

EXECUTIVE SUMMARY

EVALUATIONS OF THE FOLLOWING TWO CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATIONS IN PIERCE COUNTY PLANNING AREA #5:

- **FRANCISCAN HEALTH SYSTEM PROPOSING TO ESTABLISH A TWENTY ONE STATION DIALYSIS CENTER IN THE CITY OF SPANAWAY**
- **DAVITA, INC. PROPOSING TO ESTABLISH A TWENTY ONE STATION DIALYSIS CENTER IN THE CITY OF TACOMA**

BRIEF PROJECT DESCRIPTIONS

Franciscan Health System / St. Clare Hospital

This application proposes to establish a 21-station facility to be located at 19918 Mountain Highway East in Spanaway. The new dialysis center would be referred to as SCH Spanaway and would serve the residents of Pierce County planning area #5.

The capital expenditure associated with the establishment of the 21-station facility is \$2,539,471. If this project is approved, FHS anticipates all 21-stations would become operational no later than September 1, 2009. Under this timeline, fiscal year 2010 (September 2009 through August 2010) would be the facility's first full calendar year of operation. [FHS Application, p15]

DaVita, Inc.

This application proposes to establish a 21-station facility to be located at 13818 Pacific Avenue South in Tacoma. The new dialysis center would be known as the DaVita Parkland Dialysis Center would serve the residents of Pierce County planning area #5.

The capital expenditure associated with the establishment of the 21-station facility is \$1,903,462. 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, p12]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both projects are subject to Certificate of Need review. Both the FHS 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

Franciscan Health System / St. Clare Hospital

For the reasons stated in this evaluation, the application submitted on behalf of FHS proposing to establish a 21-station dialysis center in the city of Spanaway within Pierce

County planning area #5 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 Tacoma within Pierce County planning area #5 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 \$1,903,462.

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APPLICATIONS PROPOSING TO ADD DIALYSIS STATIONS IN
PIERCE COUNTY PLANNING AREA #5:**

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PROJECT DESCRIPTIONS

Franciscan Health System / St. Clare Hospital

Franciscan Health System (FHS) is part of a larger organization known as Catholic Health Initiatives that owns 117 health care facilities in 20 states. Catholic Health Initiatives does not have direct ownership or management of any facilities in Washington State; however, FHS or one of its subsidiaries currently owns or operates a variety of health care facilities in the state. The health care facilities are listed below. [Catholic Health Initiatives website; Application, Appendix 1]

Hospitals

St. Joseph Medical Center, Tacoma
St. Clare Hospital, Lakewood
St. Frances Hospital, Federal Way
Enumclaw Regional Hospital

Skilled Nursing Facility

Evergreen Tacoma Health & Rehab, Tacoma

Dialysis Centers

Greater Puyallup Dialysis Center, Puyallup
St. Joseph Dialysis Facility, Tacoma
Gig Harbor Dialysis Center, Gig Harbor

Hospice Agency

Franciscan Hospice, Tacoma

Ambulatory Surgery Center

Gig Harbor Ambulatory Surgery Center, Gig Harbor

Hospice Care Center

FHS Hospice Care Center, Tacoma

This application proposes to establish a 21-station facility to be located at 19918 Mountain Highway East in Spanaway. The new dialysis center would be referred to as SCH Spanaway and would serve the residents of Pierce County planning area #5.

The capital expenditure associated with the establishment of the 21-station facility is \$2,539,471. If this project is approved, FHS anticipates all 21-stations would become operational no later than September 1, 2009. Under this timeline, fiscal year 2010 (September 2009 through August 2010) would be the facility's first full fiscal year of operation. [FHS Application, p15]

Breakdown Of FHS Costs	Total	% of Total
Leasehold Improvements	\$ 1,241,293	49%
Fixed & Moveable Equipment	\$ 893,153	35%
Professional Fees	\$ 141,176	6%
Permits	\$ 76,018	3%
Sales Tax	\$ 187,831	7%
Total Estimated Capital Costs	\$ 2,539,471	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, p 1]

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 13818 Pacific Avenue South in Tacoma. The new dialysis center would be known as the DaVita Parkland Dialysis Center would serve the residents of Pierce County planning area #5.

