Committee on Health, Hospitals and Human Services

Earl B. Ottley Legislative Hall

St. Thomas, US Virgin Islands

June 7, 2023

Caribbean Kidney Center

Good morning, Senator Ray Fonseca, Chairman of the Committee of Health, Hospitals and Human Services, Vice Chairman Senator Kenneth L. Gittens, Committee members Novelle E. Francis, Jr. Marvin A. Blyden, Diane T. Capehart, Samuel Carrion, Donna Frett-Gregory, Marise E. James, and Milton Potter; Non-committee members; Invited testifiers and the viewing and listening audience.

I am Dr. Walter H. Gardiner. I am the Medical Director and Managing Member of HealthQuest, LLC, the parent company of the Caribbean Kidney Center (CKC). Thank you for your time indulgence and attention. Senators, your presence here this morning is tangible evidence of your commitment to ensuring the well-being of every Virgin Islands resident and especially those residents who require dialysis services. We share that in common.

Before coming to the Virgin Islands 28 years ago I dedicated my life to serving patients with kidney disease – that remains my passion and *raison d'etre*.

I would like to provide the committee with a brief historical background to give us all perspective.

Prior to my arrival on St. Croix in 1995, hemodialysis was provided to residents (starting in approximately 1984), without Medicare Certification and subsidized by the Department of the Interior.

The JFL hemodialysis service on St. Croix was not Medicare certified until May 1995, after I assumed the directorship of that facility. Upon my appointment I made Medicare certification a priority and achieved it after only five months.

When I assumed the directorship, JFL was treating 24 patients. Many patients with kidney disease sought care off-island. The prevailing attitude on St. Croix then was "dialysis was a death sentence at JFL". This misconception was my next challenge and target.

With the support of Mr. George McCoy, then JFL's CEO, I mounted a public relations campaign to raise funds to replace aging obsolete dialysis machines with new Fresenius machines and several internal changes were initiated, including:

- going to a six-days-per-week treatment schedule (instead of 5),
- initiating an on-call schedule for nurses so patients presenting in extremis at nights or weekends could be treated emergently,
- changing from acetate to bicarbonate dialysate,

- and many more upgrades.

These changes were not revolutionary or radical but were standard in the industry at the time. Nevertheless, they surprisingly stirred great upheaval among the staff of the facility leading to poor morale.

I made this morale issue my next target, addressing it through education - of the staff, patients, and the community. Many meetings took place at churches, schools, and civic organizations.

At the end of my first two years, the JFL facility had made substantial strides, reversing the "fear" of dialysis in the community, improving staff morale, and increasing the patient census to 55 patients - a 130% growth. Patients were receiving care on island rather than being “shipped” elsewhere.

Today the JFL census is approximately 40 patients.

I left JFL after two years as director of the hemodialysis service because of politics.

Over the next several years, the JFL facility was cited for a variety of Medicare violations related to quality of care and environmental issues and threatened with sanctions.

In 2011 Medicare sanctioned JFL by involuntarily decreasing its patient census and ordering that some of its patients be transferred to the CKC.

Twenty patients were transferred to CKC for care and JFL was barred from admitting new patients until corrective measures were taken.

Perhaps because of the sanctions or continued threat of sanctions, in 2012, JFL issued a Request for Proposal (RFP) for outsourcing its hemodialysis services. The RFP was awarded to two nephrologists who had recently moved to St. Croix, however, for reasons unknown to me, they were never able to effectuate the award.

In November 2013, CKC established a hemodialysis facility on St. Thomas, steps away from the hospital, and large enough to treat the entire hemodialysis population on St. Thomas at the time and to permit for reasonable growth. It remains operational today.

In 2014, the Roy Lester Schneider Hospital (RLSH) on St. Thomas also issued an RFP for outsourcing its hemodialysis services. That RFP was awarded to DaVita - a North America based large dialysis organization (LDO). DaVita, however, eventually withdrew from that venture and RLSH continues to provide hemodialysis services.

In 2015 another hemodialysis facility (St Thomas Dialysis) opened on St. Thomas. After a little more than a year of operation, it closed its doors in 2017 and all its patients were transferred to CKC, proving that the ESRD population of either island is not enough to support more than one facility *profitably*.

In 2017, following hurricanes which ravaged both islands, a governmental decision was taken to evacuate all hemodialysis patients, initially to Puerto Rico and later to the mainland.

A few patients on St Croix chose not to be evacuated and were treated at CKC whose facilities suffered only minor damage. CKC never ceased operation and no patient missed a single treatment for the more than one year the evacuation lasted.

Eventually, when a decision was taken to return patients to the Territory, CKC facilities were the facilities to accept returning patients and did so without reservations.

