FRESENIUS
MEDICAL CARE

February 3, 2020

The Honorable Andrea Salinas
Chair, House Committee on Health Care
State Capitol, Salem, Oregon 97301

RE: HB 4114 - Dialysis

Dear Chair Salinas:

Fresenius Medical Care North America (FMCNA) - a division of Fresenius Medical Care, the world's largest vertically integrated provider of dialysis services and products - currently operates 40 kidney dialysis facilities in Oregon which employ over 700 professionals that provide superior care to approximately 2,500 patients. Our clinics are among the highest rated in quality and patient satisfaction in the nation based on both government and patient conducted surveys[1]. First among FMCNA's core values is our commitment to place our patients first and to serve their best interests, and on their behalf, we oppose HB 4114. This bill will impose significant new burdens on the thousands of current and future Oregonians living with end-stage renal disease (ESRD) who require regular dialysis treatments in order to stay alive.

Reimbursement

The reimbursement environment for dialysis is unique in the healthcare industry in that almost all people diagnosed with ESRD are eligible for Medicare, not just those over the age of 65. Further, not only are ESRD patients eligible for Medicare, but Medicare automatically and mandatorily becomes ESRD patients' primary insurance after 30 months. What is not unique to dialysis however, but is consistent throughout all corners of healthcare, is that Medicare reimbursements do not adequately cover true costs to provide care.

A primary provision of HB 4114 caps reimbursement for dialysis treatment at the Medicare rate for all privately insured contracts (also leaving the door open for private insurers to reimburse less than Medicare rates). The severity of this provision on dialysis providers is, again, uniquely harmful. As noted, not only do Medicare rates, today and historically, not cover the actual cost of dialysis treatment, but unlike every other large health care provider, the private market comprises only 10% of an average dialysis facility's revenue. **90% of our patients are on either Medicare and/or Medicaid due to the unique Medicare eligibility rules for ESRD.**

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[1]CMS Five Star Rankings: https://www.medicare.gov/dialysisfacilitycompare/#data/about-data;
CAHPS: https://www.medicare.gov/dialysisfacilitycompare/#search

Hospitals for example, have 51% of their patients on government programs[2]. The rate cap HB 4114 proposes to impose on all private health insurance contracts will make this already fragile financial ecosystem unworkable. Medicare rates alone are not enough to sustain current clinic operations in Oregon, and certainly do not provide for investment in expanding and improving the patient care infrastructure in Oregon in the future. As such, the proposed limitations in HB 4114 would do nothing to improve our patient's care, would severely compromise access to care (particularly in Oregon's rural communities), and benefit insurers with little to no redeeming benefit for the patient.

The cost pressures HB 4114 imposes on the dialysis industry will not just result in cutbacks on equipment upgrades and employee benefits, it will have real consequences for the viability of our clinics and ultimately impact our patients. On any given day, our company currently operates in Oregon with a portion of our clinics operating at a loss due to a Medicare-heavy payer mix. Historically, our remaining clinics with better payer mixes have been able to subsidize those operating in the red enough to keep their doors open and access intact. If HB 4114 were to become law, the number of clinics operating at a loss in Oregon would drastically increase to an overwhelming majority of our clinics, causing our overall business in Oregon to operate at a net-loss. This would not be sustainable for any business and would cause unfortunate and drastic impacts to the viability of the entire dialysis industry in Oregon. These negative impacts will be most difficult to endure in rural areas of the state where patients must already travel further to get to their 3x per week treatment.

Clinic closures impact more than just a patient's travel distance. Without convenient access to care, dialysis patients are more likely to go to a hospital or skip treatment altogether. In addition, there would likely be an increase in patients requiring emergency services due to missed dialysis treatments as a result of decreased access to facilities. Missed dialysis can increase mortality by as much as 30% putting an additional, unnecessary strain on hospital emergency rooms and overall state health care costs.

Dialysis as an Emergency Service

An additional provision in HB 4114 looks to extend EMTALA-like regulations beyond hospital emergency rooms to dialysis treatment facilities. This provision is, at best, confusing, and at worst could be extremely dangerous for patients. ESRD patients are extremely medically vulnerable and complex, with numerous comorbidities – primarily diabetes and hypertension, among others. As kidney disease is known as the "silent killer," many people with chronic kidney disease are not aware of the severity of their disease until their kidneys completely fail and they "crash" into the emergency room in complete renal failure in combination with heightened complications from their other comorbid diseases. Also, as described above, clinic closures could create a dynamic in which lack of access to regular dialysis could cause more ESRD patients to need emergency treatment because of missed dialysis sessions. HB 4114 seems to suggest that patients in these situations should somehow be diverted from an emergency room and treated at an outpatient dialysis facility when suffering acute kidney-related medical

[2] https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected

emergencies. With patients experiencing a host of medical issues, not just kidney issues, in emergencies like these, an outpatient dialysis clinic is not the proper setting for these patients to be treated.

Conclusion

Rates of ESRD continue to increase[3] and over the next 10 years, Oregon, specifically, is projected to have a 5.3% growth rate in the need for dialysis[4]. At a time when our need to ensure ESRD patients have safe and convenient access to treatment is increasing, HB 4114 does the exact opposite by drastically limiting future investment in the Oregon's ESRD patient care infrastructure.

True long-term cost savings in the area of kidney disease is achievable but HB 4114 moves us in the wrong direction. Alternatively, Oregon could focus on improvements to the organ donation network to increase the number of transplants and make larger investments to better prevent, detect, and educate about kidney disease so less people progress to ESRD. From an industry perspective, we continue to work with our federal partners as well as private insurers around the country to enhance coordinated care to better control overall healthcare costs for ESRD patients, as well as continue to work to improve and enhance access to home dialysis, allowing for more and more patients to dialyze in a setting and time that allow them to maintain their employment and reduce their dependency on government programs.

FMCNA firmly believes in doing what is right for our patients, and we welcome any opportunity to discuss ways in which we can help improve the healthcare system.

We reiterate our pledge to work with you to achieve the goals of assuring patient choice and patient access to an adequate, sustainable system of chronic kidney disease treatment options. If you have questions or would like to discuss further, please call anytime.

Sincerely,

Maria Garcia
Senior Director, State Government Affairs
Fresenius Medical Care North America

cc: House Health Committee Members

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[3] Journal of the American Society of Nephrology, January 2091. *Projecting ESRD Incidence and Prevalence in the United States through 2030.* https://jasn.asnjournals.org/content/30/1/127

[4] "2016 ANNUAL REPORT HSAG: 12 June 2017, https://www.hsag.com/contentassets/83ecd6358cd84bf0a15d80f7f9b6e1a4/nw17_2016-annual-report_final_508.pdf.