obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5557 Filed 10–7–05; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 4, 2005.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. PBSC Financial Corporation, Greenville, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Pinnacle Bank of South Carolina, Greenville, South Carolina (in organization).

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire additional shares, for a total of 100 percent of the voting shares of BBA, Inc., Shepherdsville, Kentucky, and thereby indirectly acquire Bullitt County Bank, Shepherdsville, Kentucky.

Board of Governors of the Federal Reserve System, October 5, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–5546 Filed 10–7–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 051 0051]

DaVita, Inc.; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before November 1, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''DaVita, Inc., File No. 051 0051,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.*

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

FOR FURTHER INFORMATION CONTACT: Richard H. Cunningham, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2214.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 4, 2005), on the World Wide Web, at *http://www.ftc.gov/os/2005/10/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–2222.

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from DaVita Inc. (''DaVita''). The purpose of the Consent Agreement is to remedy the anticompetitive effects resulting from DaVita's purchase of Gambro Healthcare Inc. (''Gambro'') from Gambro AB. Under the terms of the Consent Agreement, DaVita is required to divest 69 dialysis clinics and terminate 2 management services contracts in 35 markets across the United States.

The Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement or make it final.

Pursuant to an Agreement dated December 6, 2004, DaVita proposes to acquire Gambro from Gambro AB for approximately $3.1 billion. The Commission's complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening competition in the market for the provision of outpatient dialysis services in 35 markets.

II. The Parties

Headquartered in El Segundo, California, DaVita is the second largest provider of outpatient dialysis services in the United States. DaVita operates 665 outpatient dialysis clinics in 37 states and the District of Columbia at which approximately 55,000 end stage renal disease (''ESRD'') patients receive treatment. In 2003, DaVita's revenues were approximately $2.1 billion.

Gambro AB is a publicly-traded Swedish corporation with worldwide operations focused in three business fields: operating dialysis centers, manufacturing dialysis equipment, and providing technology and products to blood centers and hospital blood banks. Gambro is Gambro AB's entire U.S. dialysis services business. Gambro, headquartered in Denver, Colorado, is the third largest provider of outpatient dialysis services in the United States, with 565 outpatient dialysis clinics serving approximately 43,200 ESRD patients in 33 states and the District of Columbia. In 2003, Gambro's revenues were approximately $1.8 billion.

III. Outpatient Dialysis Services

Outpatient dialysis services is the appropriate relevant product market in which to assess the effects of the proposed transaction. For patients suffering from ESRD, dialysis treatments are a life-sustaining therapy that replaces the function of the kidneys by removing toxins and excess fluid from the blood. Most ESRD patients receive dialysis treatments three times per week in sessions lasting between three and five hours. Kidney transplantation is the only alternative to dialysis for ESRD patients. However, the wait-time for donor kidneys—during which ESRD patients must receive dialysis treatments—can exceed five years. Additionally, many ESRD patients are not viable transplant candidates. As a result, many ESRD patients have no alternative to ongoing dialysis treatments.

The relevant geographic markets for the provision of dialysis services are local in nature. They are limited by the distance ESRD patients are willing and/or able to travel to receive dialysis treatments. Most ESRD patients are quite ill and suffer from multiple health problems. As such, it is difficult for ESRD patients to travel long distances for dialysis treatment. Generally, ESRD patients are unwilling and/or unable to travel further than 30 miles or 30 minutes to receive dialysis treatments, depending on traffic patterns, local geography, and the patient's proximity to the nearest center. As a result, competition among dialysis clinics occurs at a local level, corresponding to metropolitan areas or subsets thereof.

Entry into the outpatient dialysis services markets addressed by the Consent Agreement on a level sufficient to deter or counteract the likely anticompetitive effects of the proposed transaction is not likely to occur in a timely manner. The primary barrier to entry is the difficulty associated with locating nephrologists with established patient pools to serve as medical directors. By law, each dialysis clinic must have a nephrologist medical director. As a practical matter, medical directors are essential to the success of a clinic because they are the primary source of referrals. The lack of available nephrologists with an established referral stream is a significant barrier to entry into each of the relevant markets. Beyond that, entry is also inhibited where certain attributes (such as a rapidly growing ESRD population, a favorable regulatory environment, average or below nursing and labor costs, and a low penetration of managed care) are not present, as is the case in many of the geographic markets identified in the Commission's complaint.

Each of the geographic markets addressed by the Consent Agreement is highly concentrated. The proposed acquisition represents a merger to monopoly in 11 markets and would cause the number of providers to drop from 3 to 2 in 13 other markets. Additionally, concentration increases significantly in the remaining 11 markets addressed by the Consent Agreement. In each of these markets, the post-acquisition HHI exceeds 4,000, and the change in HHI is at least 800. The high post-acquisition concentration levels, along with evidence of DaVita and Gambro's head-to-head competition in these markets, indicates that the combined firm would be able to exercise unilateral market power. The evidence shows that health insurance companies and other private payors who pay for dialysis services used by their members benefit from direct competition between DaVita and Gambro when negotiating the rates to be charged by the dialysis provider. As a result, the proposed combination likely would result in higher prices and diminished service and quality for outpatient dialysis services in many geographic markets.