In 2019, JFL resumed hemodialysis services in temporary facilities, (trailers). Effective February 15, 2020, the trailers were deemed no longer appropriate for providing hemodialysis services however, to continue providing services until appropriate arrangements could be completed for long-term care of its patients JFL has been granted multiple 30-day extensions of certification.

In September 2020, JFL again issued another RFP for outsourcing its hemodialysis services. After several contrived delays CKC won that RFP However, the terms of the RFP were never honored by JFL and none of the JFL patients ever received any of their treatments at CKC.

This brief overview is presented to show that since 2003, when CKC was established under my leadership, it has been the single stable source of hemodialysis in the Territory, ***the facility of last resort without regard for the cause of disruption of service here***.

I have been in the practice of medicine/nephrology since 1978, when I was engaged as an Assistant Professor in the Department of Internal Medicine and Chief of Nephrology at the nation's oldest and largest Black medical school - Meharry Medical School. I remain the most experienced nephrologist in the Territory, and I have demonstrated time after time, a commitment to supporting the Territory's health needs while elevating healthcare outcomes.

It was during my tenure in Nashville, where I was introduced to DCI – the folks behind the other folks. Meharry was the black institution across the tracks. Vanderbilt was the big University where DCI was based. I was convinced that Meharry, where a significant number of the country's black physicians were being trained, should train its doctors in the provision of dialysis. I therefore naively went to Vanderbilt and DCI requesting some affiliation and partnership in establishing hemodialysis at the Meharry hospital. I was politely ignored.

Committed to that objective, I then turned to the institution where I trained and sought help from my mentor who was affiliated with, at that time, the largest dialysis organization in America – a company called Biomedical Application (BMA). BMA willingly accepted the challenge and BMA of Nashville was formed. The fallout was perhaps predictable but certainly not anticipated by me. How dare I bring a major competitor into DCI's backyard. My introduction to politics in medicine. DCI was not happy, and that unhappiness now finds itself being played out here in the Virgin Islands.

One of the most challenging aspects of operating a hemodialysis facility is the recruiting and retention of qualified clinical staff (Registered Nurses and Patient Care Technicians) and this has only become increasingly more difficult and costly. The Covid-19 pandemic aggravated this vexing issue immeasurably.

The Covid-19 emergency declaration made federal funding available to the Virgin Islands, and through the good auspices of the Department of Health and the local government, CKC clinical staffing needs were supplemented. On May 11, 2023, when the Covid-19 emergency declaration ended, so did the federal funds and, with it, the assistance from the Virgin Islands Government.

There is an impression circulating that because CKC received assistance from the local government, CKC made windfall profits. Nothing is further from the truth. Without the help from the Virgin Islands Government CKC would have faced the same crisis it faces today, just much earlier.

On March 9, 2023, Mr. Douglas Koch, JFL's CEO approached CKC and since then, Mr. Finch, Chairman of the Territorial Board and the Government Hospitals and Health Facilities Corporation (GHHFC) and Ms. Commissiong, the CEO of RLSH have joined the discussions and there has been ongoing dialogue with the GHHFC, JFL and RLSH leadership to work a fair transaction so that GHHFC can have access to my facilities and provide long term, stable care to ESRD patients on both islands.

Some of this has been reported in the news, even though we have a confidentiality agreement, and others have attempted to use this information to their advantage.

CKC entered into a short-term agreement with a recruiting company to continue to provide clinical staff, effective May 12, 2023, to allow for the completion of negotiations with the Virgin Islands Government.

CKC received its first invoice for staffing services for the period May 12, 2023, through May 27, 2023. It was $72,492.08 (this was a period without holidays and fortunately no overtime hours).

This cost is prohibitive and unsustainable, I therefore find myself in an economically untenable position. I recognize the difficulty posed by the sudden termination of hemodialysis services both to the patients, the staff, and the community – issues addressed earlier by Ms. Rodriguez.

I am therefore desperately working to find a viable solution.

To that end, I am requesting that the Senate appropriate funding to cover these extra staffing costs while we – CKC and the GGHFC expeditiously work out a fair deal to transfer my fully built out and equipped buildings (which have withstood several major hurricanes), so the government is in a position to provide care to all of the JFL and RLSH patients, along with all of my patients, in a singularly durable location on each island.

Senators, closure of CKC is imminent without your intervention! Patients may die, employees will suddenly find themselves without income and there will be chaos. Twenty years of hard work will rapidly be for nought. I therefore plead with you to act and act quickly. I make the same request of the GHHFC to complete negotiations so that dialysis patients may again receive their care in an environment of comfort, clinical competence, reliability, and with a sense of security.

I can only now reiterate the need for urgency regarding any actions you may choose. Time is of the essence!