The capital expenditure associated with the establishment of the 21-station facility is \$1,903,462. 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, p12]

Breakdown of DaVita, Inc. Costs	Total	% of Total
Leasehold Improvements	\$ 1,080,000	57%
Fixed & Moveable Equipment	\$ 709,053	37%
Professional Fees	\$ 98,000	5%
CN Fees	\$ 16,409	1%
Total Estimated Capital Costs	\$ 1,903,462	100.00%

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both projects are subject to Certificate of Need review. Both the FHS 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	FHS	DaVita
Letter of Intent Submitted	October 31, 2007	October 31, 2007
Application Submitted	November 30, 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	
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	July 11, 2008	

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 FHS 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

- FHS's Certificate of Need application submitted November 30, 2007
- DaVita, Inc.'s Certificate of Need application submitted November 30, 2007
- FHS's supplemental information dated January 31, 2008
- DaVita, Inc.'s supplemental information dated January 31, 2008
- Public comment received during the course of the review
- FHS's rebuttal comments received May 21, 2008
- DaVita, Inc.'s rebuttal comments received May 21, 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 Catholic Health Initiative's webpage (www.catholichealthinit.org)
- Data obtained from FHS's webpage (www.fhshealth.org)
- CMS "Nursing Home Compare" website (<http://www.medicare.gov/NHCompare>)
- Data obtained from the Washington Secretary of State offices and webpage
- Data obtained from the Washington Department of Licensing offices and webpage
- Data obtained from the Pierce County Assessor office and webpage
- Data obtained from the Pierce County Planning office and webpage
- Certificate of Need historical files

CONCLUSIONS

Franciscan Health System / St. Clare Hospital

For the reasons stated in this evaluation, the application submitted on behalf of FHS proposing to establish a 21-station dialysis center in the city of Spanaway within Pierce County planning area #5 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 Tacoma within Pierce County planning area #5 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 \$1,903,462.

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:

- FHS / St. Clare's 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]

Franciscan Health System / St. Clare Hospital’s Application of the Numeric Methodology

FHS proposes to establish a 21-station dialysis center in Spanaway to serve patients in Pierce County planning area #5. 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 Pierce County, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [FHS Application, p13-15]

DaVita’s Application of the Numeric Methodology

DaVita proposes to establish a 21-station dialysis center in Tacoma to serve patients in Pierce County planning area #5. 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 Pierce 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 Pierce County planning area #5. 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 Pierce County planning area #5. Both DaVita and FHS 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
Pierce County #5 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)
FHS	42	21	21.00	21
DaVita	41.50	21	20.50	21
DOH	41.50	21	20.50	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 Pierce County planning area #5 is determined to be twenty-one (21).

As shown in Table 1 above, currently Pierce County planning area #5 has 21 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 21-stations are at one facility – DaVita Lakewood Dialysis Center. Table 2 below shows the September 31,

2007, utilization of the DaVita Lakewood facility and demonstrates that this operating requirement is met.

**Table 2
December 31, 2006-Facility Utilization Data**

Facility Name	# of Stations	# of Pts	Pts/Station
DaVita Lakewood	21	120	5.71

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 Pierce County, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)] Both DaVita and FHS propose dialysis stations to be located within Pierce County planning area #5, as a result, both applicant's must demonstrate compliance with this criterion using the 4.8 in-center patient per station. Further, both FHS'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
SCH Spanaway	2012	21	103	4.90
DaVita Parkland Dialysis Center	2012	21	116 ³	5.52

As shown in Table 3 above, both FHS and DaVita project to meet this standard. [FHS Application, p15; DaVita Supplemental Information, Attachment 2]

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

Franciscan Health System / St. Clare Hospital

FHS proposes to establish a 21-station dialysis center in Pierce County planning area #5. 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 FHS application.

DaVita, Inc.

DaVita proposes to establish a 21-station dialysis center in Pierce County planning area #5. 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.

(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

³ DaVita cites a patient count of 120 for 2012 on p9 &16 of the application, but calculates the 2012 Pro Forma with a patient count of 116. The department used the figure cited in the financial calculations as the projected patient count in the third year of the DaVita Everett facility.

