

EXECUTIVE SUMMARY

EVALUATIONS OF THE FOLLOWING TWO CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATIONS IN SNOHOMISH COUNTY PLANNING AREA #2:

- **PUGET SOUND KIDNEY CENTERS PROPOSING TO ESTABLISH A TWELVE-STATION DIALYSIS CENTER IN THE CITY OF EVERETT**
- **DAVITA, INC. PROPOSING TO ESTABLISH A TWENTY ONE STATION DIALYSIS CENTER IN THE CITY OF EVERETT**

BRIEF PROJECT DESCRIPTIONS

Puget Sound Kidney Centers

This application proposes to establish a new 12 station facility to be located at 1019 Pacific Avenue in Everett. The new dialysis center has been referred to as PSKC #2 and would serve the residents of Snohomish County planning area #2.

The capital expenditure associated with the establishment of the 12 station facility is \$5,489,000. If this project is approved, PSKC anticipates all 12 stations would become operational by the end of July 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation. [PSKC Application, p7]

DaVita, Inc.

This application proposes to establish a 21 station facility to be located at 8130 Evergreen Way, Suite C in Everett. The new dialysis center would be known as the DaVita Everett Dialysis Center would serve the residents of Snohomish County planning area #2.

The capital expenditure associated with the establishment of the 21 station facility is \$1,877,862. If this project is approved, DaVita anticipates all 21 stations would become operational by the end of May 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation. [DaVita Application, p 8]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both projects are subject to Certificate of Need review. Both the PSKC and DaVita, Inc. projects propose the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CONCLUSIONS

Puget Sound Kidney Centers

For the reasons stated in this evaluation, the application submitted on behalf of PSKC proposing to establish a 12 station dialysis center in the city of Everett within Snohomish County planning area #2 is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

DaVita, Inc.

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a 21 station dialysis center in the city of Everett within Snohomish County planning area #2 is consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is approved.

The total approved costs associated with this project are \$1,877,862.

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PROJECT DESCRIPTIONS

Puget Sound Kidney Centers

Puget Sound Kidney Centers (PSKC) is a not-for-profit corporation established in 1980 to serve dialysis patients. Currently, PSKC owns and operates four dialysis facilities in Washington State - three in Snohomish County and one in Island County. The four PSKC facilities are listed below. [PSKC Application, p2; CN historical files]

Snohomish

Puget Sound Kidney Center
Puget Sound Kidney Center-South
Puget Sound Kidney Center-Smokey Point

Island

Puget Sound Kidney Center-Whidbey Island

This application proposes to establish a new 12 station facility to be located at 1019 Pacific Avenue in Everett. The new dialysis center has been referred to as PSKC #2 and would serve the residents of Snohomish County planning area #2.

The capital expenditure associated with the establishment of the 12 station facility is \$5,489,000. If this project is approved, PSKC anticipates all 12 stations would become operational by the end of November 2008. Under this timeline, year 2010 would be the facility's first full calendar year of operation. [PSKC Application, p7]

Breakdown Of PSKC Costs	Total	% of Total
Construction	\$ 4,093,000	75%
Fixed & Moveable Equipment	\$ 380,000	7%
Professional Fees	\$ 581,000	11%
Permits / Sales Tax	\$ 435,000	8%
Total Estimated Capital Costs	\$ 5,489,000	100.00%

DaVita Inc.

DaVita Inc. (DaVita) is a for-profit corporation that provides dialysis services in over 1,300 outpatient centers located in 42 states and the District of Columbia. DaVita also provides acute inpatient dialysis services in over 850 hospitals throughout the country. [DaVita Application, p 4]

In Washington State, DaVita owns or operates a total of eighteen kidney dialysis facilities in six separate counties Clark, Franklin, King, Kittitas, Pierce, and Yakima. Below is a listing of the DaVita facilities in Washington. [CN historical files; DaVita Application, p1]

Clark

Vancouver Dialysis Center

Pacific

Seaview Dialysis Center

Pierce

Graham Dialysis Center
Lakewood Community Dialysis Center
Puyallup Community Dialysis Center
Tacoma Dialysis Center

Yakima

Mt. Adams Kidney Center
Union Gap Dialysis Center
Yakima Dialysis Center

Franklin

Mid-Columbia Kidney Center

Kittitas

Ellensburg Dialysis Center

King

Bellevue Dialysis Center
Federal Way Community Dialysis Center
Kent Community Dialysis Center
Olympic View Dialysis Center (Mgmt. only)
Westwood Dialysis Center

Thurston

Olympia Dialysis Center

Snohomish

Mill Creek Dialysis Center

This application proposes to establish a 21 station facility to be located at 8130 Evergreen Way, Suite C in Everett. The new dialysis center would be known as the DaVita Everett Dialysis Center would serve the residents of Snohomish County planning area #2.

The capital expenditure associated with the establishment of the 21 station facility is \$1,877,862. If this project is approved, DaVita anticipates all 21 stations would become operational by the end of May 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation. [DaVita Application, p 8]

Breakdown of DaVita, Inc. Costs	Total	% of Total
Leasehold Improvements	\$ 1,020,000	54%
Fixed & Moveable Equipment	\$ 718,453	38%
Professional Fees	\$ 123,000	7%
CN Fees	\$ 16,409	1%
Total Estimated Capital Costs	\$ 1,877,862	100.00%

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both projects are subject to Certificate of Need review. Both the PSKC and DaVita, Inc. projects propose the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CRITERIA EVALUATION

To obtain Certificate of Need approval, each applicant must demonstrate compliance with the applicable criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment). Additionally, each must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 288.¹

APPLICATION CHRONOLOGY

As directed under WAC 246-310-282(1) the department accepted these projects under the Kidney Disease Treatment Centers-Concurrent Review Cycle #4. A chronologic summary of the review is shown below.

