

Interlocutory Orders, Etc.

IN THE MATTER OF

FRESENIUS MEDICAL CARE AG & CO. KGAA

Docket No. C-4348. Order, December 15, 2017

Letter Order approving respondent's application to establish a dialysis clinic

LETTER ORDER APPROVING APPLICATION

Mr. Brian F. Burke, Esq.
Baker & McKenzie LLP

*Re: Fresenius Medical Care AG & CO. KGaA,
Docket No. C-4348*

Dear Mr. Burke,

Pursuant to Rule 2.41(f) of the Commission's Rules of Practice, the Commission has determined to approve the Application of Fresenius Medical Care AG & CO. KGaA ("Fresenius") (October 4, 2017) to establish a dialysis clinic at 5311 Clyde Park Avenue, SW, Wyoming, Michigan, a location that was previously divested to DSI by Fresenius as a *de novo* dialysis clinic pursuant to the Commission Order in the above matter. The property was never developed into a dialysis clinic and has been vacant for over five years. In according its approval to Fresenius's Application, the Commission has relied upon the information submitted by Fresenius, and the Commission has assumed that information to be accurate and complete.

By direction of the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

**SANFORD HEALTH,
SANFORD BISMARCK,
AND
MID DAKOTA CLINIC, P.C.**

Docket No. 9376. Order, December 21, 2017

Order granting Respondents' motion to postpone commencement of the administrative hearing in this proceeding pending appeal of the district court's order for Preliminary Injunction.

ORDER GRANTING FURTHER CONTINUANCE OF ADMINISTRATIVE
PROCEEDINGS

On December 14, 2017, Respondents Sanford Health, Sanford Bismarck, and Mid Dakota Clinic, P.C. filed an Unopposed Expedited Motion for Further Continuance of Administrative Proceedings Pending Appeal of Order Granting Motion for Preliminary Injunction. Respondents ask the Commission to continue commencement of the administrative hearing until 21 days after resolution of a pending appeal.

On December 13, 2017, the United States District Court for the District of North Dakota, Western Division, granted the motion for a preliminary injunction filed by the Federal Trade Commission and the North Dakota Attorney General to enjoin Sanford's proposed acquisition of Mid Dakota Clinic. On December 15, 2017, Respondents filed their notice of appeal of the preliminary injunction to the Eighth Circuit Court of Appeals. Respondents explain that under the Rules and practices of the Eighth Circuit, briefing for Respondents' appeal will be complete by March 14, 2018.

Similar to earlier requests for a continuance of the administrative proceedings, Respondents argue that absent an extension of the continuance, the Administrative Law Judge and parties, including third parties and witnesses, will be required to devote significant resources to meet various interim deadlines between now and the administrative hearing, which is currently scheduled to begin on January 17, 2018. Respondents repeat that