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.

Franciscan Health System / St. Clare Hospital

To demonstrate compliance with this sub-criterion, FHS provided a copy of its draft Admission policies and procedures that would also be used at the new SCH Spanaway facility. The document outlines 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 FHS's facility without regard to age, sex, race, religion or sexual preference, physical disability, financial status, or disease. IN the instance a patient has active or untreated tuberculosis will be transferred for treatment at either of its sister hospitals. [FHS Application, Exhibit 6]

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.

Franciscan Health System / St. Clare Hospital

FHS 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. [FHS Application, p8]

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. [DaVita Application, p9]

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.

Franciscan Health System / St. Clare Hospital

In addition to the Admissions policy cited above, FHS 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. [FHS Application, Exhibit 6; FHS's January 31, 2008 Supplemental Information, Attachment 6]

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 2]

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

Franciscan Health System / St. Clare Hospital

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

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

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

- Franciscan Health System / St. Clare Hospital's 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.

Franciscan Health System / St. Clare Hospital

FHS anticipates commencement of services for this facility to be no later than September of 2010. Based on this timeline and the projected release of this evaluation, FHS has calculated its pro forma for the operation of this facility based upon the 12 months following commencement of services making September, 2009 through August 31, 2010 first full year of operation for the SCH Spanaway 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 fiscal years 2010-2012 for SCH Spanaway. [FHS Supplemental Information, p3 & Attachment 6]

Table 4
Proposed SCH Spanaway Dialysis Center
Projected Revenue and Expenses

	FY 1 - 2010	FY 2 - 2011	FY 3 - 2012
# of stations	21	21	21
# of Treatments	12,187	14,152	16,118
# of Patients	78	91	103
Utilization Rate	3.71	4.33	4.90
Net Patient Revenue	\$ 5,743,905	\$ 6,670,342	\$ 7,596,777
Total Operating Expense [1]	\$ 3,582,691	\$ 4,024,862	\$ 4,467,351
Net Profit or (Loss)	\$ 2,161,214	\$ 2,645,480	\$ 3,129,426
Net Patient Revenue/Treatment	\$ 471.31	\$ 471.34	\$ 471.32
Total Operating Exp./Treatment	\$ 293.98	\$ 284.40	\$ 277.17
Net Profit per Treatment	\$ 177.34	\$ 186.93	\$ 194.16

[1] includes depreciation and amortization expenses

As shown in Table 4, at the projected volumes identified in the application, the SCH Spanaway would be operating at a profit as a 21-station facility beginning the first fiscal year following completion of the project.

FHS has selected a site for the SCH Spanaway facility that is located at 19918 Mountain Highway in the city of Spanaway. The draft lease with Mountain Highway TIC provided in response to screening outlines the terms and the annual rent for the space through 2018. FHS also supplied details that show that the location covered under urban zone classifications to allow for civic use and that a health services facility would be permitted at the site. In addition, line drawings for the proposed facility allow sufficient space to locate 21-stations. [FHS January 31, 2008 Supplemental Information, Attachment 1]

As part of public comment, DaVita contends that FHS has not satisfied requirements regarding the site of the proposed facility. Specifically, DaVita claims that the location of the new center remains unclear, that sufficient site control has not been demonstrated with the draft lease submitted, and that FHS has not fully described site restrictions that would impact the ability to construct the site as described. In reference to concerns regarding site restrictions, DaVita states that FHS has made false statements regarding the site that would prevent development of the proposed facility. In reference to Q4 of the FHS response to screening, DaVita asserts, “FHS declares ‘There are no issues that would restrict the usage of the site as a dialysis facility’. With its response, FHS failed to notify the Department that the project location does not have the necessary sewer access, is located in a flood zone and has other environmental issues that will at best require additional permits and at worst may defeat the project.” [DaVita Public Comment, p2-3]

In rebuttal, FHS responded to the location and control issues described above by stating that efforts were made to work with the property owner to provide all the documents needed to demonstrate site control for certificate of need purposes. FHS expands upon their description of the proposed site by noting, “the retail center in which the SCH Spanaway Dialysis Center will be located includes three distinct parcels of property”. They further indicate that the three parcels are contiguous and are owned by the same entity, Simon/Johnson, LLC.

