STATE OF WASHINGTON
DEPARTMENT OF HEALTH

September 6, 2013

Certified Mail 7011 1570 0002 7802 6500

Anthony Halbeisen
Director Business Development
DaVita HealthCare Partners, Inc.
North Star Division
3227 32nd Avenue South
Federal Way, Washington 98001

RE: CN12-27

Dear Mr. Halbeisen:

We have completed the review of the Certificate of Need application submitted by DaVita HealthCare Partners, Inc. proposing to add two stations to DaVita Tacoma Dialysis Center in Pierce County planning area #4.

For the reasons stated in this evaluation, the department has concluded that the project is not consistent with the Certificate of Need review criteria identified below, and a Certificate of Need is denied.

Tiebreaker WAC 246-310-288

This decision may be appealed. The two appeal options are listed below.

Appeal Option 1:
You or any interested or affected person may request a public hearing to reconsider this decision. The request must state the specific reasons for reconsideration in accordance with Washington Administrative Code 246-310-560. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

| Mailing Address: | Other Than By Mail |
|---|---|
| Janis Sigman, Manager | Janis Sigman, Manager |
| Certificate of Need Program | Certificate of Need Program |
| Department of Health | Department of Health |
| Mail Stop 47852 | 111 Israel Road SE |
| Olympia, WA 98504-7852 | Tumwater, WA 98501 |

Appeal Option 2:
You or any affected person with standing may request an adjudicative proceeding to contest this decision within 28 calendar days from the date of this letter. The notice of appeal must be filed according to the provisions of Revised Code of Washington 34.05 and Washington Administrative Code 246-310-610. A request for an adjudicative proceeding must be received within the 28 days at one of the following addresses:

| Mailing Address: | Other Than By Mail |
|---|---|
| Adjudicative Service Unit | Adjudicative Clerk Office |
| Mail Stop 47879 | 111 Israel Road SE |
| Olympia, WA 98504-7879 | Tumwater, WA 98501 |

If you have any questions, or would like to arrange for a meeting to discuss our decision, please contact Janis Sigman with the Certificate of Need Program at (360) 236-2955.

Sincerely,

Steven M. Saxe, FACHE, Director

Enclosure

cc: Linda Foss, Department of Health, Investigations and Inspections Office

# EXECUTIVE SUMMARY

## EVALUATION DATED SEPTEMBER 6, 2013, FOR THE FOLLOWING CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS CAPACITY IN PIERCE COUNTY PLANNING AREA #4.

- **FRANCISCAN HEALTH SYSTEM PROPOSING TO ADD TWO KIDNEY DIALYSIS STATIONS TO THE CERTIFICATE OF NEED APROVED 12-STATION FRANCISAN EASTSIDE DAILYIS CENTER**
- **DAVITA, INC. PROPOSING TO ADD TWO KIDNEY DIALYSIS STATIONS TO THE EXISTING 13-STATION DAVITA TACOMA DIALYSIS CENTER**

## BRIEF PROJECT DESCRIPTIONS

### Franciscan Dialysis Center Eastside

Catholic Health Initiatives (CHI) is a not-for-profit entity and the parent company of Franciscan Health System (FHS). CHI through its subsidiary Franciscan Health System owns or operates Franciscan Dialysis Center Eastside (Franciscan Eastside). This application proposes to add two kidney dialysis stations to the Certificate of Need approved twelve-station facility located in Pierce County planning area #4.

The capital expenditure associated with the addition of two-stations is $10,954. If this project is approved, FHS anticipates the two new stations would be operational in January 2013. Under this timeline, 2013 would be the facility's first full calendar year of operation. [Source: Amended Application, page 10 & 27]

### DaVita, Inc.

DaVita, Inc. is a private, not-for-profit corporation, incorporated in the state of Washington that provides dialysis services through its facilities. DaVita proposes to add two stations to its existing 13-station DaVita Tacoma Dialysis Center located in Pierce County planning area #4. [Source: DaVita Application, page 1 & 10]

The capital expenditure associated with the addition of two-stations to the existing 13-station facility is $14,030. If this project is approved, DaVita anticipates all 15-stations would become operational December 2012. Under this timeline, 2013 would be the facility's first full calendar year of operation. [Source: DaVita Application, page 13]

## APPLICABILITY OF CERTIFICATE OF NEED LAW

These projects are subject to Certificate of Need review as the increase in the number of dialysis stations at an existing kidney disease treatment facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-02(1)(e).

## CONCLUSIONS

### Franciscan Health System

For the reasons stated in this evaluation, the application submitted by Franciscan Health System proposing to add two stations to the Certificate of Need approved 12-station Franciscan Dialysis Center Eastside in Pierce County planning area #4 is consistent with applicable criteria of the Certificate of Need Program, provided Franciscan Health System agrees to the following in its entirety:

### Project Description:

This certificate approves the addition of two kidney dialysis stations to the Certificate of Need approved twelve-station facility. Franciscan Dialysis Center Eastside is approved to certify and operates a total of 14-station. Services provided at the facility include at least in-center hemodialysis and shifts starting after 5:00 p.m. The 14-station Franciscan Dialysis Center Eastside would have an isolation station. Home hemo and peritoneal dialysis are available within 35 miles of St. Joseph Kidney Dialysis Center. The 14-station breakdown at the facility is listed below:

| | |
|---|---|
| Private Isolation Room | 1 |
| Permanent Bed Station | 1 |
| Other In-Center Stations | 12 |
| **Total** | **14** |

### Conditions:

1. Franciscan Health System agrees with the project description as stated above. Franciscan Health System further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.

2. Franciscan Health System will provide the department with an executed copy of a Patient Transfer Agreement and any other ancillary and support agreements for department review and approval prior to commencement of services consistent with the draft agreement provided in the application.

### Approved Costs:

The approved capital expenditure associated with this project is $10,954

### DaVita, Inc.

For the reasons stated in this evaluation, the application submitted by DaVita, Inc., proposing to add two stations to the existing DaVita Tacoma Dialysis Center in Pierce County planning area #4 is not consistent with applicable review criteria of the Certificate of Need Program and a Certificate of Need is denied.

**EVALUATION DATED SEPTEMBER 6, 2013, FOR THE FOLLOWING CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS CAPACITY IN PIERCE COUNTY PLANNING AREA #4.**

- **FRANCISCAN HEALTH SYSTEM PROPOSING TO ADD TWO KIDNEY DIALYSIS STATIONS TO THE CERTIFICATE OF NEED APROVED 12-STATION FRANCISAN EASTSIDE DAILYIS CENTER**

- **DAVITA, INC. PROPOSING TO ADD TWO KIDNEY DIALYSIS STATIONS TO THE EXISTING 13-STATION DAVITA TACOMA DIALYSIS CENTER**

## APPLICANT DESCRIPTIONS

### Franciscan Health System

Catholic Health Initiatives (CHI) is a not-for-profit entity and the parent company of Franciscan Health System (FHS). In Washington FHS owns or operates a medical group and twelve healthcare facilities listed below: [Source: Application page 1 and Exhibit 1]

**Hospitals**
St. Elizabeth Hospital, Enumclaw
St. Anthony Hospital, Gig Harbor
St. Clare Hospital, Lakewood
St. Frances Hospital, Federal Way
St. Joseph Medical Center, Tacoma

**Dialysis Centers**
Greater Puyallup Dialysis Center, Puyallup
St. Joseph Dialysis Facility, Tacoma
Gig Harbor Dialysis Center, Gig Harbor
Franciscan Dialysis Center Eastside [1]

**Ambulatory Surgery Center**
Gig Harbor Ambulatory Surgery Center

**Hospice Agency**
Franciscan Hospice, Tacoma

**Hospice Care Center**
FHS Hospice Care Center

### DaVita, Inc.

DaVita, Inc. is a for-profit corporation that provides dialysis services in over 1,777 outpatient centers located in 43 states and the District of Columbia. DaVita also provides acute inpatient dialysis services in approximately 720 hospitals throughout the country.

In Washington State, DaVita owns or operates a total of 30[2] kidney dialysis facilities in 14 separate counties. Below is a listing of the DaVita facilities in Washington. [Source: DaVita Application, page 7]

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[1] As at the time of this evaluation, this facility was not yet operational

[2] Des Moines Dialysis Center, East Wenatchee Dialysis Center, Kennewick Dialysis Center, and Zillah Dialysis Center are CN approved but not yet operational.

