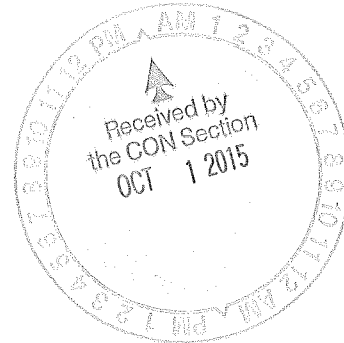


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William L. Hyland  
Director of Healthcare Planning

# DaVita

October 1, 2015



Ms. Martha Frisone, Assistant Chief  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
North Carolina Department of Health and Human Services  
809 Ruggles Drive  
Raleigh, North Carolina 27603

RE: Project #L-11067-15/FMS ENA Home, LLC Develop a New End Stage Renal Disease Treatment Facility/Edgecombe County

Dear Ms. Frisone:

Fresenius Medical Care in their Notice of Intent to file a Certificate of Need Application seeking to develop a new end stage renal disease treatment facility in Edgecombe County. The applicant, FMS ENA Home, LLC states in Section A, page 2 of the application, that FMS ENA Home, LLC is currently a single member LLC, with BMA of North Carolina, Inc. as the sole member. On page 5 of Section A, the applicant states, "Fresenius ENA Home, LLC does not own or operate any existing kidney disease treatment centers in North Carolina. However, this facility will be managed by Bio-Medical Applications of North Carolina, Inc., a subsidiary of Fresenius Medical Care Holdings, Inc. The applicant, FMS ENA Home, LLC fails to provide a management agreement between FMS ENA Home, LLC and Bio-Medical Applications of North Carolina, Inc.

The applicant states in Section C, page 19 that both operating years will be the period from January 1, 2017 to December 31, 2017.

In Section C, page 20, the applicant states that the five-year average annual change rate of home trained patients in North Carolina is 5.2%. The five-year average annual change rate of home trained patients in Edgecombe County is -3.76%. The number of home-trained patients in Edgecombe County decreased from 25 patients as of December 31, 2010 to 21 patients as of December 31, 2014. The home patients in Edgecombe County as a percentage of all patients as of December 31, 2010 was 12.6%. The home patients in Edgecombe County as a percentage of all patients as of December 31, 2014 was 10.4%. The applicant is projecting an increase of the percentage to 15% over the next "several years" with the annual rate of increase of 1.5%. However, the same Nephrologists who have historically referred patients to home training programs are the same Nephrologists who will refer to the proposed FMS ENS Home, LLC

facility. There is no statement in the application that indicates the Nephrologists will change their modality referral patterns.

The applicant lists on pages 20 and 21 three counties where the home training population has had a substantial increase in the last two years. The applicant has cherry picked the counties they used for examples of significant growth in the home training patient population.

Attached is a spreadsheet of 25 counties where Fresenius is the sole provider or the prevalent provider. The spreadsheet shows that the county with the highest penetration of home-trained patients has 12.8% of the patients who are home-trained. The average home-trained patient penetration for the 25 counties is 9.44%. The information for this report was taken from the latest Patient Origin Report, which is located in Exhibit C-3 of this application. The growth behavior in these 25 counties indicates that the % of home-trained patients is no better than Edgecombe County.

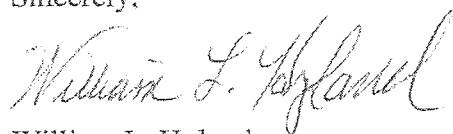
The majority of patients who signed letters of support is suspect. Several of the patients live closer to other facilities with home-trained programs operated by Fresenius. For those home-trained patients who really do live closer to Tarboro than to another facility, Dialysis Care of Edgecombe County provides home training and support in peritoneal dialysis.

The growth rate of patients in Section C is flawed since the home-trained growth rate is a negative percentage. Therefore, the projected patient growth rate indicated in the application is overstated. The financial projections are also overstated. The overstated patient population projections result in overstated revenue which will result in an operating deficit at the end of operating year two.

The CON application submitted by FMS ENA Home, LLC contains several errors and inconsistencies. The application is fatally flawed and should be denied.

DaVita HealthCare Partners Inc. reserves the right and will provide additional comments concerning the FMS ENA Home, LLC application at the public hearing.

Sincerely,



William L. Hyland  
Director of Healthcare Planning

25 Counties Where Fresenius is the Prevalent Provider- % of Home ESRD Patients to Total ESRD Patient Population

County	Total Patients	Home Patients	% of Home Trained Patients
Alexander	39	4	10.3
Bertie	61	7	10.6
Burke	114	11	9.6
Caldwell	105	9	8.6
Catawba	200	18	9
Chatham	96	4	4.2
Dare	27	3	11.1
Gaston	317	21	6.6
Granville	150	16	10.7
Guilford	886	70	7.9
Halifax	226	17	7.5
Johnston	253	30	11.9
Lenoir	190	20	10.5
Lincoln	73	8	10.9
Nash	262	24	9.1
Northampton	86	9	10.4
Pitt	365	46	12.6
Randolph	170	16	9.4
Robeson	405	19	4.7
Sampson	167	19	11.4
Scotland	100	7	7
Stanley	75	5	6.7
Wake	1,206	142	11.8
Warren	64	6	9.4
Washington	39	5	12.8
<b>Totals</b>	<b>5676</b>	<b>536</b>	<b>9.44%</b>