Action	PSKC	DaVita
Letter of Intent Submitted	October 26, 2007	October 31, 2007
Application Submitted	November 29, 2007	November 30, 2007
Department's pre-review Activities including screening and responses	December 1, 2007 through February 18, 2008	
Beginning of Review	February 19, 2008	
Public Hearing / End of Public Comment	April 21, 2008	
Rebuttal Comments Received	May 16, 2008	May 20, 2008
Department's Anticipated Decision Date	July 7, 2008	
Department's Updated Decision Date	July 11, 2008	
Department's Actual Decision Date		

CONCURRENT REVIEW AND AFFECTED PERSONS

The concurrent review process promotes the expressed public policy goal of RCW 70.38 that the development or expansion of health care facilities is accomplished in a planned, orderly fashion and without unnecessary duplication. For dialysis projects, concurrent review allows the department to review dialysis applications proposing to serve the same planning area [as defined in WAC 246-310-280(9)] simultaneously to reach a decision that serves the best interests of the planning area's residents.

In the case of these projects submitted by PSKC and DaVita, the department will issue one single evaluation regarding whether both, any or none of the projects should be issued a Certificate of Need.

¹ Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); WAC 246-310-286 and 287.

SOURCE INFORMATION REVIEWED

- PSKC's Certificate of Need application submitted November 29, 2007
- DaVita, Inc.'s Certificate of Need application submitted November 30, 2007
- PSKC's supplemental information dated January 29, 2008
- DaVita, Inc.'s supplemental information dated January 31, 2008
- Public comment received during the course of the review
- PSKC's rebuttal comments received May 16, 2008
- DaVita, Inc.'s rebuttal comments received May 20, 2008
- Years 2001 through 2006 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2007 Northwest Renal Network 3rd Quarter Data
- Licensing and/or survey data provided by the Department of Health's Office of Health Care Survey
- Licensing and/or survey data provided by out of state health care survey programs
- Data obtained from DaVita, Inc.'s webpage (www.davita.com)
- Data obtained from PSKC's webpage (www.pskc.net)
- Data obtained from the Snohomish County Assessor Office and webpage
- Certificate of Need historical files

CONCLUSIONS

Puget Sound Kidney Centers

For the reasons stated in this evaluation, the application submitted on behalf of PSKC proposing to establish a 12 station dialysis center in the city of Everett within Snohomish County planning area #2 is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

DaVita, Inc.

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a 21 station dialysis center in the city of Everett within Snohomish County planning area #2 is consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is approved.

The total approved costs associated with this project are \$1,877,862.

A. Need (WAC 246-310-210)

Based on the source information reviewed, in relation to WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-280, the department determines that:

- Puget Sound Kidney Centers' project has met the need criteria detailed in WAC 246-310-284(6); and
- DaVita, Inc.'s project has met the need criteria in WAC 246-310-210 and 280;

(1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.

WAC 246-310-284 contains the methodology for projecting numeric need for dialysis stations within a planning area. This methodology, adopted January 1, 2007, projects the need for kidney dialysis treatment stations through a regression analysis of the historical number of dialysis patients residing in the planning area using verified utilization information obtained from the Northwest Renal Network.²

The first step in the methodology calls for the determination of the type of regression analysis to be used to project resident in-center station need. [WAC 246-310-284(4)(a)] This is derived by calculating the annual growth rate in the planning area using the year-end number of resident in-center patients for each of the previous six consecutive years, concluding with the base year. In planning areas experiencing high rates of growth in the dialysis population (6% or greater growth in each of the last five annual change periods), the method uses exponential regression to project future need. In planning areas experiencing less than 6% growth in any of the last five annual change periods, linear regression is used to project need.

Once the type of regression is determined as described above, the next step in the methodology is to determine the projected number of resident in-center stations needed in the planning area based on the planning area's previous five consecutive years NRN data, again concluding with the base year. [WAC 246-310-284(4)(b) and (c)]

WAC 246-310-284(5) identifies that for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties, the number of projected patients is divided by 4.8 to determine the number of stations needed in the planning area. For the specific counties listed above, the number of projected patients is divided by 3.2 to determine needed stations. Additionally, the number of stations projected as needed in the target year is rounded up to the nearest whole number.

Finally, once station need has been calculated for the project years, the number of CN approved in-center stations are then subtracted from the total need, resulting in a net need for the planning area. [WAC 246-310-284(4)(d)]

² Northwest Renal Network was established in 1978 and is a private, not-for-profit corporation independent of any dialysis company, dialysis unit, or transplant center. It is funded by Centers for Medicare and Medicaid Services, Department of Health and Human Services. Northwest Renal Network collects and analyzes data on patients enrolled in the Medicare ESRD programs, serves as an information resource, and monitors the quality of care given to dialysis and transplant patients in the Pacific Northwest. [source: Northwest Renal Network website]

Puget Sound Kidney Centers’s Application of the Numeric Methodology

PSKC proposes to establish a 12 station dialysis center in Everett to serve patients in Snohomish County planning area #2. Based on the calculation of the annual growth rate in the planning area as described above, linear regression appears to have been used to project need. Given that the facility would be located in Snohomish County, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [PSKC Application, p 12]

DaVita’s Application of the Numeric Methodology

DaVita proposes to establish a 21 station dialysis center in Everett to serve patients in Snohomish County planning area #2. Based on the calculation of the annual growth rate in the planning area as described above, linear regression was used to project need. Given that the facility would be located in Snohomish County, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [DaVita Application, p16-19]

Department’s Application of the Numeric Methodology

Based on the calculation of the annual growth rate in the planning areas as described above, the department also used linear regression to project need for Snohomish County planning area #2. The department divided the projected number of patients by 4.8 to determine the number of stations needed as required under WAC 246-310-284(5) as required by rule.

Based on the numeric methodology, Tables 1 below shows a summary of the projected net need provided by each applicant and the department for Snohomish County planning area #2. Both DaVita and PSKC divided the projected number of patients by 4.8 to determine the number of stations needed as required under WAC 246-310-284(5).

**Table 1
Snohomish County #2 Numeric Methodology Summary of Projected Net Station Need**

	4.8 in-center patients per station			
	2010 Projected # of stations	Minus Current # of stations	2010 Net Need	2010 Net Need (Rounded)
PSKC	58.00	37	21.00	21
DaVita	57.25	37	20.25	21
DOH	57.25	37	20.25	21

When comparing the applicants’ and department’s results shown in Tables 1 above, it shows that the projections of both applicants match the department’s figures. As a result, the net station need for Snohomish planning area #2 is determined to be twenty-one (21).