**Benton**
Chinook Dialysis Center
Kennewick Dialysis Center

**Chelan**
DaVita Dialysis Center[3]

**Clark**
Vancouver Dialysis Center

**Douglas**
East Wenatchee Dialysis Center

**Franklin**
Mid-Columbia Kidney Center

**Island**
Whidbey Island Dialysis Center

**King**
Bellevue Dialysis Center
Des Moines Dialysis Center
Federal Way Dialysis Center
Kent Dialysis Center
Olympic View Dialysis Center (management only)
Westwood Dialysis Center

**Kittitas**
Ellensburg Dialysis Center

**Pacific**
**Seaview Dialysis Center**

**Pierce**
Graham Dialysis Center
Lakewood Dialysis Center
Parkland Dialysis Center
Puyallup Dialysis Center
Tacoma Dialysis Center

**Snohomish**
Everett Dialysis Center[4]
Mill Creek Dialysis Center

**Spokane**
Downtown Spokane Renal Center
North Spokane Renal Center
Spokane Valley Renal Center

**Thurston**
Olympia Dialysis Center

**Yakima**
Mt. Adams Dialysis Center
Union Gap Dialysis Center
Yakima Dialysis Center
Zillah Dialysis Center

## PROJECT DESCRIPTIONS

### FHS

Franciscan Health System proposes to add 2 stations to the Certificate of Need approved Franciscan Eastside[5]. The 12-station Certificate of Need approved Franciscan Eastside would be located at 1415 East 72nd Street, Suite E, within the city of Tacoma in Pierce County planning area #4. Services expected to be provided by Franciscan Eastside is in-center hemodialysis. The 14-stations that would be operational at Franciscan Eastside would include a dedicated bed station and a shift beginning after 5:00 p.m.[6]. [Source: Amended Franciscan Eastside Application April 18, 2012, pages 6-8]

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[3] This facility was recently purchased from Central Washington Hospital
[4] Refuge Dialysis, LLC ownership is 80% by DaVita and 20% by The Everett Clinic.
[5] CN #1421 was issued on April 27, 2010
[6] This 12-station facility was approved to relocate existing stations from FHS's main dialysis facility in Tacoma.

The capital expenditure associated with the addition of two stations to the Certificate of Need approved twelve-station facility is $10,954. Of that amount, 97% is related to fixed and moveable equipment; and the remaining 3% is related to taxes and fees. [Source: Amended Application April 18, 2012, page 27]

If this project is approved, Franciscan Health System's anticipates additional 2 stations would become operational in January 2013. Under this timeline, 2013 would be the facility's first full calendar year of operation. [Source: Amended Application, April 18, 2012 and Supplemental Information received May 31, 2012, page 2] For ease of reference, Franciscan Health System is the applicant and would be referred to as "FHS" and the12-station Certificate of Need approved facility as "Franciscan Eastside"

**DaVita, Inc.**

DaVita proposes to expand its existing 13-station DaVita Tacoma Dialysis Center located at 3401 South 19th Street within the city of Tacoma in Pierce County planning area #4 by an additional 2-station. [Source: DaVita Application, page 1]

Services provided at DaVita Tacoma Dialysis Center include home dialysis, in center hemodialysis, peritoneal dialysis, peritoneal and hemo dialysis training and support for dialysis patients. The 15-dialysis stations that would be operational at the existing facility would include a permanent bed station, an isolation station, and a shift beginning after 5:00 p.m. [Source: DaVita Application, page 10]

If this project is approved, DaVita anticipates the additional 2 stations would become operational in December 2012. Under this timeline, 2013 would be the facility's first full calendar year of operation with 15 stations. [Source: DaVita Application, page 13]

The capital expenditure associated with the two station addition is $14,030. All costs are associated with fixed and moveable equipment. [Source: DaVita Appendix 7] For ease of reference, DaVita, Inc., is the applicant and would be referred to as ("DaVita") and the dialysis facility as ("DaVita-Tacoma")

## APPLICABILITY OF CERTIFICATE OF NEED LAW

Both applicant's projects are subject to Certificate of Need (CN) review as the increase in the number of dialysis stations at an existing kidney disease treatment facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-020(1)(e).

## EVALUATION CRITERIA

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the Department must make for the application. WAC 246-310-200(2) provides additional direction in how the Department is to make its determinations. It states:

*"Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the Department in making the required determinations.*

*(a) In the use of criteria for making the required determinations, the department shall consider:*

*(i) The consistency of the proposed project with service or facility standards contained in this chapter;*
*(ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
*(iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project."*

In the event the WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

*"The department may consider any of the following in its use of criteria for making the required determinations:*
*(i) Nationally recognized standards from professional organizations;*
*(ii) Standards developed by professional organizations in Washington State;*
*(iii) Federal Medicare and Medicaid certification requirements;*
*(iv) State licensing requirements;*
*(v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
*(vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application."*

WAC 246-310-280 through 289 contains service or facility specific criteria for dialysis projects and must be used to make the required determinations.

To obtain Certificate of Need approval, an 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); and 246-310-240 (cost containment). Additionally, the applicant must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 288.[7]

**TYPE OF REVIEW**

As directed under WAC 246-310-282(1) the department accepted this project under the year 2012 Kidney Disease Treatment Centers-Concurrent Review Cycle #1. Below is a chronologic summary of the project.

[7] Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to either project: WAC 246-310-210(3), (4), (5), and (6); WAC 246-310-240(2), (3), and WAC 246-310-286, 287, and 289.

## APPLICATION CHRONOLOGY

| Action | FHS | DaVita |
|---|---|---|
| Letter of Intent Submitted | January 31, 2012 | January 31, 2012 |
| Application Submitted | February 29, 2012 | February 29, 2012 |
| Amended Application Received | March 29, 2012 | N/A |
| Amended Application Received | April 16, 2012 | N/A |
| Department's pre-review Activities including screening and responses | March 5, 2012 through June 17, 2012 | March 5, 2012 through June 17, 2012 |
| Beginning of Review | June 18, 2012 | |
| End of public Comment/ No hearing conducted | August 17, 2012 | |
| Rebuttal Comment Received | September 17, 2012 | |
| Department's Anticipated Decision Date | November 1, 2012 | |
| Department's Actual Decision Date | September 6, 2013 | |

## AFFECTED PERSONS

Washington Administrative Code 246-310-010(2) defines "affected person as:

*"...an "interested person" who:*

*(a) Is located or resides in the applicant's health service area;*

*(b) Testified at a public hearing or submitted written evidence; and*

*(c) Requested in writing to be informed of the department's decision."*

Under concurrent review, each applicant is an affected person for the other application. Throughout the review of this project, no other entities sought or received affected person status under WAC 246-310-010(2).

## SOURCE INFORMATION REVIEWED

- Franciscan Health System second amended Certificate of Need application submitted April 16, 2012[8]
- DaVita, Inc., Center Certificate of Need application submitted February 29, 2012
- Franciscan Health System Supplemental Information submitted May 31, 2012
- DaVita, Inc., Supplemental Information submitted May 31, 2012
- Public comments received during the review
- Franciscan Health System rebuttal comments received September 17, 2012
- DaVita, Inc., rebuttal comments received September 17, 2012
- Years 2005 through 2010 historical kidney dialysis data obtained from the Northwest Renal Network[9]
- Year 2011 Northwest Renal Network 3rd Quarter Data

[8] FHS submitted its initial application on February 29, 2012, consistent with the ESRD concurrent review cycle #1. On March 29, 2012, FHS submitted its first amendment application consistent with WAC 246-310-100(6). On April 16, 2012, FHS submitted its second amendment application consistent with WAC 246-310-100(6). Once the second amendment application was received, the initial and first amendment applications are no longer considered in this review. As a result, neither of these two applications will be discussed further in this evaluation.

[9] Modality reports for 2011 year-end and 4th quarter utilization did not become available until after the application submission period.

- Licensing and survey data provided by the Department of Health's Investigations and Inspections Office
- Certificate of Need historical filesMedicare.gov—Dialysis Facility Compare

## CONCLUSIONS

### FHS

For the reasons stated in this evaluation, the application submitted by Franciscan Health System proposing to add two stations to its Franciscan Dialysis Center Eastside in Pierce County planning area #4 is consistent with applicable criteria of the Certificate of Need Program, provided Franciscan Health System agrees to the following in its entirety.

**Project Description:**

This certificate approves the addition of two kidney dialysis stations to the Certificate of Need approved twelve-station facility. Franciscan Dialysis Center Eastside is approved to certify and operates a total of 14-station. Services provided at the facility include at least in-center hemodialysis and shifts starting after 5:00 p.m. The 14-station Franciscan Dialysis Center Eastside would have an isolation station. Home hemo and peritoneal dialysis are available within 35 miles of St. Joseph Kidney Dialysis Center. The 14-station Franciscan Dialysis Center Eastside would have an isolation station. The 14-station breakdown at the facility is listed below:

| | |
|---|---|
| Private Isolation Room | 1 |
| Permanent Bed Station | 1 |
| Other In-Center Stations | 12 |
| **Total** | **14** |

**Conditions:**

1. Approval of the project description as stated above. Franciscan Health System further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.

2. Franciscan Health System will provide the department with an executed copy of a Patient Transfer Agreement and any other ancillary and support agreements for department review and approval prior to commencement of services consistent with the draft agreement provided in the application.

**Approved Costs:**

The approved capital expenditure associated with this project is $10,954

### DaVita, Inc.

For the reasons stated in this evaluation, the application submitted by DaVita, Inc. proposing additional dialysis capacity within Pierce County planning area #4 is not consistent with the applicable review criteria and a Certificate of Need is denied.