In addressing site control and the lease agreement with Mountain Highway TIC (tenants-in-common), FHS asserts that Simon/Johnson, LLC established a co-tenancy agreement establishing Mountain Highway to act as the managing owner of the property involved with the development. FHS continues, “in its capacity as the sole owner of the property in question, Simon/Johnson, LLC caused the draft lease agreement (previously submitted with SCH’s January 31, 2008 screening response) to list “Mountain Highway TIC and/or Assigns” as the landlord”.

In response to DaVita’s comments addressing sewer accessibility, FHS counters by stating, “SCH has made no false statements regarding restriction on the use of the three parcels identified above as a dialysis facility”. FHS provided details of a planned sewer access project instigated by Simon/Johnson, LLC and three additional property owners in the area. The agreement was entered into in May 2007 and addressed requirements necessary to support the zoning requirements of the parcels. The anticipated completion date as July 2008. [FHS January 31, 2008 Supplemental Information, Attachment 1; FHS Rebuttal, p4-7]

Department Response

Preliminary research by the Department shows that the property cited in Q1 of the applicant’s screening responses is different from those parcels cited in Exhibit B of the attached draft lease. Though all referenced parcels are registered to Simon/Johnson, LLC, the submitted exhibits and the screening responses differ in their specific parcels. [FHS January 31, 2008 Supplemental Information, p1 & Attachment 1; Pierce County Assessor website]

Further review of the materials submitted indicates that the landlord/lessor identified as a tenant-in-common in the draft lease agreement is Mountain Highway TIC. According to the records available from the Washington Secretary of State and the Washington Department of Licensing, Mountain Highway TIC is not currently listed as a registered entity or licensed to do business in the state. [Washington Secretary of State website; Washington Department of Licensing offices]

In reference to the draft lease, FHS states, “Simon/Johnson, LLC’s designation of ‘Mountain Highway TIC’ as the landlord is a legal technicality, which merely meant that Simon/Johnson, LLC was acting on its own behalf and on the behalf of potential future co-owners of the property”. In addition, FHS states, “there are no other owners of the property in question, and the designation of Mountain Highway TIC as landlord does not change the terms of the lease”. FHS contends that Simon/Johnson, LLC owns the property and has the ability to lease it to SCH. [FHS Rebuttals, p5]

Once a draft agreement is submitted, the department expects the agreement to be between the applicant and the owner of the property. Though, FHS did provide documentation indicating that Simon/Johnson, LLC has begun the process to establish a tenant-in-common organization in anticipation of future co-tenancy, Mountain Highway TIC is not currently licensed to enter into such an agreement. Further, research indicates that the Washington Department of Licensing defines TIC’s as two or more entities and obligates the entity to be licensed independent of any of the parties involved. The agreement provided identifies a single co-tenant in Exhibit A. Therefore, Mountain Highway TIC cannot reasonably enter into any agreement, draft or executed, committing to the use for that property. As such, the draft submitted has no value in establishing any site control, for any current or future party, in the proposed site. [Washington Department of Licensing offices; FHS Rebuttal, Exhibit 5]

Concerns regarding availability to adequate utilities appear to have been addressed through efforts of multiple property owners in the vicinity to move forward on a sewer project designed to allow for extended access to existing sanitary sewer service. This project was confirmed in a report commissioned by DaVita and submitted in comment. Not stated in the issues addressed above, but necessary to consider, is that there is no indication that the timeline for beginning services can reasonably be met based on the number of actions required for the building of a new facility with a developer that does not currently have any agreement to utilize the property. As stated prior to this discussion, the Department is unable to conclude that FHS has sufficient controlling interest in the site. [FHS Rebuttal, Exhibit 6; DaVita Public Comment, Exhibit 1]

After reviewing the comments submitted and the responses provided by FHS, the department concludes that the draft lease agreement provided by FHS does not demonstrate sufficient control of the site as required under CN application guidelines. Therefore, the proposed SCH Spanaway facility cannot be fully evaluated on its long-range capital and operating costs. This sub criterion is not met.