As shown in Table 1 above, currently Snohomish County planning area #2 has 37 stations operating within the planning area. WAC 246-310-284(5) requires all CN approved stations in the planning area be operating at 4.8 in-center patients per station before new stations can be added. The most recent quarterly modality report, or successor report, from the Northwest Renal Network (NRN) as of the first day of the application submission period is to be used to calculate this standard. The first day of the application submission period is November 1, 2007. [WAC 246-310-282] The quarterly modality report from NRN available at that time

was September 31, 2007, which became available on October 31, 2007. All 37 stations are at one facility - Puget Sound Kidney Center - Everett. Table 2 below shows the September 31, 2007 utilization of PSKC's Everett facility and demonstrates that this capacity requirement is met.

Table 2
October 31, 2007 - Facility Utilization Data

Facility Name	# of Stations	# of Pts	Pts/Station
Puget Sound Kidney Centers	37	183	4.95

WAC 246-310-284(6) requires new in-center dialysis stations be operating at a required number of in-center patients per approved station by the end of the third full year of operation. For Snohomish County, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)] Both DaVita and PSKC propose dialysis stations to be located within Snohomish County planning area #2, as a result, both applicant's must demonstrate compliance with this criterion using the 4.8 in-center patient per station. Further, both PSKC's and DaVita's third full year of operation is year 2012. A summary of both applicants' projected utilization for year 2012 is shown in Table 3 below.

Table 3
Year 2012 Projected Facility Utilization

Facility Name	Year 3	# of Stations	# of Pts	Pts/Station
PSKC #2	2012	12	66	5.50
DaVita Everett Dialysis Center	2012	21	118 ³	5.62

As shown in Table 3 above, both PSKC's and DaVita's projections meet this standard. [PSKC Supplemental Information, Exhibit 2; DaVita Application, Appendix 9]

Based on the above information and standards, the department's conclusion regarding this sub-criterion follows.

Puget Sound Kidney Centers

PSKC proposes to establish a 12 station dialysis center in Snohomish County planning area #2. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met for PSKC's application.

DaVita, Inc.

DaVita proposes to establish a 21 station dialysis center in Snohomish County planning area #2. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met for the DaVita application.

³ DaVita cites a patient count of 126 for 2012 on p9 & 17 of the application, but calculates the 2012 Pro Forma with a patient count of 118. The department used the figure cited in the financial calculations as the projected patient count in the third year of the DaVita Everett facility.

(2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

As previously stated, both applicants currently provide health care services to residents of the State of Washington including low-income, racial and ethnic minorities, handicapped and other underserved groups. To determine whether all residents of the service area would continue to have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment.

Puget Sound Kidney Centers

To demonstrate compliance with this sub-criterion, PSKC provided a copy of its current Admission and Administrative policies that would also be used at the new PSKC #2 facility. The documents outline the process/criteria that the dialysis center uses to admit patients for treatment. It is intended to ensure that patients will receive appropriate care at the dialysis center. The Admission criteria states that any patient with end stage renal disease needing treatment will be accepted to a PSKC's facility without regard to race, color, ethnicity, religious or political beliefs, age, or ability to pay. [PSKC Application, Exhibits 15 & 16]

DaVita, Inc.

To demonstrate compliance with this sub-criterion, DaVita provided a copy of its current Admission and Indigent care policies that would also be used at the new Everett facility. The Admission policy outlines the process/criteria that Everett will use to admit patients for treatment, and ensures that patients will receive appropriate care at the dialysis center. The Admission Policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at Everett without regard to race, color, national origin, sex, age, religion, or disability. [DaVita Application, Appendix 14]

To determine whether low-income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to make that determination. To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination.

Puget Sound Kidney Centers

PSKC currently provides services to Medicare and Medicaid eligible patients at its existing dialysis centers. It intends to also provide services to Medicare and Medicaid at the proposed facility. A review of the anticipated revenue indicates that the facility expects to continue to receive both Medicare and Medicaid reimbursements.

DaVita, Inc.

DaVita currently provides services to Medicare and Medicaid eligible patients at its existing dialysis centers. It intends to also provide services to Medicare and Medicaid at the proposed facility. A review of the anticipated revenue indicates that the facility expects to continue to receive both Medicare and Medicaid reimbursements.

A facility's charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility.

Puget Sound Kidney Centers

PSKC demonstrated its intent to provide charity care to residents by including a 'charity care' line item as a deduction from revenue within the Pro Forma income statements documents. [PSKC Supplemental Information, Exhibit 1]

DaVita, Inc.

DaVita demonstrated its intent to provide charity care to residents by including a 'charity care' line item as a deduction from revenue within the Pro Forma income statements documents [DaVita Supplemental Information, Attachment 3]

Based on the above information and standards, the department's conclusion regarding this sub-criterion follows.

Puget Sound Kidney Centers

The department concludes that all residents of the service area would have adequate access to the health services at the proposed PSKC #2 facility. This sub-criterion is met.

DaVita, Inc.

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Everett Dialysis Center. This sub-criterion is met.

B. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed, the department determines that:

- Puget Sound Kidney Centers' project has not met the financial feasibility criteria in WAC 246-310-220; and
- DaVita, Inc.'s project has met the financial feasibility criteria in WAC 246-310-220;

(1) The immediate and long-range capital and operating costs of the project can be met.

Puget Sound Kidney Centers

PSKC anticipates commencement of services for this facility to be no later than the summer of 2009. Based on this timeline and the projected release of this evaluation, 2010 would be PSKC's first full year of operation for the PSKC #2 facility.