## CRITERIA DETERMINATIONS

### A. Need (WAC 246-310-210 and WAC 246-310-284)

Based on the source information reviewed and agreement to the conditions identified in the "Conclusion" section of this evaluation, the department concludes:

- Franciscan Health System's project has met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-284; and

Based on the source information reviewed the department concludes:

- DaVita, Inc.'s., project has met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-284; and treatment facility methodology and standards in WAC 246-310-284.

*(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 requires the department to evaluate kidney disease treatment center applications based on the populations need for the service and determine whether other services and facilities of the type proposed are not, or will not, be sufficiently available or accessible to meet that need as required in WAC 246-310-210. The kidney disease treatment center specific numeric methodology applied is detailed under WAC 246-310-284(4). WAC 246-310-210(1) criteria is also identified in WAC 246-310-284(5) and (6).

Numeric need methodology

WAC 246-310-284 contains the methodology for projecting numeric need for dialysis stations within a planning area. This methodology 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.[10]

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.[11] 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.

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[10] 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]

[11] WAC 246-310-280 defines base year as "the most recent calendar year for which December 31 data is available as of the first day of the application submission period from the Northwest Renal Network's Modality Report or successor report." For these projects, the base year is 2010.

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)]

**FHS Application of the Numeric Methodology**

FHS proposes to add 2 stations to its CN approved 12-stations facility in Pierce County planning area #4. Based on the calculation of the annual growth rate in the planning area as described above, FHS used a linear regression to project need. Given that Franciscan Eastside is located in Pierce County Planning Area #4, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [Source: Amended Application, April 18, 2012]

**DaVita Application of the Numeric Methodology**

DaVita proposes to add 2 stations to its existing 13-station DaVita Tacoma Dialysis Center. Based on the calculation of the annual growth rate in the planning area as described above, DaVita used the same linear regression to determine planning are need. The number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [Source: DaVita Application, pages 18-19]

**Department's Application of the Numeric Methodology**

Based on the calculation of the annual growth rate in the planning area as described above, the department also used linear regression to project need for Pierce County Planning Area #4. The department also divided the projected number of patients by 4.8 to determine the number of stations needed as required under WAC 246-310-284(5). The table below shows the summary of the projected net need provided by the applicants and the department for the Pierce County planning area #4.

**Table 1**
**Pierce County Planning Area #4 Numeric Methodology Summaries of Projected Net Station Need**

| | 4.8 in-center patients per station | | |
|---|---|---|---|
| | 2014 Projected # of stations | Minus Current # of stations | 2014 Net Need |
| **Franciscan Eastside** | 65 | 63 | 2 |
| **DaVita-Tacoma** | 64.83 | 63 | 2 |
| **DOH** | 65 | 63 | 2 |

When comparing both applicants projections with the department's projection as shown in the table above, it shows that they all match. As a result, the net station need for Pierce County planning area #4 is two by year 2014.

WAC 246-310-284(5)

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 for these projects is February 1, 2011. [WAC 246-310-282] The quarterly modality report from NRN available at that time was December 2011. For the Pierce County planning area #4, there are sixty-three stations available. The table below shows the utilization of the existing sixty-three dialysis stations in the planning area.

**Table 2**
**NWRN Facility Utilization Data**

| Facility Name | # of Stations | # of Pts. | Pts./Station |
|---|---|---|---|
| DaVita - Tacoma | 13 | 64 | 4.92 |
| Franciscan Eastside | 0[12] | 0 | 0.00 |
| St. Joseph Medical Center | 50 | 257 | 5.14 |

As shown above, there are 63 CN approved dialysis stations available within the planning area. Of the 63 CN approved stations, 50 stations are currently located within St. Joseph Medical Center and 13 stations are operational at DaVita Tacoma. On April 27, 2010, CN#1421 approved the relocation of 12-stations from Franciscan Health System St. Joseph Medical Center to Franciscan Eastside. Franciscan Eastside became operational on December 17, 2010; this was well after the close of the record and beyond the anticipated decision date for these applications. Therefore, for purposes of review the 12- stations are still counted as available capacity at St. Joseph Medical Center.

[12]The 12- stations are still counted as available capacity at the hospital until Franciscan Eastside facility becomes operational.

As shown above, St. Joseph Medical Center with its 50-stations is operating above the required 4.8 standard and DaVita-Tacoma is operating above the 4.8 standard. Given that all CN approved stations in the planning area are operating at the required 4.8 standard, the department concludes this **sub-criterion is met.**

WAC 246-310-284(6)

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 planning area #4, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)] As a result, the applicants must demonstrate compliance with this criterion using the 4.8 in-center patient per station.

**FHS**

FHS anticipates the 2 stations would become operational in January 2013. Under this timeline, year 2013 would be the facility's first full calendar year of operation and 2015 would be year three. A summary of the applicant's projected utilization for the third year of operation is shown in the table below. [Source: Amended Application, Exhibit 10, page 128]

**Table 3**
**Franciscan Eastside - Third Year Projected Utilization**

| Facility Name | Year 3 | # of Stations | # of Pts. | Pts./Station |
|---|---|---|---|---|
| Franciscan Eastside | 2015 | 14 | 70 | 5.0 |

As shown in the table above, Franciscan Eastside is expected to exceed this standard. 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**.

**DaVita**

DaVita anticipates the two additional stations would become operational by the end of December 2012. Under this timeline, year 2013 would be the existing facility's first full calendar year of operation with 15 stations and 2015 would be year three. A summary of the projected utilization for the third year of operation is shown in the table below. [Source: DaVita Application, page 13]

**Table 4**
**DaVita – Tacoma Third Year Projected Utilization**

| Facility Name | Year 3 | # of Stations | # of Pts. | Pts./Station |
|---|---|---|---|---|
| DaVita-Tacoma | 2015 | 15 | 89 | 5.93 |

As shown above, DaVita–Tacoma is expected to exceed this standard. 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**.

(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.*

**FHS**

As previously stated, the applicant currently provides health care services to residents of Washington State. As a dialysis facility, the applicant participates in the Medicare and Medicaid programs. 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. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission polity that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, FHS provided a copy of its current Patient Admission Policy that is currently used at its facilities. The Patient Admission Policy outlines the process/criteria that Franciscan Eastside will use to admit patients for treatment, and ensures that patients will receive appropriate care at the dialysis center. The Patient Admission Policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the facility without regard to race, creed, or religion, color, age, sex, disability, national origin, and/or sexual orientation. [Source: Amended Application, Exhibit 9]

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.

FHS currently provides services to Medicaid eligible patients at its existing dialysis centers and other health care facilities. It expects to also provide services to these patients at the dialysis facility. A review of the anticipated revenue indicates Franciscan Eastside expects to receive Medicaid reimbursements. [Source: Amended Application page 3, Exhibits 9 and 10]

FHS currently provides services to Medicare eligible patients at its existing dialysis centers and other health care facilities. A review of the anticipated revenues indicates that Franciscan Eastside expects to receive Medicare reimbursements. [Source: Amended Application, and Exhibit 10]

FHS demonstrated its intent to provide charity care to Pierce County planning area #4 residents by submitting its current Uninsured/Underinsured Patient Discount Policy that outlines the process one would use to access services when they do not have the financial resources to pay for required treatments. FHS also included a 'charity care' line item as a deduction from revenue within the pro forma income statements documents. [Source: Amended Application, Exhibits 9 and 10] The department concludes that all residents of the service area would continue to have access to health services at Franciscan Eastside. **This sub-criterion is met.**

**DaVita**

As previously stated, the applicant currently provides health care services to residents of Washington State. To determine whether all residents of the Pierce County planning area #4 would continue have access to healthcare 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. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission polity that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, DaVita provided a copy of its current policy for Accepting Patients for Treatment that is currently used in its facilities. The policy outlines the process/criteria that DaVita facilities use to admit patients for treatment, and ensures that patients will receive appropriate care at DaVita-Tacoma. The policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at DaVita facilities without regard to race, color, nation origin, sex, age, religion, or disability. [Source: 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.

DaVita currently provides services to Medicaid eligible patients in Pierce County planning area #4. It expects to continue to provide services to patients at DaVita-Tacoma. A review of the anticipated revenue indicates that DaVita-Tacoma expects it will continue to receive Medicaid reimbursements. [Source: DaVita Application page 8 and Appendix 9]

DaVita currently provides services to Medicare eligible patients in Pierce County planning area #4. It expects to continue to provide services to those patients. A review of the anticipated revenues indicates that DaVita-Tacoma expects to continue receiving Medicare reimbursements. [Source: DaVita Application page 8 and Appendix 9]

DaVita demonstrated its intent to continue to provide charity care to Pierce County planning area #4 residents by submitting the 'Indigent Care Policy' currently used within its facilities. It outlines the process one would use to access services when they do not have the financial resources to pay for required treatments. DaVita also included a 'charity care' line item as a deduction from revenue within the pro forma income statements. [Source: DaVita Application, Appendix 14] The department concludes that all residents of the service area have and would continue to have access to health services at DaVita-Tacoma. **This sub-criterion is met.**

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

Based on the source information reviewed and agreement to the conditions identified in the "Conclusion" section of this evaluation the department concludes:

- Franciscan Health Systems has met the financial feasibility criteria in WAC 246-310-220 and

Based on the source information reviewed the department concludes:

- DaVita, Inc. 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.*

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the Department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

**FHS**

As stated in the project description portion of this evaluation, if this project is approved, FHS anticipates the two new stations would become operational by the end January 2013. Under this timeline, calendar year 2015 would be the 14-station facility's third full year of operation. [Source: Amended Application, page 10 & 27] The table on page 17 summarizes that information.

