportation costs;
- (iii) Disruption to the care provided to the patient by SNF staff (rehabilitation, medications, meals, etc.);
- (iv) In-center dialysis patients are largely limited to receiving dialysis treatments only three times per week;
- (v) Potential breakdown in the coordination of care; and
- (vi) Patient may be exposed to viruses and other illnesses during transport.

Upon confirmation of nonreviewability from the State Health Planning and Development Agency ("SHPDA") and approval from the Alabama Department of Public Health and the Centers for Medicare and Medicaid Services, Fresenius will provide properly trained registered nurses, and patient care technicians to administer home hemodialysis treatments in the Arabella Facility to Arabella Facility residents with ESRD using the NxStage HHD system and PureFlow SL ultrapure water and dialysate preparation system. These Arabella Facility residents will be home patients of the Fresenius home dialysis program. Fresenius will not administer treatments at the Arabella Facility to patients who are not residents of the Arabella Facility. The equipment used to perform the hemodialysis treatments is the same brand of portable hemodialysis equipment that is currently used by Fresenius home hemodialysis patients in their homes. Fresenius has CON authority for home dialysis under CON 2892-ESRD, issued in March 2020, approving twelve in-center stations, one isolation station, and fifteen home training stations at the Fresenius facility. Accordingly, providing home dialysis services to home dialysis patients at the nursing home, which is considered the SNF resident's home for the purpose of home dialysis, is within the scope of Fresenius's existing CON authority.

Home dialysis offers several advantages when implemented within a SNF. This approach allows individuals with kidney failure to receive dialysis treatments in the comfort of their own environment while benefiting from the support and expertise of dialysis care technicians. The integration of home dialysis in a SNF presents numerous benefits for both patients and healthcare providers, including the following:

- (i) eliminates the need for a patient to be transported to a dialysis center for dialysis treatments;
- (ii) minimizes risk of exposure to viruses and illnesses from outside facilities;
- (iii) minimizes risk of slip, fall, or other medical incident after treatment or during transport back to SNF;

- (iv) better able to maintain patient's rehabilitation, medical appointment, meal and activity schedules; and
- (v) increased access to flexible dialysis options, including more frequent hemodialysis.

Importantly, research has found that more frequent hemodialysis is associated with improved clinical outcomes in patients in SNFs.² Residents receiving more frequent hemodialysis in a SNF setting experience 34% lower risk of mortality, 23% lower risk of cardiovascular hospitalization, and 17% lower risk of hospitalization (excluding infection) as compared to conventional hemodialysis (three times per week).

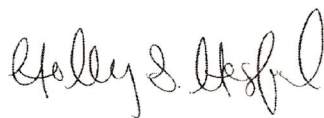
As required by CMS guidance set forth in "Guidance and Survey Process for Reviewing Home Dialysis Services in a Nursing Home", QSO-18-24-ESRD, revised in March 2023, Fresenius will maintain direct responsibility for the dialysis-related care and services provided to the Arabella Facility residents and will assure that such services are consistent with the ESRD Conditions for Coverage requirements set forth in 42 CFR 494.1 et seq. The Arabella Facility and Fresenius will work together to ensure a safe and sanitary environment for the home dialysis treatments, including adherence to emergency protocols. In the event an emergency occurs during the provision of home dialysis services at the Arabella Facility, the dialysis caregiver will disconnect the patient receiving dialysis in accordance with Fresenius's emergency disconnect procedures and contact 911. All staff involved in the on-site home dialysis services at the Arabella Facility will be trained on the emergency disconnect procedures.

Upon confirmation of nonreviewability from SHPDA, Arabella will pursue the ADPH Technical Services Unit plan review process to ensure that the dialysis space within the Arabella Facility meets all applicable physical plant and Life Safety Code requirements. Following approval by the Technical Services Unit and receipt of the Certificate of Completion, the Arabella Facility and Fresenius will coordinate with Health Provider Standards for review and approval of the proposed arrangement. Prior to commencement of on-site home dialysis, Arabella Facility staff will be trained on how to detect, report, and manage potential complications that may occur before, during, or after a dialysis treatment.

Given that (i) Fresenius has existing CON authority to offer home hemodialysis training and support, (ii) the Arabella Facility is considered the residents' "home" for purposes of home dialysis, (iii) the proposed on-site home dialysis will be offered only to residents of the Arabella Facility who will also be patients of the Fresenius home dialysis program, and (iv) the proposal does not involve new costs exceeding the CON monetary thresholds for review, we respectfully request your determination that Fresenius is exempt from CON review and is not required to obtain a CON in order to provide the home dialysis services as described in this letter. We appreciate your consideration of this request, and welcome the opportunity to address any questions regarding this matter. A check for \$1,000.00 in payment for the applicable fee will be delivered to your office. Thank you very much.

² Weinhandl E, Hocking K, Markovich S, Vavrinchik S, Collins A. *Increased Hemodialysis Frequency is Associated with Improved Clinical Outcomes Among Patients in Skilled Nursing Facilities*. Abstract Presented at ASN 2018. Based on a retrospective study of 3,619 patients comparing those that received >4.5 hemodialysis treatments per week to those receiving <4.5 treatment per week in the SNF setting between 2011 and 2015.

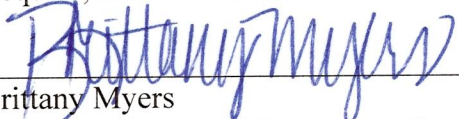
Best regards,

A handwritten signature in cursive script, reading "Holly S. Hosford". The signature is written in black ink and is positioned above the printed name.

Holly S. Hosford

Affirmation of Requesting Party:


The undersigned, being first duly sworn, hereby makes oath or affirms that she, as the Regional Director of Operations of Fresenius Kidney Care overseeing Fresenius Mobile Transitional Care and Home Therapies, has knowledge of the facts in the attached Reviewability Determination Request, and to the best of her information, knowledge and belief, such facts are true and correct.



Brittany Myers
Regional Director of Operations, Fresenius Kidney Care



(SEAL)

SUBSCRIBED AND SWORN to before me this 18th day of July, 2024.


Notary Public
My commission expires: _____

