



3201 S 323rd Street  
Federal Way, WA 98001

June 5, 2024

**Via Email to Ross Valore and CNrulemaking@doh.wa.gov**

Washington State Department of Health  
Certificate of Need Program  
Ross Valore, Executive Director  
111 Israel Road SE  
Tumwater, WA 98501

Dear Mr. Valore,

Thank you for the opportunity to provide comments on the proposed rulemaking pursuant to the CR-101 filed on July 24, 2023 to implement Substitute Senate Bill 5569 related to kidney dialysis facilities.

Please find enclosed DaVita's written comments and proposed rule changes for the Department's consideration in drafting rules to implement SSB 5569.

In addition, we support the comments provided today by other speakers as follows:

- 246-310-818 14b removal of the language as indicated by strikethrough below:  
~~14(b) A facility that operated temporary emergency stations due to a staffing shortage emergency situation, during the most recent six consecutive month period preceding the letter of intent submission date, is eligible to apply for special circumstances, if it has met all eligibility criteria described in this section. Facilities operating temporary emergency stations during this period for temporary emergency situations other than staffing shortages are ineligible for special circumstance expansions.~~
- Reinstatement of the earlier draft of WAC 246-310-825  
(4) The department will make reasonable efforts to issue a decision within three working days of receipt of a facility's complete written request for temporary emergency stations, as described in subsection (3).  
(7) The department will publish on its website all written requests and department decisions related to kidney disease treatment center requests for additional dialysis stations due to a temporary emergency situation. The information will also include a list of affected facilities and dates of impact (start and end).

If you have any questions regarding these comments, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Susie Litts".

Susie Litts  
Director – Special Projects, Certificate of Need  
Email: [Susie.litts@davita.com](mailto:Susie.litts@davita.com) or phone: (253) 733-5298



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**DaVita's Written Comments related to the Department of Health Rules Hearing –  
Kidney Disease Treatment Center Temporary Emergency Exemptions held on June 5, 2024**

Thank you for the opportunity to speak today on the Emergency Exemption Rule Hearing.

DaVita supports the changes proposed as filed in WSR 24-10-089, with modification requests as noted below.

**WAC 246-310-800 Kidney disease treatment centers - Definitions**

DaVita requests that the language in the prior draft be restored in respect to WAC 246-310-800(12). This would allow continuity of service provider in the event of a change in responsibility or reorganization from ESRD Network 16 to another organization or name.

Current language:

(12) "Network" means end stage renal disease (ESRD) Network 16.

Proposed language:

(12) "Network" means end stage renal disease (ESRD) Network 16 **or successor organization**.

**WAC 246-310-825 Kidney disease treatment centers—Temporary emergency situation exemption.**

DaVita proposes to include a notification requirement for the end of an emergency order similar to data notification requirements in other situations subject to department review.

Suggested change: Add a data reporting element to either 246-310-825 or 803 (or both)

1. Within 10 working days, providers must report the date that the temporary emergency situation has ended and facilities have returned to station operation as per the CN of the affected locations.

**WAC 246-310-818 Special circumstances one- or two-station expansion—Eligibility criteria and application process**

DaVita proposes to alter 14(c) as noted below in order to ensure integrity of reported data, while maintaining the intent of the current language which requires that the clinic not include the increased census in the calculation of eligibility.

Current language:

(c) Pursuant to RCW 70.38.280 (2)(d), a facility that operated temporary emergency stations due to a staffing shortage emergency situation may not exceed the number of patients served at the time of the exemption request. All calculations described in this section for the review of a facility that operated temporary emergency stations due to staffing shortage emergency will have its patient census reported in the Network data limited to a maximum of the patients served at the time of the emergency request for the months when the temporary emergency was in effect.



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Proposed language:

(c) ~~Pursuant to RCW 70.38.280 (2)(d), a facility that operated temporary emergency stations due to a staffing shortage emergency situation may not exceed the number of patients served at the time of the exemption request.~~ All calculations described in this section for the review of a facility that operated temporary emergency stations ~~due to staffing shortage emergency~~ will have its patient census ~~reported in the Network data~~ limited to a maximum of the patients served at the time of the emergency request for the months when the temporary emergency was in effect.

**WAC 246-310-XXX General item**

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The department has proposed amendments to cleanup language in the kidney disease treatment center rules. DaVita is comfortable changing the word "facility" to "center", however the changes proposed only include the WAC titles. The rules continue to use facility. For consistency, we suggest either no change or a universal change in order to prevent confusion.