DaVita, Inc.

As stated in the project description portion of this evaluation, if this project is approved, DaVita anticipates commencement immediately and the 21-station facility would be operational no later than May 1, 2009. Based on this timeline, year 2010 would be Parkland’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 Parkland Dialysis Center. [DaVita Supplemental Information, Attachment 2]

**Table 5
Proposed Expansion of the Parkland Dialysis Center
Projected Revenue and Expenses**

	Year 1 - 2010	Year 2 - 2011	Year 3 - 2012
# of Stations	21	21	21
# of Treatments [1]	11,831	15,725	17,372
# of Patients [2]	79	105	116
Utilization Rate [2]	3.76	5.00	5.52
Net Revenue [1]	\$ 4,073,628	\$ 4,348,029	\$ 5,273,032
Total Expense [1,3]	\$ 2,921,078	\$ 3,902,359	\$ 4,609,318
Net Profit or (Loss) [1]	\$ 1,152,550	\$ 445,670	\$ 663,714
Net Patient Revenue/Treatment [1]	\$ 337.58	\$ 269.83	\$ 294.37
Total Operating Exp./Treatment [1]	\$ 242.07	\$ 242.17	\$ 257.32
Net Profit (Loss) per Treatment [1]	\$ 95.51	\$ 27.66	\$ 37.05

[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, Parkland would be operating at a profit in the first three full years of operation as a 21-station facility.

DaVita has selected a site for the Parkland facility that is located between the cities of Parkland and Tacoma with an address of 13818 Pacific Avenue South. The draft lease provided in screening outlines the terms and the annual rent for the space through 2020. Zoning information for the short plat is located within Pierce County and indicates the location is zoned Mixed Use, which includes health services. In addition, preliminary line drawings for the proposed facility allow for the necessary stations. [DaVita Application, Attachment 15; DaVita January 30, 2008 Supplemental Information, Attachment 1; Pierce County Assessor and Planning office records]

As part of public comment, FHS states that it believes DaVita has also failed to demonstrate appropriate zoning and land use approvals for the development of a dialysis facility. FHS contends, “DaVita’s application lacks information from the appropriate municipal authority regarding the zoning of the site and its use as a dialysis facility. Instead, DaVita offers and unsubstantiated statement from the landlord that the site is appropriately zoned”. FHS also references language included as part of the draft lease that leaves the issue even more ambiguous.

In response, DaVita states, “Pierce County regulates development in flood zones and, depending on the site, may require compliance with regulatory requirements and approval for the development. Our site appears on some Pierce County maps as included in a flood zone, as are many areas in south Pierce County”. DaVita also cites language from Exhibit C of the draft lease in which A Three, LLC, the property owner and landlord, accepts the obligation to obtain all permits and approvals necessary for construction of the building.

Using the information supplied in the application, the Department referenced the parcel and affiliated critical areas data recorded within Pierce County’s Planning Department. The information available confirm that the parcel’s natural environment has the potential for flood and resides in the Regulated Flood Hazard area. Additional information available also indicates that the parcel resides in the Parkland-Spanaway-Midland Communities plan and is zoned for Commercial mixed use. The combination of these classifications, and that no current development moratorium exists, would indicate that the landlord would be permitted to build on the site as intended once the necessary regulatory development plans were approved. [DaVita January 30, 2008 Supplemental Information, p1 & Attachment 1; Pierce County Planning office records]

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.*

Franciscan Health System / St. Clare Hospital

The capital expenditure associated with the establishment of the SCH Spanaway facility is \$2,539,471 of which 49% is related to construction, 35% for both fixed and moveable equipment; and the remaining 16% is related taxes, permits and fees. The capital cost breakdown is reprinted below. [FHS Application, p24]

Breakdown Of FHS Costs	Total	% of Total
Leasehold Improvements	\$ 1,241,293	49%
Fixed & Moveable Equipment	\$ 893,153	35%
Professional Fees	\$ 141,176	6%
Permits	\$ 76,018	3%
Sales Tax	\$ 187,831	7%
Total Estimated Capital Costs	\$ 2,539,471	100.00%

