

October 31, 2018

Ms. Julie Faenza, Project Analyst
Ms. Gloria Hale, CON Team Leader
Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
809 Ruggles Drive
Raleigh, North Carolina 27603

Re: Public Written Comments,
CON Project ID # F-11590-18, Mountain Island Lake Dialysis

Dear Ms. Faenza:

Bio-Medical Applications of North Carolina, Inc. offers the following comments on the above referenced Certificate of Need application filed by Renal Treatment Centers - Mid-Atlantic, Inc.

The applicant has filed an application to relocate a total of 10 dialysis stations to develop a new 10-station dialysis facility in Mecklenburg County. The applicant has filed an application which must be denied for myriad reasons.

1. The applicant has failed to provide any basis for its home patient growth projections. The applicant merely says that "It is reasonable to assume that Mountain Island Lake Dialysis will grow by a minimum of one patient per year..."¹

The CON Project Analyst must ask why this is reasonable. In the absence of any documented methodology, the absence of any physician letter indicating that more patients will be referred for home dialysis, and in the absence of any defined methodology, how can the CON Agency accept such a statement? BMA suggests it is not reasonable to assume a growth of 100% of the program in a single year when there is nothing else in the application to support such an assertion.

The applicant should be found non-conforming to CON Review Criterion 3. The applicant's projections of the patient population to be served are not reliable.

2. To the extent that the applicant is non-conforming to CON Review Criterion 3, the applicant is also non-conforming to CON Review Criterion 5. The applicant's financial projections are derivative of the identified patient population to be served.

¹ See page 16.

If the patient population is unreliable, it follows that the financial projections are likewise unreliable.

3. The applicant has not provided any evidence of referring physician support for the project. Metrolina Nephrology Associates are the predominant provider of nephrology services in Mecklenburg County. The only letter from a physician is the letter from Dr. Michael D. Boswell, the proposed Medical Director for the facility.

To the best of BMA knowledge, Dr. Boswell is not a practicing nephrologist, contrary to the information provided within the application. BMA has searched Dr. Boswell on the American Board of Internal Medicine. He is indeed board certified in Internal Medicine, but is not board certified in Nephrology².

Apparently Dr. Boswell does not have an office practice location for seeing patients with kidney disease. How many of the patients who have signed letters of support for the project are in fact patients of Dr. Boswell?

If Dr. Boswell is not the physician for the patients signing letters, who then will admit the patients to the facility? What nephrology physician will have rounding privileges at the facility?

The applicant has not provided any evidence that any physician other than Dr. Boswell, who is not board certified in nephrology, will have admitting privileges at the facility. Consequently, the application fails to satisfy Criterion 3, as it does not demonstrate how its projected patient population will actually be admitted to the facility.

4. The applicant's projected payor mix is unreasonable, unsupported, and should not be considered reliable. The applicant has proposed to relocate 10 stations from their North Charlotte dialysis facility. Yet, the applicant chooses to use a payor mix based upon the *"sources of patient payment that have been received by DaVita operated facilities in Mecklenburg County during the last full operating year."*³

The applicant operates eight dialysis facilities across Mecklenburg County. In this application all of their patient support letters come from only three of those facilities, and 31 of the 33 in-center letters come from only two of the facilities.

In the discussion of alternatives, Section E, Criterion 4, the applicant addresses the newly certified Brookshire Dialysis and Sugar Creek Dialysis facilities and suggests those facilities *"will serve a patient population in a distinctly different geographic region of the service area."*

² See Attachment 1.

³ Application page 48.

The CON Project Analyst must ask, wouldn't this same logic be true for the Charlotte East facility and the South Charlotte Dialysis facility, or the Mint Hill Dialysis facility, or even the Huntersville Dialysis facility?

If the applicant suggest that one part of the service area—Mecklenburg County—is geographically distinct from another, it stands to reason that the payor mix will also vary by “region” of the county.

Furthermore, the applicant has proposed that 18 of the patients in the first year would be transferring from their Charlotte Dialysis facility; another 13 patients are proposed to transfer from their North Charlotte dialysis facility. Thus 31 of 32 patients (31 of 33 patients signing letters) are transferring from two facilities. It would be more appropriate to identify a payor mix which would be a composite of the Charlotte and North Charlotte facilities, as opposed to using a blended rate for the entire county.

The applicant should not be allowed to say in response to Criterion 4 that the county is distinctly different based on an area, or “region” of the county, and then in discussion of Criterion 13 infer that everything is the same.

The ambiguity on behalf of the applicant should cause the CON Project Analyst to find the projected payor mix to be unreliable, and therefore non-conforming to Criterion 13.

5. The application is incomplete. The applicant suggests on page 52 that Exhibit M-2 includes a copy of a letter to Central Piedmont Community College. The copy of the application received by BMA does not include such a letter.

The absence of the exhibit should render the application as non-conforming to CON Review Criterion 14.

6. Within the discussion of Criterion 18a, page 53, the applicant suggests “*there are no other dialysis facilities in the proposed service area.*” Our State Medical Facilities Plan defines the dialysis station service area as the entirety of the county. Clearly, the comment by the applicant is erroneous.

As a consequence of this error, the applicant has not adequately addressed he effects on competition within the service area. Therefore the application should be found non-conforming to CON Review Criterion 18a.

Summary:

The application is not conforming to CON Review Criterion 3, 5, 12, 13, 14, and 18a. An application which is non-conforming to other CON Review Criteria cannot be the best alternative. Thus, this application should be found non-conforming to CON Review Criterion 4.

The applicant has provided an application which cannot be approved. Therefore the application must be denied.

If you have any questions please contact me at 910-568-3041, or email jim.swann@fmc-na.com.

