TOPCATS Division
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To the Healthcare Planning and Certificate of Need Section and Acute Care Services Committee of the State Health Coordinating Council

Comments on
Fresenius Medical Care Public Comments
Presented at the March 6, 2019 State Health Coordinating Council Meeting

March 21, 2019

DaVita Kidney Care and its related entities currently operate 91 dialysis facilities in North Carolina, providing dialysis care and support to over 5,900 dialysis patients. As we have engaged with members of the Acute Care Services Committee and Agency staff in the ESRD Interested Parties Meetings over the past year, analyzing and providing feedback on the proposed adjustments necessary as the Agency transitions from twice-yearly reporting of ESRD data in Semiannual Dialysis Reports (SDR) to annual reporting of ESRD data in the State Medical Facilities Plan (SMFP), our primary concern has been the impact of the Agency's proposed changes on patient access. We sincerely appreciate the efforts made by the Agency and the Committee to include the comments and suggestions of dialysis providers in this process.

DaVita offers the following comments in response to the public comments made by Jim Swann on behalf of Fresenius Medical Care at the State Health Coordinating Council's March 6, 2019 meeting:

> DaVita agrees that the State Medical Facilities Plan can effectively serve as the single source document for planning for dialysis station need, and stands ready to continue to work with the Agency and Council committee members to develop a way forward that ultimately serves the best interest of ESRD patients.
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> DaVita also believes that dialysis facilities must have the opportunity to apply for additional stations twice each year. To limit providers to a single application opportunity per year would significantly impact patient access. As we noted in separate comments to the Council, the Agency provided analysis of applications proposing to add stations from 2013 to 2018 at the February 13 work session.
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> As noted in their analysis, "113 of the 141 facilities never filed twice in the same calendar year. 28 facilities did file twice in the same calendar year. Of the 28 facilities that filed twice in the same calendar year, 2 filed twice in the same calendar year in two different calendar years.[1]" Had these 28 facilities been limited to one opportunity to apply for additional stations, it could have had led to a significant impact on patient access, i.e. patients unable to dialyze at a facility because the stations weren't available, creating an undue burden on patients who may have to travel further to receive their life-sustaining care.

[1] CON Applications Filed CY 2013-2018 (XLSX, 36.3 KB)

DaVita notes that an application submitted pursuant to a proposed Policy ESRD-1 that would replace the facility need methodology, would have to show that it met the Performance Standards in 10A NCAC 14C .2203, so Fresenius' concerns about overdevelopment in the absence of a facility need determination are unwarranted. As Mr. Swann notes in his comments "there have been multiple occasions where the need methodology generated a greater number of stations than I could prove need for." Providers have successfully applied for ***only*** the additional stations they could prove a facility had a need for, not necessarily the number of stations a facility need determination indicated so a "wild west" scenario where providers apply frivolously for additional stations is both unlikely and appropriately limited by current statues, rules and policies.

DaVita appreciates the opportunity to share these comments and looks forward to continued partnership with Agency Staff and the Acute Care Services Committee as we transition to annual data reporting in the SMFP.