For further review, the department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, FHS also provided the sources of patient revenue shown in Table 6 below. [FHS Application, p8]

Table 6
Anticipated Revenue Sources – FHS/St. Clare

Source of Revenue	% of Revenue
Medicare	74
State (Medicaid)	6
Other Insurance	20
Total	100 %

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 80% of the revenue at the 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. The remaining 20% will be derived through other or private insurance reimbursements. The costs and charges per dialysis for the proposed facility cannot be compared to recent kidney dialysis proposals submitted to the department. The department is not able to calculate the average cost per dialysis with any certainty due to unverifiable pro-forma data due to lack of site control. The department is unable to conclude the average cost per dialysis is reasonable or accurate.

Based on the information provided, the department is unable to conclude that the costs of this project would probably not result in an unreasonable impact to the costs and charges for health care facilities. This sub-criterion is not met.

DaVita, Inc.

The capital expenditure associated with the establishment of the 21-station Parkland facility is \$1,903,462, and of that amount, 57% is related to leasehold improvements at the site; 37% is related to both fixed and moveable equipment; and the remaining 5% is related to architect, engineering, application, consulting, and legal fees. As a practice, DaVita has included 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	\$ 1,080,000	57%
Fixed & Moveable Equipment	\$ 709,053	37%
Professional Fees	\$ 98,000	5%
CN Fees	\$ 16,409	1%
Total Estimated Capital Costs	\$ 1,903,462	100.00%

The department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD entitlements. To further 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 facilities. This sub-criterion is met.

(3) The project can be appropriately financed.

Franciscan Health System / St. Clare Hospital

As previously stated, the capital expenditure associated with the establishment of FHS's 21-station facility is \$2,539,471. FHS proposes that funding will be provided from current reserves from the parent company. The financial health of the organization indicates that there would be sufficient resources to support the proposed project. Review of the financial position of Catholic Health Initiatives shows the funds necessary to finance the project is available. [FHS Application, p8 & Appendix 2]

Based on the information provided, the department concludes the construction of the SCH Spanaway facility would not adversely affect the financial stability of FHS or Catholic Health Initiatives 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 \$1,903,462. 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 Parkland 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:

- Franciscan Health System / St. Clare Hospital's project has 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.

Franciscan Health System / St. Clare Hospital

To staff its 21-station facility, FHS proposes to initially recruit just over 18 FTEs and add approximately 3 FTEs in fiscal year two (2011). By the end of fiscal year three (2012) a total to nearly 24 FTEs will support the facility. A breakdown of the proposed FTEs is shown in Table 8 below. [FHS Application, p27]

Table 8
SCH Spanaway Dialysis Center Projected FTEs

FTEs	FY 1 2010	FY 2 2011	FY 3 2012
Medical Director	Contract Position		
HD Tech	10.69	12.47	14.26
RNs	4.28	4.99	5.70
Clinical Nurse Mgr.	1.00	1.00	1.00
Unit Secretary	1.00	1.00	1.00
MSW	0.80	0.90	1.00
Dietician	0.80	0.90	1.00
FTE Total	18.57	21.26	23.96

As shown above, the additional FTEs are targeted to add dialysis technicians and registered nurses throughout the first three years of operation. In the first year, FHS anticipates hiring 75% of its projected staff, reaching a full staffing compliment of approximately 24 FTE's in 2012. FHS believes that the geographic location of this new facility and past successes in recruitment will allow for the necessary applicant pool to fill these positions. [FHS Application, p28]

FHS has identified Dr. David Dempster as the Medical Director for the proposed facility. The applicant supplied a draft contract that indicates Dr. Dempster's intended service in this capacity. The agreement outlines the roles and responsibilities of both entities and identifies the hourly compensation rates for the medical director responsibilities. [FHS Supplemental Information, Attachment 5]

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

DaVita, Inc.