**Table 5**
**Franciscan Eastside**
**Projected Revenue and Expenses Calendar Years 2012 - 2015**[13]

| | Year – 2012[14] | Year – 2013 | Year – 2014 | Year – 2015 |
|---|---|---|---|---|
| # of Stations | 14 | 14 | 14 | 14 |
| # of Treatments [1] | 6,201 | 9,360 | 10,140 | 10,920 |
| # of Patients [2] | 45 | 60 | 65 | 70 |
| Utilization Rate [2] | 3.21 | 4.29 | 4.64 | 5.00 |
| Net Revenue [1] | $1,833,818 | $2,768,027 | $2,998,697 | $3,229,365 |
| Total Expense [1,3] | $1,782,207 | $2,598,609 | $2,770,479 | $2,943,823 |
| Operating Income | $51,611 | $169,418 | $228,216 | $285,542 |
| Depreciation and Amortization | $154,582 | $206,110 | $206,110 | $205,381 |
| Net Profit or (Loss) [1] | -$102,971 | -$36,692 | $22,108 | $80,161 |

**[1]** Includes in-center patients only; [2] in-center patients only; **[3]** includes bad debt, charity care and allocated costs

As shown in the table above, Franciscan Eastside would be operating at a loss during partial and first full year of operation and then it turns profit beginning the second and third full years of operation. FHS provided a lease agreement identifying Franciscan East proposed site. The lease agreement is between CRH Capital Properties, LLC ("Landlord") and Franciscan Health System ("Tenant"). [Source: Amended Application, Exhibit 8] The department received public comments from DaVita related to Franciscan Eastside's capital cost. Summarized below are the comments provided by DaVita.

DaVita-Tacoma [Source: Public comments received August 17, 2012]

- Franciscan Eastside was substantially remodeled by FHS without reporting the associated construction costs. FHS reported it obtained a CN approving the establishment of a new 12-station facility and within its application, it indicated the facility was designed to accommodate 15-stations. A comparison of Franciscan Eastside's floor plan confirms that changes were made to the 15-stations interior build-out. Since changes were made, FHS must have incurred additional costs after completing and equipping the 15-station facility. FHS did not report any of the remodeled floor plan changes or construction costs in its progress reports to the department. FHS amended its application twice and reduced its estimated capital costs by a remarkable sixty-eight percent. FHS obtained this small advantage by improperly omitting all construction cost associated with its expansion.

- FHS omitted all costs incurred to move dialysis machines from St. Joseph Medical Center to Franciscan Eastside and it also failed to report any costs necessary to bring the used machines to working order at the new dialysis center. DaVita believes FHS would have incurred cost in disconnecting, moving, reconnecting and re-calibrating the located machines.

[13] Whole numbers may not add due to rounding.
[14] FHS stated it provided 2012 financial information to show that this facility currently exists.

FHS rebuttal comments [Source: Rebuttal comments received September 17, 2012]

- The approved square footage for CN#1421 is 7,066 square feet and the newly opened Franciscan Eastside contains exactly that number of square footage. FHS did not remodel nor redesigned the original approved project. Post CN approval, FHS found out that Franciscan Eastside could accommodate 16-stations rather than 14-stations. This is evident in the exhibits that DaVita provided as public comment. If the line drawings DaVita presented are laid on top of each other, it would show both drawings are identical and the only difference would be the number of stations because the rest of the floor plans are identical.

- The relocated machines are already counted as expenses and therefore FHS does not have to capitalize the cost of moving them because internal and biomedical staff's are assigned the responsibility for moving the machines. Further FHS stated its capital threshold is $3,000 since there is no GAAP or FASB citation regarding expenses and capitalization. FHS stated that from its perspective, the cost to relocate existing machines that happens on a regular basis within its system is not material and hence it does not capitalized machines that are relocated. FHS assigned capital value to the machines and provided documentation regarding the current market value of the relocated machines to the department.

  Comments provided by DaVita claimed that because FHS intended to add a hospital bed instead of a reclining chair that is a significant change. FHS disagrees with DaVita's assertion because adding a hospital bed simply requires a change in equipment instead of using a reclining chair. Further, in addition to the two machines to be relocated, the applicant is also relocating 12 machines to the Certificate of Need approved facility and all relocated machines can easily be activated without additional costs to the applicant.

**Department's Response**

DaVita's comments asserted that Franciscan Eastside was substantially remodeled by FHS, but it did not report the associated construction costs. To support its assertions, DaVita provided some line drawing documentation that it claimed are facility line drawings for the FHS Eastside, before and after it was remodeled, but the department is not able to compare those documents because the documents are not legible. The department review of progress report documentations submitted by FHS related to CN#1421 did not show that FHS remodeled the facility.

Regarding DaVita's concerns that FHS did not disclose the costs it incurred when it relocated dialysis machines from the hospital to the new facility, in its responses to the departments screening questions, FHS provided third party documentations. The third party documentation provided shows the costs for the two-dialysis machines and the equipment it relocated. The department agrees with FHS's assertions that because it used in-house personnel to transfer and install medical equipment's between its facilities it did not incur any cost.

DaVita alleges that because FHS amended its application twice, it somehow gained an advantage but DaVita did provide documentation to support its claim. Although FHS amended its application twice, it provided the rationale for the two amendments. According to the department's statues and administrative rules, DaVita has the opportunity to amend its application, but chose not to do so. Based on FHS's responses to DaVita's concerns that it must have incurred some capital cost, in disconnecting, moving, reconnecting and re-calibrating the located machines the department believes FHS responses are reasonable. Additionally, the department's review of the executed lease agreement provided by FHS shows that rent costs identified in the lease are consistent with the pro-forma financial projections used to prepare the information in Table 5.

FHS identified Zhuowei Wang, M.D. as the medical director for Franciscan Eastside and provided an executed medical directors agreement. The executed medical director agreement is between Rainier Nephrology, PLLC ("Group"), and FHS. The agreement identified Dr. Zhuowei Wang as sole member of the Group and it outlined the roles and responsibilities of both the Group and FHS. Additionally, FHS pro-forma financial income statement also shows the annual compensation for the Medical Director position. [Source: Amended Application, Exhibits 2 and 10] Based on the information reviewed, the department concludes **this sub-criterion is met**.

**DaVita**

As stated in the project description portion of this evaluation, if this project is approved, DaVita anticipates that the new stations would become operational by the end of December 2012. Under this timeline, year 2013 would be the facility's first full calendar year of operation with 15 stations. Year 2015 would be the third full year of operation. [Source: Application, Page 13] DaVita provided the projected 3-year revenue and expense statement for the expansion of DaVita-Tacoma. The table below summarizes that information. [Source: Application, Appendix 9]

**Table 6**
**DaVita -Tacoma Dialysis Center**
**Projected Revenue and Expenses Calendar Years 2013 - 2015**[15]

| | Year 1-2013 | Year 2-2014 | Year 3 – 2015 |
|---|---|---|---|
| # of Stations | 15 | 15 | 15 |
| # of Treatments [1] | 14,094 | 15,586 | 17,005 |
| # of Patients [2] | 78 | 83 | 89 |
| Utilization Rate [2] | 5.20 | 5.53 | 5.93 |
| Net Revenue [1] | $5,916,506 | $6,667,855 | $7,343,625 |
| Total Expense [1,3] | $3,390,395 | $3,849,505 | $4,283,875 |
| Net Profit or (Loss) [1] | $2,526,111 | $2,818,350 | $3,059,750 |

**[1]** Includes in-center patients only; [2] in-center patients only; **[3]** includes bad debt, charity care and allocated costs

[15] Whole numbers may not add due to rounding.

As shown in the table above, DaVita Tacoma would be operating at a profit beginning in the first full of operation or by year 2013 though year 2015 the third full year with 15 stations. As an existing facility, DaVita provided an executed lease agreement between Taylor and Taylor Investment, LLC ("Landlord") and Renal Treatment Centers-West, Inc. ("Tenant") for the Tacoma facility. [Source: Application, Appendix 15]

The department received public comments from FHS related to DaVita's capital expenditure and lease costs. Summarized below are FHS's comments.

FHS Public Comments [Source: Public comments received August 16, 2012]

- DaVita failed to provide verification of its capital expenditure costs as request by the department in screening questions.

