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Charlotte, NC 28208

October 31, 2016

Mr. Greg Yakaboski, Project Analyst  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
809 Ruggles Drive  
Raleigh, North Carolina 27603

RE: Project #E-11238-16/Bio-Medical Applications of North Carolina, Inc. d/b/a FMC Catawba Valley/Add four dialysis stations for a total of twenty-three stations/Catawba County

RE: Project #E-11234-16/Bio-Medical Applications of North Carolina, Inc. d/b/a FMC of Hickory/Add six dialysis stations for a total of thirty-five stations/Catawba County

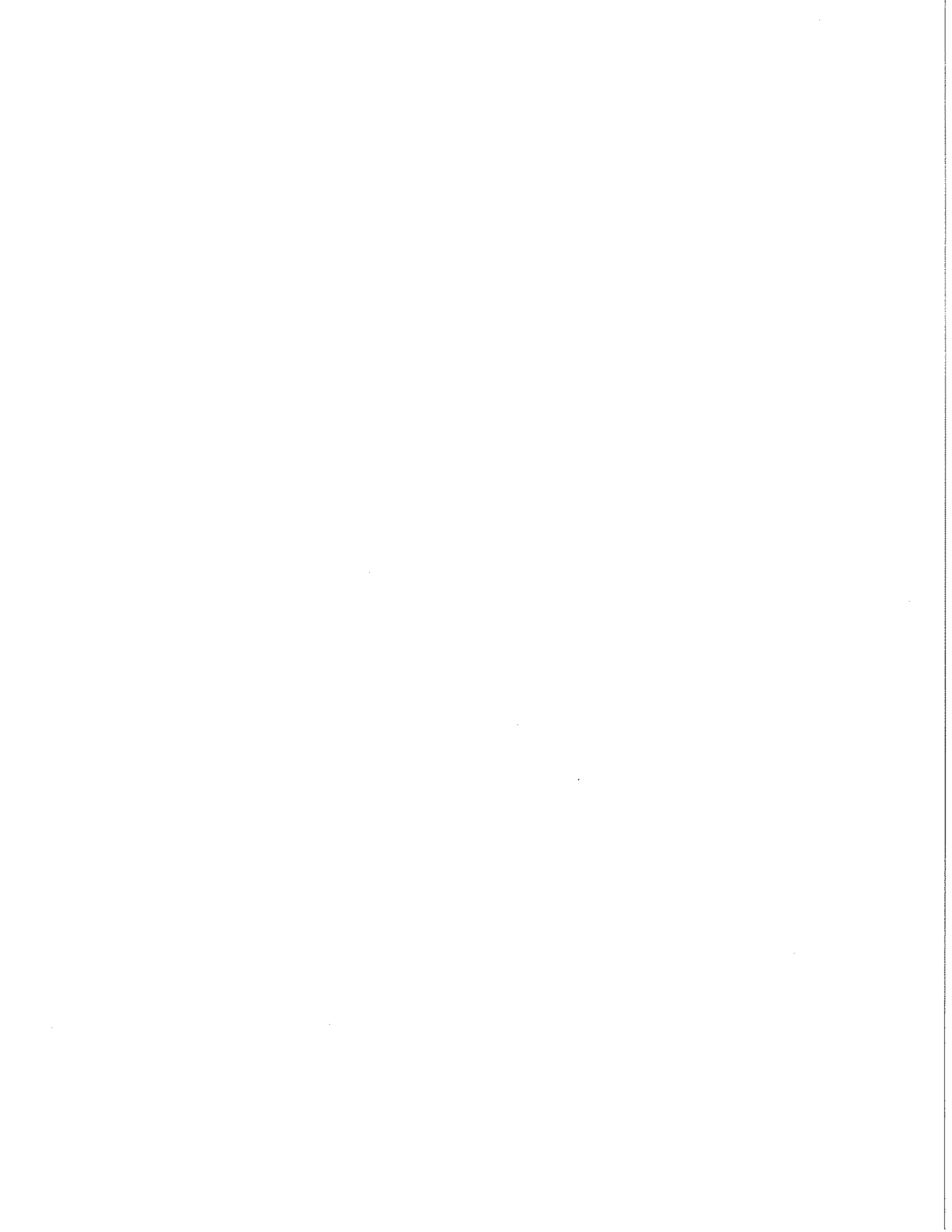
Dear Mr. Yakaboski:

On page 26 of the FMC Catawba Valley application and on page 28 of the FMC of Hickory application, the applicant states, "...BMA elected to file develop a 12 station facility in July, knowing that the Need Determination was published in the July 2016 SDR". The July 2016 Semiannual Dialysis Report indicated that there is a Need Determination for 10 Dialysis Stations in Catawba County. That need determination triggered the submission of three Certificate of Need applications in Catawba County to counter any other provider submitting a Certificate of Need application to meet the need for ten stations, which would provide End Stage Renal Disease patients a choice of providers.

The three applications include the July submission of the Fresenius Kidney Care Newton CON application to establish a twelve-station facility in Newton in Catawba County via transfer of six stations from FMC Catawba Valley and six stations from FMC of Hickory. That was the first step to eliminate the ten-station need determination.

The applicant then submitted two CON applications on September 15, 2016 to backfill six stations at FMC of Hickory and backfill four stations at FMC Catawba Valley. This was a plan to defend against another provider submitting a CON application to address the ten-station need determination.

The applicant indicates in the FMC Catawba Valley application that they have recently completed salary survey for all Fresenius related facilities across North Carolina. It is interesting that the applicant does not mention the salary survey in two expansion CON applications in counties that are contiguous to Catawba County. They are BMA of Burke County, Project ID #E-11235-16 and BMA Lincolnton, Project ID #F-11232-16. See the first page of Section E. in the two applications.



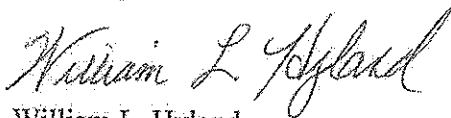
The most important consideration in review the FMC Catawba Valley and FMC of Hickory backfill CON applications is that if either application is approved, there is no opportunity for ESRD patients to have a choice of providers.

FMC of Hickory has had over an 80% utilization rate in every Semiannual Dialysis Report from July 2011 through July 2016 with the exception of the July 2015 SDR. The January 2013 SDR indicates that a two-station expansion at FMC of Hickory was conditionally approved which would bring the station censuses of the facility to thirty-five stations upon certification. It took Fresenius from sometime the latter part of 2012 to the first few months of 2015 to secure the certification of the two stations. All the while FMC of Hickory was over 80% utilized. FMC Catawba Valley has been at over 80% utilization since the July 2014 SDR. Fresenius had years to study and determine the need for a third in-center facility in Catawba County. Their previous inaction in planning for the expansion of services in Catawba County indicates that Fresenius had no interest in opening a third in-center facility until there was a ten-station need determination.

The applicant has presented three CON applications based on the July 2016 Semiannual Dialysis Report with the intent to keep a monopoly of dialysis services for the End Stage Renal Disease patients living in Catawba County.

DaVita Inc. reserves the right to provide additional documentation in opposition to the expansions of FMC Catawba Valley and FMC of Hickory.

Sincerely,



William L. Hyland  
Director of Healthcare Planning