For financial review of applications, the department requests data for the first three full years following project completion. Using the financial information provided as part of the completed application, Table 4 below illustrates the projected revenue, expenses, and net income in years 2010-2012 for the PSKC #2. [PSKC Supplemental Information, Exhibit 1]

Table 4
Proposed PSKC #2 Dialysis Center
Projected Revenue and Expenses

	Year 1 - 2010	Year 2 - 2011	Year 3 - 2012
# of Stations	12	12	12
# of in-center Treatments [1]	8,863	9,652	10,202
# of in-center Patients [1]	56	62	66
Utilization Rate [1]	4.67	5.17	5.50
Net Revenue [1]	\$ 2,325,774	\$ 2,532,818	\$ 2,677,146
Total Expense [1,2]	\$ 2,598,783	\$ 2,787,105	\$ 2,926,158
Net Profit or (Loss) [1]	\$ (273,009)	\$ (254,287)	\$ (249,012)
Net Patient Revenue/Treatment [1]	\$ 262.41	\$ 262.41	\$ 262.41
Total Operating Exp./Treatment [1]	\$ 293.22	\$ 288.76	\$ 286.82
Net Profit (Loss) per Treatment [1]	\$ (30.80)	\$ (26.35)	\$ (24.41)

[1] includes only reported in-center dialysis patients;

[2] includes deductions for charity care and depreciation costs

As shown in Table 4, at the projected volumes identified in the application, PSKC #2 would be operating at a loss in each of the projection years of the project. As a result, PSKC projects its revenues for the PSKC #2 facility will not cover the facility's expenses. Further, according to the projections above, it appears that the facility may not break even in the near future.

PSKC has selected a site for the PSKC #2 facility that is located at 1019 Pacific Avenue in the city of Everett. The documents provided in the application identify PSKC as the rightful owners of the build site. PSKC also supplied confirmation from the planning department of the City of Everett that identifies the location as being zoned for professional use and that a dialysis facility would be permitted at the site. In addition, rudimentary line drawings for the treatment area of the proposed facility appear to account for space necessary to house the requested stations. [PSKC Application, Exhibits 10, 11, 12]

Included in rebuttal documents, PSKC contends that the project is financially feasible due to the financial strength of the non-profit organization as a whole. Referencing the forecasted balance sheets for years 2008-2010, the Applicant states, "each year the ending net assets increase by a strong margin, demonstrating that the organization is financially healthy with the addition of the project and the immediate and long term costs can and will be met". [PSKC Rebuttal Comments, p 3]

As 246-310-220(1) states, the immediate and long-range capital and operating costs of the project can be met. According to the estimated capital expenditures cited and the pro forma forecasts, the proposed facility would require a large initial cash expenditure and a financing package which would negate any potential income from the new facility in the years reviewed by the Department. [PSKC Supplemental Information, Exhibit 1]

Based on the above information, the department concludes that PSKC's projected revenues are not reasonable and this sub-criterion is not met.

DaVita, Inc.

As stated in the project description portion of this evaluation, if this project is approved by October, 2008, DaVita anticipates that the 21 station facility would be operational by May 1, 2009. Based on this timeline, year 2010 would be Everett's first full year of operation.

Using the financial information provided in the application, Table 5 below illustrates the projected revenue, expenses, and net income for years 2010-2012 for the Everett Kidney Center. [DaVita Supplemental Information, Attachment 3]

Table 5
Proposed Everett Kidney Center
Projected Revenue and Expenses

	Year 1 - 2010	Year 2 - 2011	Year 3 - 2012
# of Stations	21	21	21
# of Treatments [1]	11,232	15,725	17,672
# of Patients [2]	75	105	118
Utilization Rate [2]	3.57	5.00	5.62
Net Revenue [1]	\$ 3,313,763	\$ 5,022,110	\$ 6,285,699
Total Expense [1,3]	\$ 2,847,519	\$ 3,934,753	\$ 4,793,509
Net Profit or (Loss) [1]	\$ 466,244	\$ 1,087,357	\$ 1,492,190
Net Patient Revenue/Treatment [1]	\$ 279.78	\$ 301.77	\$ 332.66
Total Operating Exp./Treatment [1]	\$ 240.42	\$ 236.44	\$ 253.69
Net Profit (Loss) per Treatment [1]	\$ 39.37	\$ 65.34	\$ 78.97

[1] includes both in-center and home dialysis patients; [2] in-center patients only;
[3] includes deductions for bad debt, charity care and allocated costs

As shown in Table 5 above, at the projected volumes identified in the application, DaVita's Everett facility would be operating at a profit in each of the first three full years of operation as a 21 station facility.

DaVita has selected a site for the proposed Everett facility that is located in Unit C of the Four Corners Center at 8130 Evergreen Way in the city of Everett. The draft lease provided in the application outlines the terms and the annual rent for the space through 2019 with terms to allow occupancy through 2034. DaVita also supplied supportive zoning information for the short plat that verifies the location is zoned for use that would include a dialysis facility. In addition, preliminary line drawings for the proposed facility allow for the necessary stations. [DaVita Application, Appendix 12, 16; DaVita Supplemental Information, Attachment 1; DaVita Rebuttal Comments, Exhibit 1, 2]

As part of public comment, remarks submitted on behalf of PSKC address concerns regarding DaVita's site control for the proposed facility. At issue is whether the deed submitted to verify legal ownership of the Lessor cited in the draft lease is accurate. PSKC provides documents that show the correct property owner is listed, but corresponding parcel numbers do not match. In fact, in regards to Snohomish County records, PSKC states, "There is no record of the parcel number on the deed, nor even of the parcels that are lined out on the deed". [Public Comment, Tom Grimm Remarks]

The program has confirmed that the search of Snohomish County Assessor records for the parcel numbers listed on copies of the original deed do not produce results. Although, upon further review of the property information submitted as part of the remarks referenced above, the legal descriptions do appear to match. Background provided by the Snohomish County Assessors Office confirms that the original number on the purchase deed is accurate but outdated. Subsequent parcel sales by the owner led to the closing of the previous record and establishment of the new parcel number identified in the current documentation. As reported in the draft lease and related attachments, DaVita appears to have sufficient site control to proceed with the proposed facility if a CN is approved. [Snohomish County Assessor website; Public Comment, Tom Grimm Remarks]

Based on the above information, the department concludes that DaVita’s project revenues are reasonable and this sub-criterion is met.