To staff its 21-station facility, DaVita proposes to recruit 9.7 FTEs in partial year one (2009), which would increase to a total of 23.3 FTEs by the end of full year three (2012). A breakdown of the proposed FTEs is shown in Table 9 below. [DaVita Application, p27]

**Table 9
Parkland Dialysis Center Projected FTEs**

FTEs	Partial Yr 2009	Full Year 1 2010	Full Year 2 2011	Full Year 3 2012	Total
Medical Director	Contract Position				
Administrator	1.00	0.00	0.00	0.00	1.00
RNs	2.10	1.10	1.10	0.60	4.90
Patient Care Tech	4.00	2.20	2.70	2.00	10.90
Biomed Tech	0.50	0.00	0.00	0.00	0.50
Re-Use Tech	0.80	0.20	0.50	0.50	2.00
Admin Asst	0.50	0.50	0.50	0.50	2.00
Social Wk	0.40	0.30	0.30	0.00	1.00
Dietician	0.40	0.30	0.30	0.00	1.00
FTE Total	9.70	4.60	5.40	3.60	23.30

As shown in Table 9 above, after the initial recruitment of FTEs, DaVita expects a steady increase in FTEs for Parkland through year 2012. The applicant continued the forecast through 2014, but 91% of the necessary staff are expected to be hired by the third full year of operation. DaVita states it expects no difficulty in recruiting staff for Parkland 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 Parkland facility. [DaVita Application, p26]

DaVita has identified Dr. Catherine Richardson as the contracted Medical Director for the Parkland facility. The applicant supplied a draft contract and amendment that indicates Dr. Richardson'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; DaVita January 31, 2008 Supplemental Information, Attachment 3]

Based on this information, the department concludes that adequate staffing for the Parkland 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.

Franciscan Health System / St. Clare Hospital

Statements provided in the application indicate that FHS/SCH intend to provide social and dietary support for patients within the program. Additionally, typical ancillary and support services used by a dialysis program, such as pharmacy, laboratory, radiology, and blood administration will be available from either St. Clare Hospital in Lakewood or St. Joseph Hospital in Tacoma. Since both facilities would be associated with FHS, formal transfer agreements are not necessary, rather, St. Clare or St. Joseph would be the facility of choice for any patients requiring hospital transfer. [FHS Application, p29]

Based on this information, the department concludes that FHS will have the necessary access to ancillary and support services. This sub-criterion is 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 Pierce County planning area #5, 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 Pierce 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 Pierce 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.

Franciscan Health System / St. Clare Hospital

As stated earlier, FHS is part of a larger organization known as Catholic Health Initiatives that owns 117 health care facilities in 20 states. Catholic Health Initiatives does not have direct ownership or management of any facilities in Washington State, however, FHS or one of its subsidiaries currently owns or operates a variety of health care facilities in the state. [Catholic Health Initiatives website; FHS Application, p4]

In Washington State, FHS owns or operates four hospitals, one hospice agency, one hospice care center, one skilled nursing facility, one ambulatory surgery center, and three dialysis 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 public. The Department of Health's Office of Health Care Survey (OHCS) is the licensing and surveying entity for all of the FHS facilities, except the skilled nursing facility. In the most recent 10 years (since January 1998), OHCS has completed more than 29 compliance surveys for the FHS facilities in operation. Of the compliance surveys completed, all revealed minor non-compliance issues related to the care and management at the FHS facilities. These non-compliance issues were typical of the respective healthcare facility and FHS submitted and implemented acceptable plans of correction. [FHS Application, p1; Office of Health Care Survey records]

The Department of Social and Health Services is the licensing and surveying entity for the skilled nursing facility owned and operated by FHS. A review of the facility's historical survey data from the Centers of Medicare and Medicaid services (CMS) "Nursing Home Compare" website revealed nineteen non-compliance issues related to the care and management at the nursing home. These non-compliance issues were all corrected and the FHS nursing home generally scored as having minimal harm level of impact. [CMS "Nursing Home Compare" website]

FHS has identified Dr. David Dempster as the Medical Director for the proposed facility. The applicant supplied a draft contract that indicates Dr. Dempster's intended service in this capacity. The agreement outlines the roles and responsibilities of both entities and identifies the hourly compensation rates for the medical director responsibilities. A review of the compliance history of Dr. Dempster has shown that his credentials are up to date and reveal no recorded sanctions. [Medical Quality Assurance Commission compliance data]

Given the compliance history of FHS, its sister facilities, 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 seventeen 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 public⁴. 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

⁴ WAC 246-310-230(5).

