STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH

CERTIFICATE OF NEED

PUBLIC HEARING ON REVIEW STANDARDS FOR:

SURGICAL SERVICES

POSITRON EMISSION TOMOGRAPHY (PET) SCANNER SERVICES

OPEN HEART SURGERY SERVICES

MEGAVOLTAGE RADIATION THERAPY (MRT) SERVICES/UNITS

HOSPITAL BEDS AND ADDENDUM FOR HIV INFECTED INDIVIDUALS

CARDIAC CATHETERIZATION SERVICES

BEFORE NATALIE KELLOGG, DEPARTMENTAL TECHNICIAN TO CON

201 Townsend Street, Lansing, Michigan

Wednesday, October 13, 2010, 9:30 a.m.

Also present:

Tania Rodriguez

RECORDED BY:

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Lansing, Michigan

Wednesday, October 13, 2010 - 9:32 a.m.

MS. KELLOGG: Good morning. I'm Natalie Kellogg, Departmental Technician to the Certificate of Need Commission from the CON Health Policy Section of the Department of Community Health. Chairperson Ed Goldman has requested that the Department conduct today's hearing.

Comment cards can be found on the table and need to be completed if you wish to provide testimony. Please be sure that you have signed the sign-in log.

This hearing is to receive comment on what, if any, changes need to be made; and on the need for continued regulation or deregulation of each of the mentioned standards. Surgical Services, PET Scanner Services, Open Heart Surgery Services, MRT Services/Units, Hospital Beds and Addendum for HIV Infected Individuals, as well as Cardiac Catheterization Services Standards are scheduled for Commission review in 2011. The three-year review schedule for all standards is listed on the second page of the CON Commission Work Plan located at www.michigan.gov/con.

If you wish to speak on any of the scheduled standards, please turn in your comment card and provide copies of any written testimony. Just as a reminder, all cellular telephones and pagers need to be turned off or set to vibrate during the hearing.

As indicated on the Notice of Public Hearing, written testimony may be provided to the Department via our Web site at www.michigan.gov/con through Wednesday, October 20th, 2010 at 5:00 p.m.

Today is Wednesday, October 13th, 2010. We will begin the hearing by taking testimony in the following order: Surgical Services, PET Scanner Services, Open Heart

Surgery Services, MRT Services/Units, Hospital Beds and Addendum for HIV Infected Individuals, and Cardiac Catheterization Services. The hearing will continue until all testimony has been given, at which time we will adjourn.

At this time we will hear testimony from Joe Garcia on Surgical Services.

MR. GARCIA: Good morning.

MS. KELLOGG: Good morning.

MR. GARCIA: And thank you, and I will be brief. My name is Joe Garcia. I am an attorney with Honigman, Miller, Schwartz and Cohn here in Lansing. I'm here today representing RMS Lifeline, its Lifeline Vascular Access centers. They're a subsidiary of DaVita. DaVita is the largest proprietary provider of kidney dialysis services in the United States, and they have over 1500 outpatient facilities throughout the country. They operate in 43 states and the District of Columbia, and they serve over 115,000 patients. Lifeline is a subsidiary. It's a management company for DaVita, operating here in Michigan. They operate six physician-owned clinics at the physician offices here in Michigan. Of the six, five are within the Detroit area and one is in Ypsilanti. They employ between 50 and 60 physicians at any one time. In the 2009 calendar year they served approximately 7533 patients.

The request of Lifeline to you today is to change the Certificate of Need Standard so that these six clinics that now perform procedures to install and maintain catheters and fistulas for kidney dialysis patients be reclassified as ambulatory surgical centers. The reason for this request is that the clinics are currently under some economic distress

because of reductions in physician payments, and that's the only payment which sustains the clinics currently.

The Lifeline Company, as well as DaVita, have not gamed this proposal. They have done what I think is the right thing to do, based on advice from us and others, to try to not circumvent the CON process. They met early this year with the Director of the Department of Community Health. They also met with the governor's health policy advisor seeking -- telling them that they would seek such a change. They met with me in March, in front of the Economic Alliance Health Policy Committee, and suggested that the change was something that they were going to pursue and was needed.

Some of you may have seen the Wall Street Journal earlier this week dealing with kidney dialysis patients and the suggestion that more and more of these patients be treated in home through peritoneal -- -natal -- I don't even know how to say the word -- service that would be provided by outpatient clinics. And in fact the article suggested that Medicare, which funds most of these procedures, was encouraging that as a cost containment measure.

What Lifeline has found is that the patients who are served at these clinics like the convenience and the comfort of going to the clinics rather than going to the hospital. When they have to have a fistula maintained, serviced, reopened, et cetera, they find that it is much easier in a smaller, convenient, closer setting. That's not to denigrate in any way the hospital service; it's only to suggest that oftentimes when they go to the hospital to get this procedure done, it can take anywhere from a half day to two days. At the clinics the patient can get the service performed, the fistula maintained, and can get their kidney dialysis the same day either at that clinic or another facility. And I stress that, you know, it's not just

about the clinics making more money; it's about convenience, access and comfort for people going through a very, very difficult procedure.

We believe, on behalf of Lifeline, it is patently unfair and inequitable to have to wait two years to make a change that would sustain economic viability for these clinics. The two-year time line is what was suggested by the Economic Alliance Health Policy Committee as what could happen if we wait for the entire CON process to play out. If that in fact is the case, then in one or two cases these clinics might not be able to sustain themselves and the patients receiving service at these clinics would end up having to go a further distance and to a different location to get their fistula maintained and their kidney dialysis on an ongoing basis.

That's the sum and substance of the testimony. I have some materials to leave which I will make available. I'll be happy to answer whatever questions you might have. Thank you.

MS. KELLOGG: Thank you for your time.

MR. GARCIA: Thank you.

MS. KELLOGG: Is there any further testimony for Surgical Standards? Okay. We'll now hear testimony for PET Scanner Services. Okay. On to the next one.

I will now hear testimony for Open Heart Surgery Services. Okay. Now we'll go on to the next one.

We'll hear testimony for MRT Services and Units. And last but not least, Hospital Beds and Addendum for HIV Infected Individuals. All right. We'll hear testimony on Cardiac Catheterization Services.

MR. McCAFFERTY: Just so we don't all go home disappointed.

MS. KELLOGG: Thank you.

MS. KELLOGG: At this time we'll hear testimony from Dennis McCafferty from the Economic Alliance.

MR. McCAFFERTY: Just a brief comment. While the CON rules specify that a SAC is not supposed to last more than six months from the date it's first seated until it's concluded, there's nothing in the rules that specify that it should take six months to seat a SAC, but that seems to be the growing trend. In the last year with the – starting with the CT SAC and now the Cardiac Cath, from when the Commission has authorized the formation of these until the first meeting of the SAC is taking an inordinately long, long time. We would like to see something done with the process to try and speed this up.

Given the number of items that are on the agenda for next year and the possibility that there will be three, four or possibly more SAC's, given the experience we've seen of late and how long it takes between when a SAC is authorized and it finally meets, it's going to take us two years to get one year's work done. I'd like to see us try and -- the staff try to do something to improve the process.

MS. KELLOGG: Thank you for your testimony. Do we have any more testimony on Cardiac Catheterization Services? Okay.

At this time we'll go ahead and adjourn the meeting -- the hearing. Thank you.

(Hearing concluded at 9:43 a.m.)