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

Puget Sound Kidney Centers

The capital expenditure associated with the establishment of the PSKC #2 facility is \$5,489,000 of which 75% is related to construction, 7% for both fixed and moveable equipment; and the remaining 19% is related taxes and fees. The capital cost breakdown is reprinted below. [PSKC Application, p7]

Breakdown Of PSKC Costs	Total	% of Total
Construction	\$ 4,093,000	75%
Fixed & Moveable Equipment	\$ 380,000	7%
Professional Fees	\$ 581,000	11%
Permits / Sales Tax	\$ 435,000	8%
Total Estimated Capital Costs	\$ 5,489,000	100.00%

The applicant reports that approximately 80% of the total project costs⁴ will be debt financed. Under this plan, the non-financed portion of the project would require the Board of Directors to approve the spending of nearly 79% of the organization’s Cash and Equivalent assets (as reported for 2006) or 17% of the reported total assets. The impact on organizational finances would be further affected by the debt financing with interest payments averaging over \$325,000 through the projection years. Though the parent non-profit organization may be able to defer the losses of the facility, PSKC would be committing a substantial portion of its assets to a project that would not be showing a profit in any of the subsequent years. [PSKC Supplemental Information, Exhibit 1; PSKC Application, Exhibit 22]

On the final day of public comment, remarks were submitted in support of the PSKC project and provided an alternate calculation of the capital expenditures. The information states that while preparing its application, PSKC “estimated costs for the entire project, which includes cost for the ground floor parking garage and the second floor office”. To correct this error, estimates were submitted that reportedly represent only the kidney dialysis treatment portion

⁴ Total Capital Expenditure is reported to equal \$5,489,000. Financing of 80% would equal approximately \$4,391,200 with the remaining 20%, or \$1,097,800, paid through available funds.

of the project. Changes result in the total expenses dropping appreciably to \$1,749,521. The department has determined that this submission constitutes an inappropriate amendment to the application and will not be considered in this review. [WAC 246-310-090(2)(d) and WAC 246-310-170]

Further confirmation of the originally reported capital cost total can be found in the 2008-2010 financial forecast assumptions which include considerations for the project proposed in this application. The projections associated with the new Everett facility (parking and staff space included) also equal \$5,489,000.⁵ [PSKC Rebuttal Comments, p 3; PSKC Application, Exhibit 6 (p 9)]

For further review, the department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD entitlements. To demonstrate compliance with this sub-criterion, PSKC also provided the sources of patient revenue shown in Table 6 below. [PSKC Application, p29]

**Table 6
Anticipated Revenue Sources - PSKC**

Source of Revenue	% of Revenue
Medicare	73
State (Medicaid)	9
Blue Cross	3
Group Health	2
County Medical Bureaus	1
Other Insurance	12
Total	100 %

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 82% of the revenue at PSKC's new facility. The department concludes that the majority of revenue is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. Further, the cost per dialysis treatment for the proposed project was compared to those of recent kidney dialysis proposals and the average cost per dialysis is reasonable.

Based on the information provided, the department concludes that the costs of PSKC's project, if approved as proposed, would probably not result in an unreasonable impact to the costs and charges for health care services. This sub-criterion is met.

DaVita, Inc.

The capital expenditure associated with the establishment of the 21 station Everett facility is \$1,877,862, and of that amount, 54% is related to leasehold improvements at the site; 38% is related to both fixed and moveable equipment; and the remaining 8% is related to architect, engineering, application, consulting, and legal fees. As a practice, DaVita has included

⁵ The forecast includes projected costs for the proposed facility to be \$5,934,000. This total cited in this evaluation at the estimated capital cost removes \$445,000 included for contingencies which are not acceptable additions to capital cost estimates

program fees as a portion (1%) of the totals. The capital cost breakdown is reprinted below. [DaVita Application, p7]

Breakdown of DaVita, Inc. Costs	Total	% of Total
Leasehold Improvements	\$ 1,020,000	54%
Fixed & Moveable Equipment	\$ 718,453	38%
Professional Fees	\$ 123,000	7%
CN Fees	\$ 16,409	1%
Total Estimated Capital Costs	\$ 1,877,862	100.00%

The department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD entitlements. To demonstrate compliance with this sub-criterion, DaVita also provided the sources of patient revenue shown in Table 7 below. [DaVita Application, p24]

Table 7
Anticipated Revenue Sources - DaVita

Source of Revenue	% of Revenue
Medicare	58
State (Medicaid)	7
Insurance/HMO	35
Total	100 %

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 65% of the revenue at the proposed facility. The department concludes that the majority of revenue is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. Further, the cost per dialysis treatment for the proposed project was compared to those of recent kidney dialysis proposals and the average cost per dialysis is reasonable.

Based on the information provided, the department concludes that the costs of DaVita's proposed project would probably not result in an unreasonable impact to the costs and charges for health care services. This sub-criterion is met.

(3) The project can be appropriately financed.

Puget Sound Kidney Centers

As previously stated, the capital expenditure associated with the establishment of PSKC's 12 station facility is \$5,489,000. PSKC proposes that 80% (approximately \$4,391,200) of the funding for the project will be debt financed. Accordingly, the remaining 20% (\$1,097,800) will be provided with current funds from the parent non-profit organization. This statement is supported with a letter confirming the commitment of the board for the project and proposed funding model.

The financial health of the organization indicates that there would be sufficient resources to support the proposed project and to retain the necessary loans. Although, as outlined above, the proposed project would commit a substantial portion of PSKC's reported cash assets.

Further, the amortization table provided indicates a monthly loan payment amount in excess of \$31,000 through the year 2039.⁶ [PSKC Application, Exhibits 8, 19 & 22]

Based on the information provided, the department concludes the building of the PSKC #2 facility could be adequately financed as described. Concerns regarding the possible adverse affects of the expenditure on the parent non-profit organization notwithstanding, the project could be financed through a funding package designed to minimize any adverse affects on the financial stability of PSKC as a whole. This sub-criterion is met

DaVita, Inc.