Sincerely,



Jim Swann
Director of Operations, Certificate of Need

1 attachments: Information re: Dr. Michael Boswell

Attachment 1

Dr. Michael Boswell MD

Charlotte, NC



Specialty / Subspecialties: **Internal Medicine / General Internal Medicine, Hospital Medicine/Hospitalist**

About Dr. Michael Boswell, MD

Dr. Michael Boswell is an internist in Charlotte, North Carolina and is affiliated with multiple hospitals in the area, including Carolina Healthcare System University Medical Center and Carolinas Medical Center. He received his medical degree from Howard University College of Medicine and has been in practice between 11-20 years. Dr. Boswell accepts several types of health insurance, listed below. He is one of 302 doctors at [Carolina Healthcare System University Medical Center](#) and one of 358 at [Carolinas Medical Center](#) who specialize in Internal Medicine.

PHONE NUMBER

(704) 355-3813

YEARS IN PRACTICE

11 - 20

GENDER

Male

LANGUAGES

English

SPECIALTY

Internal Medicine

ARE YOU DR. BOSWELL? [Claim/Edit Your Profile](#)

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LOCATION & CONTACT



What are Dr. Boswell's Specialties?

SPECIALTY

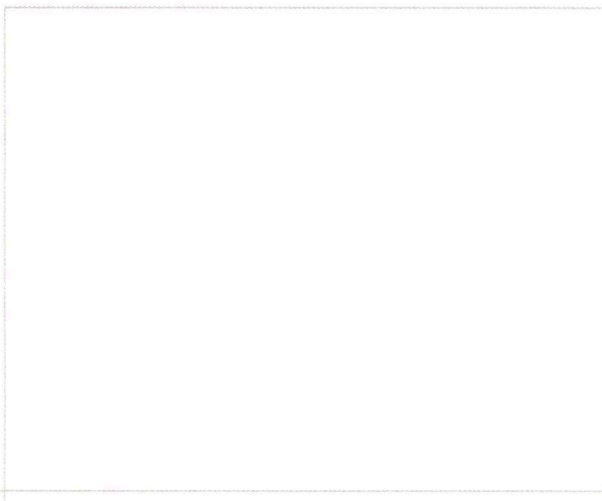
Internal Medicine

General internal medicine physicians, or internists, are primary-care doctors who perform physical exams and treat a wide spectrum of common illnesses in adult men and women. One of every four physicians in the U.S. is an internist, many of whom are certified in one of 19 subspecialties, including cardiology, infectious disease and medical oncology.

SUBSPECIALTIES

General Internal Medicine

Hospital Medicine/Hospitalist



i FALL 2018 CERTIFICATION AND MOC EXAMS AFFECTED BY HURRICANE MICHAEL  ×

i COMPLETE REQUIREMENTS BY 12/31/18 TO AVOID A CHANGE IN CERTIFICATION STATUS  ×



Home > Verify Physician Status

MICHAEL BOSWELL

CHECK A PHYSICIAN'S CERTIFICATION

Enter Last Name (Required)

Enter First Name

Enter Date of Birth (mm/dd/yyyy)



OR

Enter ABIM ID Number

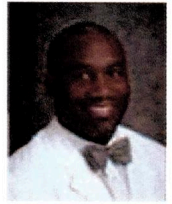


OR

Enter NPI Number



Oct 25, 2018



ABIM ID

226744

CURRENT CERTIFICATION STATUS:

Internal Medicine: ***Certified***

Participating in Maintenance of Certification: **Yes**

INITIAL CERTIFICATIONS:

Internal Medicine: 2004

Important information regarding the physician verification tool:

- Most diplomates certified prior to 1990 are not required to participate in MOC but are strongly encouraged to do so.
- All ABIM certifications issued in 1990 (1987 for critical care medicine and 1988 for geriatric medicine) and thereafter must be maintained through ABIM's MOC program.
- ABIM's website serves as primary source verification.
- Diplomates are publicly reported as participating in MOC for all certifications as long as they are participating in MOC for one certification area.
- Physicians are publicly reported as inactive if they were once certified by ABIM but now, for non-disciplinary reasons, they no longer have an active medical license in any jurisdiction.
- Certification status is updated to this system within 5 days of notification to the physicians. Data elements, such as name changes, are updated in ABIM's records within 24 hours of being processed by ABIM.
- If you do not find your physician or they are listed as not certified, they may be certified by another board of the American Board of Medical Specialties. Please check www.certificationmatters.org <<http://www.certificationmatters.org>>. Additionally, information on Allergy and Immunology, Clinical Laboratory

Immunology and Diagnostic Laboratory Immunology diplomates can be now found at www.certificationmatters.org <<http://www.certificationmatters.org>>.

For more information about ABIM certification and MOC, go to:

- ▶ [MOC Requirements </maintenance-of-certification/moc-requirements/general.aspx>](http://www.certificationmatters.org/maintenance-of-certification/moc-requirements/general.aspx)
- ▶ [Annual Reverification Date - April 1st </credentialers/default.aspx>](http://www.certificationmatters.org/credentialers/default.aspx)
- ▶ [Reporting Certification Status </certification/policies/general/policies.aspx#reportstatus>](http://www.certificationmatters.org/certification/policies/general/policies.aspx#reportstatus)
- ▶ [Board Eligibility </certification/policies/general/policies.aspx#eligibility>](http://www.certificationmatters.org/certification/policies/general/policies.aspx#eligibility)
- ▶ [Representation of Board Certification and Board Eligibility Status </certification/policies/general/policies.aspx#representstatus>](http://www.certificationmatters.org/certification/policies/general/policies.aspx#representstatus)

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