- DaVita's application does not meet all applicable criteria because it contains a mismatch between its lease and pro-forma financial statement. In 2010, DaVita submitted an application to expand its Tacoma facility and provided a pro-forma financial statement identifying years 2013, 2014, 2015 and 2016 as operational years. DaVita's current application identified the same years. Since these two applications were submitted only a year apart and they identified overlapping years, the lease costs are expected to match. FHS assumes that DaVita will suggest that there are other costs besides rent included in its rent line item; it did not provide documentation or data.

In response to the comments provided by FHS, the department received the rebuttal comments from DaVita.

DaVita's Rebuttal comment [Source: Rebuttal comment received September 17, 2012]

- DaVita has fully disclosed and documented its capital costs. The program has consistently and repeatedly accepted our disclosure of equipment costs we provide in our application.

- FHS finds a tiny discrepancy between the lease expenses values we reported in our 2010 CN application and our 2012 CN application pro-forma's. The difference is extremely small and less than 0.3 percent. DaVita-Tacoma pro-forma lease expense items are estimates of future expenses involving several independent variables and are expenses actually incurred. An exact match between an estimated expenses and actual performance is extremely unlikely.

- The very small difference observed between our 2010 CN application and our 2012 CN application is the result of estimated lease expenses and the actual net effect of changes in base rent, taxes, insurance and common area maintenance. DaVita-Tacoma base rent is subject to annual increases reflecting changes in CPI index, with a maximum 3 percentage increase. Common area maintenance, taxes and insurance are each subject to annual changes that could increase or decrease the net effect of the actual performance of these variables over two years produced a tiny difference from our 2010 CN application lease costs estimate.

**Department's Response**

DaVita's rebuttal comment stated it complied with the department's request to provide a breakdown of the costs associated with its capital expenditure. Supplemental information submitted by DaVita in response to the department's request listed the equipment associated with the capital expenditure, but it did not separately list the dialysis machine cost. DaVita stated it has a strict confidentiality agreement with vendors not to disclose contract pricing for individual items. In past projects, DaVita told the department it would not disclose the individual cost of its dialysis machines because of confidentiality agreement with its vendors.

DaVita's has stated confidentiality agreements with its vendors in other applications for its reasons for not disclosing the cost of its equipment. The department has accepted this explanation at face value as it has done in previous applications. It would be unfair to change without advance notice that either the cost must be disclosed or a letter from the vendor stating it preferred to waive this nondisclosure. Therefore, the department will not change its practice for this application. Other comments by FHS asserted that within the CN applications submitted by DaVita in 2010 and 2012, the pro-forma financial statements show a mismatch in lease costs.

In response, DaVita's rebuttal comments agree that a small mismatch exists between the two documents. DaVita's rebuttal comments stated that given its pro-forma, financial statements are estimates and not an actual expense sometimes a very small difference between its pro-forma financial statements is expected.

The department's review of DaVita's 2010 CN application pro-forma and this current application shows a very small difference of less than two hundred dollars in lease costs. The department agrees with DaVita's assertions that the very small difference observed between the current and previous CN applications to add stations to the same facility can be attributed to the variables asserted in DaVita's rebuttal comments. Further, the department agrees with DaVita's assertions that the actual net effect of change in its base rent, taxes and insurance and common area maintenance is probably responsible for the small differences between its 2010 and 2012 CN applications pro-forma.

The department's review of the executed lease agreement provided by DaVita, shows rent costs identified in the lease are consistent with the pro-forma financial projections used to prepare the information in Table 6. Additionally, DaVita also provided a copy of its current Medical Director's Services Agreement and the agreement identifies the annual compensation for the Medical Director position. Further, DaVita's pro-forma financial statement also identified the annual compensation for the Medical Director. [Source: Application, Appendix 3 and 9] Based on the above information, the department concludes that DaVita's projected revenues and expenses are reasonable and can be substantiated. **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.*

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i).There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the Department compared the proposed project's costs with those previously considered by the Department.

**FHS**

The capital expenditure associated with the addition of 2-stations to the recently Certificate of Need approved Franciscan Eastside facility is $10,954. Of that amount, 97% is related to fixed and moveable equipment; and the remaining 3% is related to fees and taxes. The capital cost breakdown is shown below. [Source: Amended Application page 27 and Exhibit 10]

**Table 7**
**Franciscan Eastside - Estimated Capital Costs**

| Item | Cost | % of Total |
|---|---|---|
| Fixed & Moveable Equipment | $10,650 | 97% |
| Taxes and Fees | $304 | 3% |
| **Total Estimated Capital Costs** | **$10,954** | **100%** |

FHS stated, *"Although this project has a 'capital expenditure' it will not require FHS to expend additional funds. The equipment costs included in the capital expenditure have already been expended (for the TVs and the recliner). The fair market value assigned to some of the equipment (bed and dialysis machines) is not an expense. FHS will not purchase this equipment but is, for CN purposes, providing the value that is assigned to these items".* [Source: Supplemental information received May 31, 2012]

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 provided the sources of its patient revenue shown in the table below. [Source: Amended Application, page 29]

**Table 8**
**Franciscan Eastside**
**Revenue Source and Percentages**

| Source of Revenue | % of Revenue |
|---|---|
| Medicare | 75% |
| Medicaid | 8% |
| Commercial | 17% |
| **Total** | **100%** |

As shown in Table 8, the Medicare and Medicaid entitlements are projected to be approximately 83% of the projected revenue at Franciscan Eastside. The department concludes that since the majority of revenue is dependent upon entitlement sources that are not cost based reimbursement, they are not expected to have an unreasonable impact on charges for services. The remaining revenue will be derived through other or private insurance reimbursements.

Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. Under the new ESRD PPS payment system, Medicare pays dialysis facilities a bundled rate per treatment, that rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate. However, there are a number of adjustments at both the facility and patient-specific level that impacts the final reimbursement rate each facility will receive. What a dialysis facility receives from its commercial payors will also vary. Even if two different dialysis providers billed the same commercial payor the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payor from each individual provider.

The department does not have an adopted standard on what constitutes an unreasonable impact on charges for health services. However, the cost of this 2-station project is $10,954 and is expected to have a minimal, if any, impact on the cost and charges for health services. Based on the information provided, the department concludes that the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. **This sub-criterion is met.**

**DaVita**

The capital expenditure associated with the addition of 2 stations to the existing DaVita-Tacoma is $14,030, which is dedicated to fixed and moveable equipment. The capital cost breakdown is shown below. [Source: DaVita Application Appendix 7]

**Table 9**
**DaVita-Tacoma Estimated Capitals Costs**

| Item | Cost | % of Total |
|---|---|---|
| Fixed & Moveable Equipment | $14,030 | 100% |
| **Total Estimated Capital Costs** | **$14,030** | **100%** |

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 10. [Source: DaVita Application, page 11

**Table 10**
**DaVita – Tacoma**

| Sources of Revenue Type of Payor | | | Sources of Revenue Percentage of Patients per Payor |
|---|---|---|---|
| **Source** | **Percent** | | **Percent** |
| Medicare | 37% | | 72% |
| Medicaid/State | 7% | | 17% |
| Insurance/HMO | 56% | | 11% |
| **Total** | **100%** | | **100%** |

As shown above, DaVita provided two breakdowns of its revenue sources. In its breakdown by payor type DaVita expects that 56% of its revenue would be commercial insurance and the remainder 44% is Medicare and Medicaid entitlements. In its breakdown by percentage of patients per payor, Medicare and Medicaid patients make up 89% of the patients. [Source: Application, page 11]

Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. Under the new ESRD PPS payment system, Medicare pays dialysis facilities a bundled rate per treatment, that rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate. However, there are a number of adjustments at both the facility and patient-specific level that impacts the final reimbursement rate each facility will receive. What a dialysis facility receives from its commercial payors will also vary. Even if two different dialysis providers billed the same commercial payor the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payor from each individual provider. The department does not have an adopted standard on what constitutes an unreasonable impact on charges for health services. However, the cost of this 2-station project is $14,030, and is expected to have a minimal, if any, impact on the cost, and charges for health services.