As previously stated, the capital expenditure associated with the establishment of DaVita's 21 station facility is \$1,877,862. This statement is supported with a letter confirming the commitment of corporate funding. DaVita states that the project will be funded from DaVita's capital expenditure budget. A review of DaVita's consolidated financial statements shows the funds necessary to finance the project are available. [DaVita Application, Appendix 6 & 10]

Based on the information provided, the department concludes the establishment of the Everett facility would not adversely affect the financial stability of DaVita as a whole. This sub-criterion is met

C. *Structure and Process (Quality) of Care (WAC 246-310-230)*

Based on the source information reviewed, the department determines that:

- Puget Sound Kidney Centers' project has not met the structure and process (quality) of care criteria in WAC 246-310-230; and
- DaVita, Inc.'s project has met the structure and process (quality) of care criteria in WAC 246-310-230;

(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

Puget Sound Kidney Centers

To staff its 12 station facility, PSKC proposes to initially recruit a full staff of 23.35 FTEs in the first partial year of services (2009). The FTE count and ratios remain constant through 2012. A breakdown of the proposed FTEs is shown in Table 8 below. [PSKC Application, Exhibit 23]

⁶ Exhibit 19 provides an estimated Amortization schedule for a loan amount rounded up to \$4,750,000. Payments based on this estimate are calculated to be \$31,601.87 a month.

**Table 8
PSKC #2 Dialysis Center Projected FTEs**

FTEs	Partial Yr 2009	Full Year 1 2010	Full Year 2 2011	Full Year 3 2012	Total
Medical Director	Contracted Position				
Direct Care Mgr.	1.00	0.00	0.00	0.00	1.00
RNs	4.00	0.00	0.00	0.00	4.00
Dial Tech	10.00	0.00	0.00	0.00	10.00
Unit Clerk	0.50	0.00	0.00	0.00	0.50
Biomed Tech	0.75	0.00	0.00	0.00	0.75
Reuse Tech	4.00	0.00	0.00	0.00	4.00
Social Wk	0.80	0.00	0.00	0.00	0.80
Dietician	0.80	0.00	0.00	0.00	0.80
Secretary	0.50	0.00	0.00	0.00	0.50
Receptionist	0.50	0.00	0.00	0.00	0.50
Med. Records Clerk	0.50	0.00	0.00	0.00	0.50
FTE Total	23.35	0.00	0.00	0.00	23.35

As shown above, the bulk of the staffing positions include registered nurses, dialysis technicians, and reuse technicians. PSKC believes that the geographic location of this new facility will allow for the necessary applicant pool to fill these positions.

PSKC has identified Dr. Alan Haakenstad as the Medical Director for the proposed facility. The applicant supplied a draft contract that indicates Dr. Haakenstad's intended service in this capacity. The agreement outlines the roles and responsibilities of both entities and identifies the annual compensation limits for the medical director responsibilities. [PSKC Supplemental Information, Exhibit 4]

Based on this information, the department concludes that adequate staffing for the PSKC #2 facility is available or can be recruited. This sub-criterion is met.

DaVita, Inc.

To staff its 21 station facility, DaVita proposes to recruit 8.7 FTEs in partial year one (2009), which would increase to a total of 23.2 FTEs by the end of year three (2012). A breakdown of the proposed FTEs is shown in Table 9 below. [DaVita Application, p25]

**Table 9
Everett Dialysis Center Projected FTEs**

FTEs	Partial Yr 2009	Full Year 1 2010	Full Year 2 2011	Full Year 3 2012	Total
Medical Director	Contracted Position				
Administrator	1.00	0.00	0.00	0.00	1.00
RNs	1.60	1.10	0.80	0.70	4.20
Patient Care Tech	4.00	2.20	2.80	2.00	11.00
Biomed Tech	0.60	0.00	0.00	0.00	0.60
Reuse Tech	0.50	0.50	0.50	0.50	2.00
Admin Asst.	0.00	1.00	0.80	0.20	2.00
Social Worker	0.50	0.30	0.20	0.20	1.20
Dietician	0.50	0.30	0.20	0.20	1.20
FTE Total	8.70	5.40	5.30	3.80	23.20

As shown in Table 9 above, after the initial recruitment of FTEs, DaVita expects a steady increase in FTEs for Everett through year 2012. The applicant continued the forecast through 2013, but 92% of the necessary staff are expected to be hired by the third year of operation. DaVita states it expects no difficulty in recruiting staff for Everett because of its competitive wage and benefit package offered to employees. Further, DaVita posts staff openings nationally both internally and external to DaVita. In addition, DaVita states that several employees have already expressed interest in working at its proposed Everett facility. [DaVita Application, p24]

As part of rebuttal, PSKC expanded upon concerns raised at the public hearing regarding the recruitment of PSKC personnel to staff the proposed DaVita facility. PSKC contends that a new provider would introduce instability in the employment market for the area. PSKC states, "Instability in the health care workforce is not a desired outcome for Snohomish County or for the dialysis patients who are dependant on the undisturbed, consistent high quality of care received from the Puget Sound Kidney Centers". [PSKC Rebuttal, p2]

A review of the staffing levels for each of the proposed facilities is summarized in Tables 8 & 9 above. As shown, both proposals estimate a need of approximately 23 FTE's to fill the necessary positions. Though titles vary, the two forecasts are also very consistent in caparison of the particular specialties outlined. The primary distinction is that the PSKC staffing model proposes to fully staff the facility in the first partial year of operation. DaVita, by contrast, anticipates hiring incrementally over three years to reach the same staffing level.

Based on the information outlined above, PSKC does not appear to anticipate a reduction of care or instability in the employment market were it to be approved for the immediate placement of 23+ FTE's. Therefore, the department concludes that the projected staff added as planned would likely be available to the DaVita project without unduly affecting operations or the care provided at any of the existing PSKC facilities.

DaVita has identified Dr. Fadi Najjar as the contracted Medical Director for the Everett facility. The applicant supplied a draft contract that indicates Dr. Najjar's service in this capacity. The agreement outlines the roles and responsibilities of both entities and identifies the annual compensation limits for the medical director responsibilities. [DaVita Application, Appendix 3]

Based on this information, the department concludes that adequate staffing for the Everett facility is available or can be recruited. This sub-criterion is met.

- (2) *The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.*

Puget Sound Kidney Centers

Information provided in the application indicates that PSKC currently maintains the relationships with the necessary facilities for hospital care and support services for its existing dialysis centers. According to the applicant, ancillary and support services, such as; social services, nutrition services, patient and staff education, financial counseling, material management, administration, and technical services would be provided through staff located

at the proposed PSKC #2 facility and through the neighboring PSKC-Everett facility. [PSKC Application, p16; Public Comment]

Based on this information, the department concludes that PSKC is likely to extend their current relationships with ancillary and support services to include the proposed facility. If this project is approved, the department would include a term requiring PSKC to provide a copy of the executed transfer agreement with a local hospital in Snohomish County. Provided that PSKC would agree to the term, this sub-criterion would be met.