IV. The Consent Agreement

The Consent Agreement effectively remedies the proposed acquisition's anticompetitive effects in 35 markets where both DaVita and Gambro operate dialysis clinics by requiring DaVita to divest—prior to acquiring Gambro—68 outpatient dialysis clinics to Renal Advantage and one outpatient dialysis clinic to its medical directors and their partners. The Consent Agreement also requires DaVita to terminate two management services agreements pursuant to which it manages outpatient dialysis clinics on behalf of third-party owners. As with the divestitures, termination of these management services agreements will ensure that these clinics remain viable independent competitors.

As part of these divestitures, DaVita is required to obtain the agreement of the medical directors affiliated with the divested clinics to continue providing

physician services after the transfer of ownership to Renal Advantage. Similarly, the Consent Agreement requires DaVita to obtain the consent of all lessors necessary to assign the leases for the real property associated with the divested clinics to Renal Advantage. These provisions ensure that Renal Advantage will have the assets necessary to operate the divested clinics in a competitive manner.

The Consent Agreement contains several additional provisions designed to ensure that the divestitures are successful. First, the Consent Agreement provides Renal Advantage with the opportunity to interview and hire employees affiliated with the divested clinics and prevents DaVita from offering these employees incentives to decline Renal Advantage's offer of employment. This will ensure that Renal Advantage has access to patient care and supervisory staff who are familiar with the clinics' patients and the local physicians. Second, the Consent Agreement prevents DaVita from contracting with the medical directors (or their practice groups) affiliated with the divested clinics for three years. This provides Renal Advantage with sufficient time to build goodwill and a working relationship with its medical directors before DaVita can attempt to capitalize on its prior relationships in soliciting their services. Third, to ensure continuity of patient care and records as Renal Advantage implements its quality care, billing, and supply systems, the Consent Agreement allows DaVita to provide transition services for a period of 12 months. Firewalls and confidentiality agreements have been established to ensure that competitively sensitive information is not exchanged. Fourth, the Consent Agreement requires DaVita to provide Renal Advantage with a license to use DaVita's policies and procedures, as well as the option to obtain DaVita's medical protocols, which will further enhance Renal Advantage's ability to provide continuity of care to patients. Finally, the Consent Agreement requires DaVita to provide prior notice to the Commission of its planned acquisitions of dialysis clinics located in the 35 markets addressed by the Consent Agreement. This provision ensures that subsequent acquisitions do not adversely impact competition in the markets at issue and undermine the remedial goals of the proposed order.

The Commission is satisfied that Renal Advantage is a qualified acquirer of the divested assets. Renal Advantage is a newly-formed company whose management has extensive experience operating, acquiring, and developing outpatient dialysis clinics. The company has received a substantial equity investment from Welsh, Carson, Anderson, and Stowe, which is the largest healthcare-focused private equity firm in the United States.

The Commission has appointed Mitch Nielson and John Strack of FocalPoint Medical Consulting Group (''FocalPoint'') as Monitors to oversee the transition service agreements, and the implementation of, and compliance with, the Consent Agreement. Messrs. Nielson and Strack are the principles of FocalPoint, which provides consulting services to the healthcare industry.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order or the Order to Maintain Assets, or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 05–20312 Filed 10–7–05; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–05CW]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Online Surveys to Measure Awareness of Chronic Fatigue Syndrome Public Awareness Campaign (OMB Control No. 0920–05CW)—New—National Center for Health Marketing (NCHM), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Chronic fatigue syndrome (CFS) is a serious illness that affects many Americans. With as many as 900,000 cases, many of which are misdiagnosed or left undiagnosed, the need for a CFS public education and awareness campaign is crucial.

With an estimated $9.1 billion lost annually in U.S. productivity due to CFS, the economic impact is a substantial reason for Americans to take notice. More importantly, the diminished quality of life for many patients suffering from CFS is especially hard to manage. The lack of quality information regarding CFS makes it all the more difficult for those affected by CFS to receive the support and treatment needed to manage this illness.

Research shows that 80 to 90 percent of patients have not been clinically diagnosed and are not receiving proper medical care. Lack of awareness and information among health care providers about CFS as a serious and treatable illness has created significant barriers to diagnosing and treating those who suffer from CFS.

Congress recognized the need to change this scenario, as reported in the Committee Reports for the Senate Appropriations Committee (Senate Report 108–345—To accompany S. 2810 Sept. 15, 2004) when the committee stated:

> Further, the Committee encourages CDC to better inform the public about this condition, its severity and magnitude and to use heightened awareness to create a registry of CFS patients to aid research in this field.

During the next two years, CDC, in partnership with the Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS) Association of America, will build the case that chronic fatigue syndrome is real, serious and should be diagnosed quickly to ensure the best possible health outcomes.