Based on the information provided, the department concludes that the costs of this project would 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.*

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

**FHS**

As previously stated, the capital expenditure associated with the addition of 2 stations to Franciscan Eastside is $10,954. FHS states that equipment costs are included in the capital expenditure and have already been expended and the fair market value assigned to some of the equipment (bed and dialysis machines) is not an expense. [Source: Supplemental information received May 31, 2012] Based on the information provided, the department concludes that the project can be financed and approval of this project would not adversely affect the financial stability of FHS as a whole. **This sub-criterion is met.**

**DaVita**

As previously stated, the capital expenditure associated with the addition of 2-stations to DaVita-Tacoma is $14,030. DaVita states that the project will be funded from its parent's entity's available board reserves. A review of DaVita's statements of financial position show the funds necessary to finance the project are available. [Source: DaVita Application, Appendix 9] Based on the information provided, the department concludes that the project can be financed and approval of this project 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 and agreement to the conditions identified in the "Conclusion" section of this evaluation the department concludes:

- Franciscan Health System has met the structure and process of Care criteria in WAC 246-310-230; and

Based on the source information reviewed the department concludes:

- DaVita has met the structure and process 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.*

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

**FHS**

As a Certificate of Need approved facility that is not yet operational[16], FHS stated when the facility becomes operational, it has allocated 13.9 FTE's and when the 2 stations are added, 3.1 FTE's would be needed by year 2015 the third full calendar of operation. The applicant's proposed staffing pattern is summarized in table below. [Source: Amended Application, page 30]

**Table 11**
**Franciscan Eastside Projected FTEs**

| Staff/FTEs | Year 1 2012 | Increase 2013 | Increase 2014 | Increase 2015 | Total FTE's |
|---|---|---|---|---|---|
| Medical Director | Professional Services Contract | | | | |
| HD Tech | 7.5 | 1.0 | 0.7 | 0.7 | 9.9 |
| RNs | 3.0 | 0.4 | 0.3 | 0.0 | 3.7 |
| Clinical RN Manager | 1.0 | 0.0 | 0.0 | 0.0 | 1.0 |
| Unit Secretary | 1.0 | 0.0 | 0.0 | 0.0 | 1.0 |
| Social Worker | 0.7 | 0.0 | 0.0 | 0.0 | 0.7 |
| Dietician | 0.7 | 0.0 | 0.0 | 0.0 | 0.7 |
| Number of FTE's | **13.9** | **1.4** | **1.0** | **0.7** | **17** |

As shown in the table above, FHS expects a small increase in FTE's starting from year 2013 through year 2015. FHS stated it needs one additional FTE per year and the staff associated with the additional stations would likely transfer to the new facility. As a result, FHS states it does not anticipate any difficulty filling the additional FTE's needed. [Source: Amended Application Page 31]

FHS identified Zhuowei Wang, M.D. as the existing medical director for Franciscan Eastside and provided a copy of an executed medical director's agreement between Rainier Nephrology, PLLC the ("Group"), and FHS. The agreement identified Dr. Zhuowei Wang as the Group's sole member and it outlined the roles and responsibilities of Group and FHS. Additionally, the agreement also identified the annual compensation for the medical director services. [Source: Amended Application, Exhibits 2 and 10] Based on the information reviewed, the department concludes this **sub-criterion is met.**

**DaVita**

As an existing facility, DaVita –Tacoma currently has 15.4 FTEs. With the additional two stations, DaVita-Tacoma expects to increase to 18.4 FTEs by the end of year 2015. The facility's existing and proposed FTEs are shown in Table 12. [Source: Application page 24]

[16] At the time the record close for this application, the facility has not yet opened. The facility has since opened.

**Table 12**
**DaVita-Tacoma Current and Projected FTEs**

| Staff/FTEs | Current FTE | Addition 2013 | Addition 2014 | Addition 2015 | Total |
|---|---|---|---|---|---|
| Medical Director | Professional Services Contract | | | | |
| Administrator | 1.0 | 0.0 | 0.0 | 0.0 | 1.0 |
| RNs | 4.2 | 0.0 | 0.7 | 0.7 | 5.6 |
| Patient Care Tech | 5.8 | 0.0 | 0.6 | 0.4 | 6.8 |
| Biomedical Tech | 0.8 | 0.0 | 0.0 | 0.0 | 0.8 |
| Admin Asst | 1.2 | 0.0 | 0.2 | 0.2 | 1.6 |
| Social Worker | 0.7 | 0.0 | 0.1 | 0.0 | 0.8 |
| Dietician | 0.7 | 0.0 | 0.1 | 0.0 | 0.8 |
| LVN | 1.0 | 0.0 | 0.0 | 0.0 | 1.0 |
| Total FTE's | **15.4** | **0.0** | **1.7** | **1.3** | **18.4** |

As shown above, DaVita expects to increase FTE's beginning in year two. DaVita states it does not anticipate any difficulty recruiting staff because it offers competitive wage and benefit package to employees. Additionally, DaVita states that job openings are posted nationally and internally and it has extensive employee travelling program that guarantee it will maintain staffing at its facilities. [Source: Application, pages 24 and 25]

DaVita identified Catherine Richardson, MD as the medical director for the existing DaVita-Tacoma and provided an executed medical director's agreement between Pacific Nephrology Associates the ("Group"), and Total Renal Care, Inc. ("Company"). According to the medical director agreement recitals, Dr. Richardson is a physician employee of the Group. [Source: Application, Appendix 3]

The medical director agreement outlines the roles and responsibilities of the Group and Company. Additionally, the agreement also identifies the annual compensation for the medical director. [Source: Application Page 8 and Appendix 3] A review of the medical director's agreement between DaVita and Dr. Richardson shows that the agreement outlines the roles and responsibilities of both parties involved. Based on the information reviewed, the department concludes **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.*

WAC 246-310 does not contain specific WAC 246-310-230(2) criteria as identified in WAC 246-310-200(2)(a)(i). There are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the Department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

**FHS**

Statements provided by the applicant when the department approved CN#1421 to relocate stations from Franciscan St. Joseph Medical Center to Franciscan Eastside, stated FHS intend to provide ancillary and support services within the Franciscan Health System. [Source: Supplemental Information received October 1, 2009, page 4] Since Franciscan Eastside is associated with FHS, the department expects that all appropriate ancillary and support services already in place would continue to be available to support a two-station expansion.

Based on the information, the department concludes that there is reasonable assurance that Franciscan Eastside will continue to have appropriate ancillary and support services. **This sub-criterion is met**.

**DaVita**

DaVita-Tacoma is existing facility and information provided within the application states that 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 upon the commencement of services at the proposed facility. The applicant states that services would be coordinated through DaVita's corporate office in El Segundo California and support offices in Washington. [Source: Application, page 25]

Based on the evaluation of supporting documents provided, the department concludes that there is reasonable assurance that DaVita will continue to have appropriate ancillary and support services with a healthcare provider in Pierce County planning area #4. **This sub-criterion is 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.*

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the Department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

**FHS**

FHS the applicant parent entity is a provider of a variety of health care services in Washington State. Currently FHS owns or operates 11 healthcare facilities in Pierce and King counties. As part of its review, the department must conclude that the addition of two stations to the recently Certificate of Need approved facility that is not yet operational would be operated in a manner that ensures safe and adequate care to the public.[17]

[17] WAC 246-310-230(5)

For Washington State, the department of Health's Investigations and Inspections Office (IIO) conduct surveys of the hospitals, dialysis centers and other healthcare facilities owned by FHS. Records indicate that since 2007, IIO completed compliance surveys for each of the facilities own or operated FHS. Each of the compliance survey revealed deficiencies typical for the facility and FHS submitted acceptable plans of corrections and implemented the required actions. Additionally, all five of FHS's hospitals currently are accredited by the Joint Commission. [Source: facility survey data provided by the Investigations and Inspections Office and Joint Commission website]

IIO recently completed a re-certification survey of Franciscan Health System dialysis center in Gig Harbor.[18] The compliance survey revealed minor non-compliance issues related to the care and management within the unit. These non-compliance issues were typical of a dialysis facility and FHS submitted and implemented acceptable plans of correction. Further, IIO most recently surveyed Franciscan Health System St. Joseph Medical Center[19] and that survey revealed some deficiencies for which the hospital submitted a plan of correction. [Source: Office of Health Care Survey Historical Record]

FHS identified Zhuowei Wang, MD as the medical director for the Certificate of Need approved facility. A review of Dr. Wang's compliance history did not show any current or past enforcement actions. [Source: Compliance history provided by Medical Quality Assurance Commission] Given the compliance history of Franciscan Health System, and its subsidiaries and of Dr. Zhuowei Wang, the department concludes there is reasonable assurance Franciscan Eastside would be operated in conformance with state and federal regulations. **This sub-criterion is** met.

**DaVita**

DaVita owns or operates 30 kidney dialysis treatment centers in 14 separate counties. 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.[20] To accomplish this task, in February 2010 the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for the states and District of Columbia, where DaVita, Inc. or any of its subsidiaries have health care facilities.

Of the 42 states and entities, the department received responses from 21 states or 50% of the 42 states[21]. The compliance history of the remaining 19 states, and the District of Columbia is unknown[22]. Five of the 21 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 Iowa that decertified and later re-opened, none of the deficiencies reported to have resulted in fines or enforcement action.

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[18] The last recorded survey was conducted March 2011

[19] The last recorded hospital survey was conducted March 2011

[20] WAC 246-310-230(5).

[21] States that provided responses are: California, Colorado, Connecticut, Delaware, Florida, Idaho, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Carolina, Tennessee, South Dakota, Washington and West Virginia

[22] States that did not provide responses are Alabama, Arizona, Arkansas, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Texas, Utah, Virginia and Wisconsin. The department did not send survey to itself. The District of Columbia did not respond to the survey.