DaVita, Inc.

Documentation provided in the application confirms that DaVita maintains appropriate relationships with ancillary and support services for its existing dialysis centers. For a new facility in Snohomish County planning area #2, ancillary and support services, such as social services, nutrition services, pharmacy, patient and staff education, financial counseling, human resources, material management, administration, and technical services would be provided on site. Additional services would be coordinated through DaVita's corporate offices in El Segundo, California and support offices in Tacoma, Washington; Denver, Colorado; Nashville, Tennessee; Berwyn, Pennsylvania; and Deland, Florida. [DaVita Application, p26]

DaVita acknowledges that since this would be a new facility in Snohomish County, transfer agreements would have to be established. To further demonstrate compliance with this sub-criterion, DaVita provided an example of a draft transfer agreement. [DaVita Application, p26 and Appendix 12]

Based on this information, the department concludes that DaVita will have appropriate relationships with ancillary and support services. If this project is approved, the department would include a term requiring DaVita to provide a copy of the executed transfer agreement with a local hospital in Snohomish County. Provided that DaVita would agree to the term, this sub-criterion would be met.

- (3) *There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.*

Puget Sound Kidney Centers

As stated in the project description portion of this evaluation, PSKC was established in 1980 and owns or operates four dialysis facilities in Washington State - three in Snohomish County and one in Island County. As part of its review, the department must conclude that the proposed services would be provided in a manner that ensures safe and adequate care to the public⁷. To accomplish this task, the department reviews PSKC's quality of care compliance history for all four facilities.

In the most recent 10 years, the Department of Health's Office of Health Care Survey (OHCS) has completed twelve compliance surveys for the PSKC facilities in operation.⁸ Of

⁷ WAC 246-310-230(5)

⁸ PSKC-Everett: surveys completed 1997, 2000, 2003, & 2007; PSKC-South: surveys completed 1997, 2001, 2004, & 2007; PSKC-Smokey Point: initial survey completed 2005, 2007; PSKC-WI: initial survey completed 2005, 2006

the compliance surveys completed, all revealed minor non-compliance issues related to care and management. These non-compliance issues are typical of a dialysis facility and PSKC submitted and implemented acceptable plans of correction. [Office of Health Care Survey]

Alan Haakenstad, MD has agreed to provide medical director services at the proposed dialysis center. PSKC provided a copy of the draft medical director agreement between itself and Dr. Thaler. The agreement outlines the roles and responsibilities of both entities and the length of the term. A review of the compliance history of Dr. Thaler has shown that his credentials are up to date and reveal no recorded sanctions. [Compliance history provided by Medical Quality Assurance Commission]

Given the compliance history of PSKC and the compliance history of the proposed medical director, the department concludes that there is reasonable assurance that the dialysis center would operate in conformance with state and federal regulation. This sub-criterion is met.

DaVita, Inc.

As stated earlier, DaVita, Inc. is a provider of dialysis services in over 1,300 outpatient centers located in 42 states (including Washington State) and the District of Columbia. [DaVita website] Prior to the October 1, 2005, acquisition of the dialysis operations of Gambro Healthcare US, DaVita operated 665 centers in 37 states and the District of Columbia. Currently within Washington State, DaVita owns and operates eighteen kidney dialysis treatment centers.

As part of its review, the department must conclude that the proposed services would be provided in a manner that ensures safe and adequate care to the public⁹. To accomplish this task, in January 2007 the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for the 42 states and the District of Columbia where DaVita, Inc. or any subsidiaries of the parent company has health care facilities. Of the 43 entities, the department received responses from 28 states or 66% of the 42 entities.¹⁰ The compliance history of the remaining 13 states and the District of Columbia is unknown.¹¹

Ten of the 28 states responding to the survey indicated that significant non-compliance deficiencies had been cited at DaVita facilities in the past three years. Of those states, with the exception of one facility in Delaware, one in New York and one in Texas, none of the deficiencies were reported to have resulted in fines or enforcement action. All other facilities were reported as currently in compliance with applicable regulations. The Delaware facility had been scheduled for decertification in 2006 due to several condition-level citations, but was operating in compliance at the time of survey. The New York facility was cited with condition-level deficiencies because it was actually closed and not providing services and was voluntarily de-certified by DaVita. In Texas, DaVita's Houston Dialysis was fined \$16,500 for non-compliance issues in 2005, and no further fines were identified for this facility.

⁹ WAC 246-310-230(5).

¹⁰ Alabama, Arizona, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New York, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

¹¹ Arkansas, California, Colorado, Georgia, Louisiana, Massachusetts, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, and South Carolina.

The department concludes that considering the 1,300 facilities owned/managed by DaVita, few out-of-state facilities listed above demonstrated substantial non-compliance issues, with only three reported as subject to fines or actually decertified. Therefore, the department concludes the out-of-state compliance surveys are acceptable.

For Washington State, since January 2000, the Department of Health's Office of Health Care Survey (OHCS) has completed more than 32 compliance surveys for the operational facilities that DaVita either owns or manages.¹² Of the compliance surveys completed, all revealed minor non-compliance issues related to the care and management at the DaVita facilities. These non-compliance issues were typical of a dialysis facility and DaVita submitted and implemented acceptable plans of correction. [Office of Health Care Survey]

Fadi Najjar, MD has agreed to provide medical director services at the proposed dialysis center. DaVita provided a copy of the draft medical director agreement between itself and Dr. Najjar. The agreement outlines the roles and responsibilities of both entities and the automatic renewal of the term. If this project is approved, the department would include a term requiring DaVita to provide a copy of the executed Medical Director agreement. A review of the compliance history of Dr. Najjar has shown that his credentials are up to date and reveal no recorded sanctions. [Medical Quality Assurance Commission compliance data]