42 entities.⁵ The compliance history of the remaining 13 states and the District of Columbia is unknown.⁶

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.

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.⁷ 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]

Catherine Richardson, MD has agreed to provide medical director services at the proposed dialysis center. DaVita provided a copy of the draft medical director agreement and amendment between itself and Dr. Richardson. The agreement outlines the roles and responsibilities of both entities and the automatic renewal of the term. A review of the compliance history of Dr. Richardson has shown that her credentials are up to date and reveal no recorded sanctions. [Medical Quality Assurance Commission compliance data]

Based on DaVita's compliance history and the compliance history of the proposed 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.

⁵ 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.

⁶ Arkansas, California, Colorado, Georgia, Louisiana, Massachusetts, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, and South Carolina.

⁷ 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.

- (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.

Franciscan Health System / St. Clare Hospital

In response to this criterion, FHS provided the following statements related to this criterion. [FHS Application, p29]

“FHS has organized renal services such that all services are contained in a single service line. This organizational structure integrates inpatient, outpatient, and home services within a single continuum. This continuum is supported by a computer network which provides appropriate patient and clinical data to care providers throughout the system. The program also has well established working relationships with area nursing homes and provides in-service and training opportunities for nursing home staff and residents. Specific arrangements are made on a resident by resident basis. Therefore, the list of nursing homes that FHS works with varies. While we do not maintain formal working agreements with any party, we have long-standing relationships in place with many Pierce County providers. In addition, FHS has informal relationships with area colleges and universities.”

The department also considered FHS’s history of providing care to residents in Washington State. The department concludes that the applicant has been providing healthcare services, including 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 approval of this project would change these relationships

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 Pierce County planning area #5. Within the application, FHS demonstrated it met the numeric need standard to receive approval to add the needed stations.

Therefore, the department concludes that approval of 21 additional dialysis stations in Pierce County planning area #5 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.

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 Pierce County planning area #5. 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 Pierce County planning area #5 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:

- Franciscan Health System / St. Clare Hospital's 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.

Franciscan Health System / St. Clare Hospital

Within the application, FHS provided discussion regarding the following two alternatives to this project. [FHS Application, p31]

- Establish a 18-21-station unit on the St. Clare Hospital campus
FHS determined that space demand upon the hospital is high and that space is currently at a premium which would make finding the necessary space for a facility of this size would be prohibitive. In addition, the additional costs required to meet construction standards when building out at a hospital exceed that of a freestanding facility. This alternative was rejected.
- Develop a smaller unit in Spanaway as well as on the St. Clare Hospital campus
In addition to the varying costs of the two locations addressed above, FHS determined that having two facilities located in Lakewood (considering DaVita's current facility) does not offer significant improvement in access to patients. This alternative was also rejected.

Based on FHS's discussion of the two options above, both options were rejected before submitting this project for a 21-station facility in Spanaway.

DaVita, Inc.

Within the application, DaVita provided discussion regarding the following two alternatives to this project. [Application, p26]

- Add no new stations

DaVita determined that, considering a need for 21 additional stations in the planning area, any option not adding to current capacity would result in patients having to leave the area to receive treatment. This alternative was rejected.

- Establish a Parkland facility smaller than 21-stations

DaVita considered Department policy supporting applications which address calculated need and that are located further away from existing facilities. In an attempt to meet the total need of the area and provide a complete compliment of services to patients in other parts of the service area, this alternative was also rejected.

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

In determining the best available alternative the department considered it's findings on the other applicable review criteria. The DaVita project met all other review criteria. The FHS project, however, failed to meet the review criteria of Financial Feasibility. 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;

Franciscan Health System / St. Clare Hospital

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.

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.

Franciscan Health System / St. Clare Hospital

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.

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 FHS application failed to meet financial feasibility, structure and process of care, and cost containment. Because FHS's application failed to meet two of the four required universal review criteria, this criterion is not applicable.

Appendix A