All other facilities comply with applicable regulations. The Iowa facility chose voluntary termination in August 2007 due to its inability to remain in compliance with Medicare Conditions for Coverage rather than undergo the termination process with Medicare. This facility is currently operating as a private ESRD facility. [Compliance history from state licensing and/or surveying entities]

The department concludes that considering the more than 1,777 facilities owned/managed by DaVita, only one out-of-state facility demonstrated substantial non-compliance issues. Therefore, the department concludes the out-of-state compliance surveys are acceptable. For Washington State, since January 2008, the Department of Health's Investigations and Inspections Office has completed more than 30 compliance surveys for the operational facilities that DaVita either owns or manages[23]. Of the compliance surveys completed, there were some minor non-compliance issues related to the care and management at the DaVita facilities. These non-compliance issues are typical of a dialysis facility and DaVita submitted and implemented acceptable plans of correction. [DOH Investigations and Inspections Office records]

Catherine Richardson, MD is the medical director for the existing DaVita Tacoma Dialysis Center. A review of Dr. Richardson's compliance history shows that on April 22, 2011, the physician was placed on probation and an ongoing Washington Physician Health Program (WPHP) assessment ordered. According to the condition of the agreed order, the physician is must appear before the Commission within six months of the order date to present proof of compliance. The physician must continue to make compliance appearance every twelve months or as frequently as the Commission otherwise requires, until the Commission terminates the order. [Source: Stipulated Findings of Fact Conclusion of Law and Agreed Order No. M2010-285 dated April 20, 2011]

Dr. Catherine Richardson compliance history did not show that the physician's medical license has any restrictions. As of the time of writing this evaluation staff is not aware of any other recorded sanctions against Dr. Catherine Richardson. Given the compliance history of DaVita and that of the medical director, the department concludes that there is reasonable assurance that Tacoma 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.*

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the Department assessed the materials in the application.

[23] As of the writing of this evaluation, three facilities—Everett Dialysis Center, Zillah Dialysis Center, and Kennewick Dialysis Center—were recently approved by the department and are not yet operational. Olympic View Dialysis Center is operational, but is owned by Group Health and managed by DaVita.

**FHS**

In response to this criterion, the applicant stated that this project proposes a small expansion of Franciscan Eastside with stations already in use at the St Joseph Medical Center. The applicant stated it does not have formal working agreements with any party, but it has long-standing relationships in place with many Pierce County providers. [Source: Application, Page 32]

Based on this information, the department concludes FHS has demonstrated it has, and will continue to have appropriate relationships with the planning area health care delivery systems. **This sub-criterion is met.**

**DaVita**

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, DaVita also provided examples of its quality index data and its physician, community, and patient services program known as 'Empower'. In addition, DaVita also provided a copy of its executed patients transfer agreement with MultiCare Health System. [Source: Application, Page 28, Appendices 12, 17 & 18]

Based on this information, the department concludes the applicant has demonstrated it has, and will continue to have appropriate relationships with the planning area health care delivery systems. **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.*

**FHS**

This sub-criterion is addressed in sub-section (3) above. **This sub-criterion is met.**

**DaVita**

This sub-criterion is addressed in sub-section (3) above. **This sub-criterion is met.**

**D. Cost Containment (WAC 246-310-240) and WAC 246-310-288 (Tie Breakers)**

Based on the source information reviewed and agreement to the conditions identified in the "Conclusion" section of this evaluation the department concludes:

- Franciscan Health System has met the cost containment criteria in WAC 246-310-240; and

Based on the source information reviewed and the department concludes;

- DaVita did not 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.*

To determine if a proposed project is the best alternative, the Department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria, then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met WAC 246-310-210 through 230 criteria, the Department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the Department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific (tie-breaker) criteria contained in WAC 246-310. The tie-breaker criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2)(a)(i), then the Department would look to WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the Department would assess the competing projects and determine which project should be approved.

***Step One***

Both proposed projects meet the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

***Step Two***

**FHS**

Within the application, FHS considered one alternative do nothing before submitting this application. [Source: Amended Application, page 33] The do nothing option was eliminated, as it would not expand dialysis services in the planning area nor would it provide relief for the growing volume. The option to expand was evaluated and accepted because it costs less to add stations.

**DaVita**

DaVita also considered only the alternative of 'do nothing' before submitting this application. DaVita's application stated expanding the existing 13-station facility to 15-stations will improve operating efficiency and require only the addition of a dialysis machine and minimal other moveable equipment to complete the project. Therefore, DaVita rejected alternative of do nothing before submitted this application.

Since both applicants considered and rejected similar alternatives before submitting their applications, the department concluded, the do nothing alternative was appropriately rejected by both applicants.

***Step Three***

WAC 246-310-288 identifies specific tie-breaker criteria that must be 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. Under these tie-break criteria, the department will approve the application accumulating the largest number of points. If sufficient additional stations remain after approval of the first application, the department will approve the application accumulating the next largest number of points, not to exceed the total number of stations projected for a planning area. If the applications remain tied after applying all the tie-breakers, the department will award stations as equally as possible among those applications, without exceeding the total number of stations projected for a planning area. Below is an evaluation of the tie-breaker criteria under WAC 246-310-288(1) and (2).

**WAC 246-310-288(1)**

*(1) The department will award one point per tie-breaker to any applicant that meets tie-breaker criteria in this subsection.*

*(a) Training services (1 point):*

*(i) The applicant is an existing provider in the planning area and either offers training services at the facility proposed to be expanded or offers training services in any of its existing facilities within a thirty-five mile radius of the existing facility; or*

*(ii) The applicant is an existing provider in the planning area that offers training services in any of its existing facilities within thirty-five miles of the proposed new facility and either intends to offer training services at the new facility or through those existing facilities; or*

*(iii) The applicant, not currently located in the planning area, proposes to establish a new facility with training services and demonstrates a historical and current provision of training services at its other facilities; and*

*(iv) Northwest Renal Network's most recent year-end facility survey must document the provision of these training services by the applicant.*

*(b) Private room(s) for isolating patients needing dialysis (1 point).*

*(c) Permanent bed stations at the facility (1 point).*

*(d) Evening shift (1 point): The applicant currently offers, or as part of its application proposes to offer at the facility a dialysis shift that begins after 5:00 p.m.*

*(e) Meeting the projected need (1 point): Each application that proposes the number of stations that most closely approximates the projected need.*

**FHS**

A total of five points is possible. The table below shows the distribution of tiebreaker points under this sub-criterion for Franciscan Health System.

**Table 13**
**WAC 246-310-288(1)**
**FHS Tie-Breaker Review**

| WAC 246-310-288(1) | Point | Source |
|---|---|---|
| (a) Training services | 1 | FHS –St. Joseph Hospital within 35 miles http://www.mapquest.com/ |
| (b) Private room(s) for isolating patients | 1 | Amended Application Page 8 |
| (c) Permanent bed stations at the facility | 1 | Amended Application Pages 8, 24 and Exhibit #6. |
| (d) Evening shift | 1 | Amended Application Page 8 |
| (e) Meeting the projected need | 1 | Amended Application Pages 14-18 |
| **Total Points** | **5** | |

**DaVita**

A total of five points is possible. The table below shows the distribution of tie-breaker points under this sub-criterion for DaVita.

**Table 14**
**WAC 246-310-288(1)**
**DaVita's Tie-Breaker Review**

| WAC 246-310-288(1) | Point | Source |
|---|---|---|
| (a) Training services | 1 | Application, Page 10, Exhibit #16 and Medicare.gov |
| (b) Private room(s) for isolating patients | 1 | Application, Page 10 and Appendix #16 |
| (c) Permanent bed stations at the facility | 1 | Application, Page 10 and Appendix #16 |
| (d) Evening shift | 1 | Application, Page 10 |
| (e) Meeting the projected need | 1 | Application, Page 19 |
| **Total Points** | **5** | |

Under WAC 246-310-288(1) where each applicant could receive a maximum of 5 points, both FHS and DaVita received the maximum number of points.

**WAC 246-310-288(2)**

*(2) Only one applicant may be awarded a point for each of the following four tie-breaker criteria:*

*(a) Economies of scale (1 point): Compared to the other applications, an applicant demonstrates its proposal has the lowest capital expenditure per new station.*

*(b) Historical provider (1 point)*

*(i) The applicant was the first to establish a facility within a planning area; and*

*(ii) The application to expand the existing facility is being submitted within five years of the opening of its facility; or*

*(iii)The application is to build an additional new facility within five years of the opening of its first facility.*

*(c) Patient geographical access (1 point): The application proposing to establish a new facility within a planning area that will result in services being offered closer to people in need of them. The department will award the point for the facility located farthest away from existing facilities within the planning area provided:*

*(i) The facility is at least three miles away from the next closest existing facility in planning areas that qualify for 4.8 patients per station; or*

*(ii) The facility is at least eight miles from the next closest existing facility in planning areas that qualify for 3.2 patients per station.*

*(d) Provider choice (1 point):*

*(i) The applicant does not currently have a facility located within the planning area;*

*(ii) The department will consider a planning area as having one provider when a single provider has multiple facilities in the same planning area;*

*(iii)If there are already two unrelated providers located in the same planning area, no point will be awarded.*

Only one applicant may receive a point for each of the four tie-breaker criteria under this section. Table 15 below shows the distribution of tie-breaker points under this sub-criterion for FHS.