Comment was received regarding the degree in which Dr. Najjar is contracted to provide service as a Medical Director in a number of DaVita facilities. Comment centers around the location of Dr. Najjar's office and separate practice in relation to the location of the facilities DaVita has contracted with him to provide Medical Director coverage. Further, comments submitted include, "There is no showing that [Dr. Najjar] has admitting privileges in any of the local Snohomish County area hospitals or how the long distance relationship will promote continuity of care". [Tom Grimm Public Comment]

In rebuttal, DaVita simply states that Dr. Najjar has been the Medical Director of record for recent CN approvals without issue. DaVita remarks that PSKC offers no reason for the program to change its position on this portion of the review. Further, a review of recent surveys for DaVita facilities do not indicate any violations regarding inadequate performance or supervision of the Medical Director that would support the concern expressed. [DaVita Rebuttal, p10]

Based on DaVita's compliance history and the compliance history of the proposed medical director, and DaVita's agreement to a term associated with the medical director, the department concludes that there is reasonable assurance that the new dialysis center would be operated in conformance with state and federal regulations. This sub-criterion is met.

- (4) *The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.*

Puget Sound Kidney Centers

In response to this criterion, PSKC states, "The majority of patients [to be] treated at PSKC #2 reside near the center and are followed by physicians whose practice is reasonably near

¹² DaVita's Ellensburg Dialysis Center and Tacoma Dialysis Center are not yet operational. Olympic View Dialysis Center is owned by Group Health and managed by DaVita.

their homes and/or treatment facility”. PSKC continues, “This improves the likelihood that the physicians will see their patients at appropriate intervals, and that overall quality and continuity of care will be maximized”. [PSKC Application, p17]

The department also considered PSKC’s history of providing care to residents in Washington State. The department concludes that the applicant has been providing dialysis services to the residents of Washington State for many years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that these same types of relationships would not be developed for this project. [Office of Health Care Survey Historical Record]

Additionally, the department considered the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for 21 additional dialysis stations in the Snohomish County planning area #2. PSKC has not provided the information necessary to establish that they would be running a smaller 12 station facility at a profit by the third year of operation, but the need methodology was correctly calculated.

Therefore, the department concludes that approval of this 12 station project in Snohomish County planning area #2, though supported by the need methodology, is showing a financial loss in the projection years. This would have the potential of fragmentation of dialysis services within the service area if it were to close as a result. This sub-criterion is not met.

DaVita, Inc

In response to this criterion, DaVita provided a summary of its quality and continuity of care indicators used in its quality improvement program. The quality of care program incorporates all areas of the dialysis program, and monitors and evaluates all activities related to clinical outcomes, operations management, and process flow. Further, continuing education for both employees and patients are integral factors in the quality of care program. DaVita also provided examples of its quality index data and its physician, community, and patient services education offered through its quality of care program. [DaVita Application, p26, Appendix 17]

The department also considered DaVita’s history of providing care to residents in Washington State. The department concludes that the applicant has been providing dialysis services to the residents of Washington State for several years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that these same types of relationships would not be developed for this project. [CN historical files]

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for 21 additional dialysis stations in the Snohomish County planning area #2. Within the application, DaVita demonstrated it met the standards to receive approval to add the needed stations.

Therefore, the department concludes that approval of 21 additional dialysis stations in Snohomish County planning area #2 is consistent with the need methodology and would not have the potential of fragmentation of dialysis services within the service area. This sub-criterion is met.

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

For both projects, this sub-criterion is addressed in sub-section (3) above and is considered met.

D. Cost Containment (WAC 246-310-240)

Based on the source information reviewed, the department determines that:

- Puget Sound Kidney Centers project has not met the cost containment criteria in WAC 246-310-240; and
- DaVita, Inc.'s project has met the cost containment criteria in WAC 246-310-240;

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

Puget Sound Kidney Centers

Within the application, PSKC provided discussion regarding the benefits of obtaining favorable interest rates and did not detail any alternatives to the proposed project. In response to screening, PSKC supplemented the discussion with two additional considerations. [PSKC Application, p18; PSKC Screening Responses, Q7]

- Merge with existing Provider
PSKC correctly states that there are no other providers in the service area in which to pursue mergers.
- Postpone plans for the establishment of a new facility
In conjunction with the applicant's discussion regarding favorable financing, PSKC viewed this as an unacceptable option due to the existing need for additional stations in the service area

Based on PSKC's discussion of the two options above, both options were rejected before submitting this project for a robust, full service 12 station facility.

DaVita, Inc.

Within the application, DaVita provided discussion regarding the following two alternatives to this project. [DaVita Application, p29]

- Establish no new facility
DaVita considered the need methodology identifying a need of 21 stations and the utilization rate of the current facility, PSKC–Everett, currently in excess of 80%. These two factors led to this alternative being rejected.
- Develop a collaborative project with another dialysis service within the planning area
DaVita considered application tie-breakers and determined that the criteria to allow for patient choice emphasized the need to establish an additional facility. Further, with the submission of a Letter of Intent from the current provider in the service area, DaVita determined that no provider would be available to partner with.

Based on DaVita's discussion of the two options above, both options were rejected before submitting this project for a full service 21 station facility.

In determining the best available alternative, the department considered its findings on the other applicable review criteria. The DaVita project met all other review criteria. The PSKC project, however, failed to meet the review criteria of financial feasibility and structure and process of care. Based on these factors, the department concludes the DaVita application is the best available alternative.

(2) In the case of a project involving construction:

a) The costs, scope, and methods of construction and energy conservation are reasonable;

Puget Sound Kidney Centers

This project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is not met.

DaVita, Inc.

This project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

Puget Sound Kidney Centers

This project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is not met.

DaVita, Inc.

This project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

E. Tie-breakers (WAC 246-310-288)

This criterion is applied if two or more applications meet all applicable review criteria and there is not enough station need projected for all applications to be approved. Once the department evaluates the applications for compliance with the other applicable review criterion, only then can it determine if this criterion is to be applied.

To determine this criterion applies to the two applications under review, the department considered its findings on the other review criteria. The department previously concluded that the DaVita application met all the applicable review criteria. Further, the department previously concluded that the PSKC application failed to meet financial feasibility, structure and process of care, and cost containment. Because PSKC's application failed to meet three of the four required universal review criteria, this criterion is not applicable.

Appendix A