**Table 15**
**WAC 246-310-288(2)**
**FHS Tie-Breaker Review**

| WAC 246-310-288(2) | Point | Source |
|---|---|---|
| (a) Economies of Scale | 1 | Amended Application Page 27 [$10,954] and supplemental information page 2 received May 31, 2012 |
| (b) Historical Provider | 0 | |
| (c) Patient Geographical Access | 0 | |
| (d) Provider Choice | 0 | |
| **Total Points** | **1** | |

The table below shows the distribution of tie-breaker points under this sub-criterion for DaVita.

**Table 16**
**WAC 246-310-288(2)**
**DaVita Tie-Breaker Review**

| WAC 246-310-288(2) | Point | Source |
|---|---|---|
| (a) Economies of Scale | 0 | Application page 9 [$14,030] |
| (b) Historical Provider | 0 | |
| (c) Patient Geographical Access | 0 | |
| (d) Provider Choice | 0 | |
| **Total Points** | **0** | |

The table below shows the total accumulation of tie-breaker points for both FHS and DaVita Tacoma.

**Table 17**
**WAC 246-310-288 – Tie-Breaker Summary Table**

| | Tie-Breaker Point Distribution | |
|---|---|---|
| | **FHS** | **DaVita** |
| 1(a) – Training services | 1 | 1 |
| 1(b) – Private Room | 1 | 1 |
| 1(c) – Permanent Bed Station | 1 | 1 |
| 1(d) – Evening Shift | 1 | 1 |
| 1(e) – Meets Need | 1 | 1 |
| 2(a) – Economies of Scale | 1 | 0 |
| 2(b) – Historical Provider | 0 | 0 |
| 2(c) – Geographical Access | 0 | 0 |
| 2(d) – Provider Choice | 0 | 0 |
| **Cumulative Total** | **6** | **5** |

At the completion of the tie-breaker point allocations, FHS accumulated a total of **six (6)** points and DaVita accumulated a total of **five (5)** points. Due to the results outlined in this section, the department concludes that FHS's project is the application accumulating the largest number of points and is the first application to be considered in the allocation of stations to meet the projected need.

Since FHS project accounts for all of the two projected stations for the planning area, there are no stations remaining to award to DaVita as the application earning the next highest point total. Based on the above information, the department's conclusion regarding this sub-criterion is as follow.

**DaVita**
Based on the results of the tie-breaker criteria above, DaVita's project does not meet this sub-criterion. **This project is denied.**

**FHS**
Based on the results of the tie-breaker criteria above, FHS's project meets this sub-criterion. **This project is approved.**

# Appendix A

Washington State Department of Health

# 2011
# Pierce County 4
# ESRD Need Projection Methodology

| Planning Area | 6 Year Utilization Data - Resident Incenter Patients | | | | | |
|---|---|---|---|---|---|---|
| Pierce Four | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| 98402 | 7 | 10 | 7 | 8 | 8 | 6 |
| 98403 | 11 | 10 | 11 | 14 | 14 | 13 |
| 98404 | 40 | 43 | 47 | 52 | 52 | 53 |
| 98405 | 38 | 41 | 40 | 36 | 40 | 40 |
| 98406 | 9 | 7 | 12 | 11 | 12 | 11 |
| 98407 | 14 | 12 | 13 | 12 | 13 | 18 |
| 98408 | 37 | 44 | 36 | 38 | 25 | 27 |
| 98409 | 31 | 28 | 26 | 25 | 31 | 38 |
| 98416 | 0 | 0 | 0 | 0 | 0 | 0 |
| 98418 | 8 | 15 | 15 | 15 | 17 | 20 |
| 98421 | 0 | 0 | 0 | 1 | 0 | 0 |
| 98422 | 8 | 11 | 12 | 14 | 17 | 20 |
| 98424 | 1 | 2 | 4 | 4 | 5 | 10 |
| 98443 | 1 | 2 | 4 | 2 | 3 | 3 |
| 98465 | 6 | 3 | 6 | 8 | 3 | 3 |
| 98466 | 19 | 20 | 27 | 23 | 21 | 25 |
| TOTALS | 230 | 248 | 260 | 263 | 261 | 287 |

## 246-310-284(4)(a)

| | | | | | | |
|---|---|---|---|---|---|---|
| Rate of Change | | 7.83% | 4.84% | 1.15% | -0.76% | 9.96% |
| 6% Growth or Greater? | | TRUE | FALSE | FALSE | FALSE | TRUE |
| Regression Method: | Linear | | | | | |

## 246-310-284(4)(c)

| | | Year 1 2011 | Year 2 2012 | Year 3 2013 | Year 4 2014 |
|---|---|---|---|---|---|
| Projected Resident Incenter Patients | from 246-310-284(4)(b) | 287.50 | 295.40 | 303.30 | 311.20 |
| Station Need for Patients | Divide Resident Incenter Patients by 4.8 | 59.8958 | 61.5417 | 63.1875 | 64.8333 |
| | Rounded to next whole number | 60 | 62 | 64 | 65 |

## 246-310-284(4)(d)

subtract (4)(c) from approved stations

| | | | | |
|---|---|---|---|---|
| Existing CN Approved Stations | 63 | 63 | 63 | 63 |
| Results of (4)(c) above | - 60 | 62 | 64 | 65 |
| Net Station Need | 3 | 1 | -1 | -2 |

Negative number indicates need for stations

## 246-310-284(5)

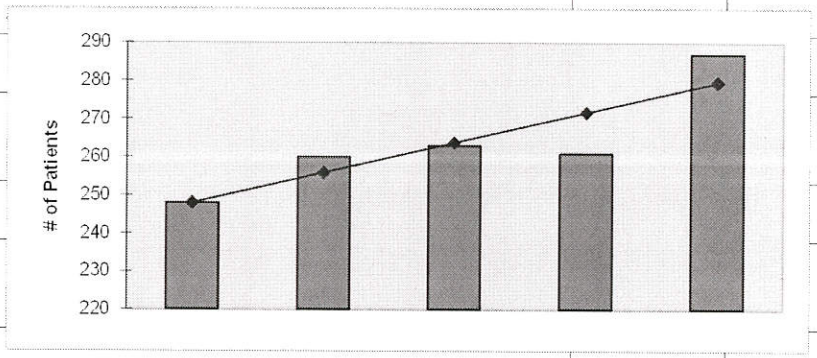
| Name of Center | # of Stations | Patients | (Patients per Station) |
|---|---|---|---|
| DaVita - Tacoma | 13 | 60 | 4.62 |
| St. Joseph Eastide | 12 | 0 | 0.00 |
| St. Joseph Medical Cent | 38 | 257 | 6.76 |
| Total | 63 | 257 | |

Source: Northwest Renal Network data 2005-2010
Most recent year-end data: 2010 year-end data as of 02/16/2011
Most recent quarterly data as of the 1st day of application submission period: 4th quarter 2010 as of 02/16/2010



Prepared by Mark Thomas

| x | y | Linear |
|---|---|---|
| 2006 | 248 | 248 |
| 2007 | 260 | 256 |
| 2008 | 263 | 264 |
| 2009 | 261 | 272 |
| 2010 | 287 | 280 |
| 2011 | | 287.50 |
| 2012 | | 295.40 |
| 2013 | | 303.30 |
| 2014 | | 311.20 |




SUMMARY OUTPUT

| *Regression Statistics* | |
|---|---|
| Multiple R | 0.877344628 |
| R Square | 0.769733596 |
| Adjusted R Square | 0.692978129 |
| Standard Error | 7.888810641 |
| Observations | 5 |

ANOVA

| | *df* | *SS* | *MS* | *F* | *Significance F* |
|---|---|---|---|---|---|
| Regression | 1 | 624.1 | 624.1 | 10.02838779 | 0.050606659 |
| Residual | 3 | 186.7 | 62.23333333 | | |
| Total | 4 | 810.8 | | | |

| | *Coefficients* | *Standard Error* | *t Stat* | *P-value* | *Lower 95%* | *Upper 95%* | *Lower 95.0%* | *Upper 95.0%* |
|---|---|---|---|---|---|---|---|---|
| Intercept | -15599.4 | 5009.280461 | -3.114099943 | 0.052712939 | -31541.16609 | 342.3660942 | -31541.16609 | 342.3660942 |
| X Variable 1 | 7.9 | 2.494660966 | 3.166762983 | 0.050606659 | -0.039124572 | 15.83912457 | -0.039124572 | 15.83912457 |

RESIDUAL OUTPUT

| *Observation* | *Predicted Y* | *Residuals* |
|---|---|---|
| 1 | 248 | 0 |
| 2 | 255.9 | 4.1 |
| 3 | 263.8 | -0.8 |
| 4 | 271.7 | -10.7 |
| 5 | 279.6 | 7.4 |



Prepared by Mark Thomas

246-310-284(4)(a),(c),(d),(5)