



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

February 9, 2012

CERTIFIED MAIL # 7008 1300 0000 7202 9843

Jason Bosh, Regional Operations Director
DaVita, Inc., North Star, Region 1
1301 A Street, #400
Tacoma, Washington 98402

Re: CN11-38A

Dear Mr. Bosh:

We have completed review of the Certificate of Need application submitted on behalf of DaVita, Inc (DaVita). proposing to establish a five-station dialysis center in Des Moines, within ESRD planning area King #4. For the reasons stated in this evaluation, the application submitted by DaVita is consistent with applicable criteria of the Certificate of Need Program, provided DaVita agrees to the following in its entirety.

Project Description:

Establish a five-station facility providing hemodialysis, peritoneal dialysis, shifts after 5:00 p.m., and home hemo and peritoneal training and support for dialysis patients. At project completion, Des Moines Dialysis Center would be approved to certify and operate a total of five dialysis stations. The stations are listed below.

Private Isolation Room	1
Permanent Bed Station	1
Home Training Station	1
Other In-Center Stations	2
Total	5

Conditions:

1. DaVita, Inc. agrees with the project description above.
2. DaVita Inc. will provide the department with an executed copy of a Patient Transfer Agreement for department review and approval prior to commencement of services consistent with the draft agreement provided within the application.
3. DaVita Inc. will provide the department with an executed copy of the Medical Director Agreement for department review and approval prior to commencement of services consistent with the draft agreement provided within the application.



Jason Bosh
DaVita, Inc.,
Certificate of Need Application #11-38A
February 9, 2012
Page 2 of 2

Approved Costs:

The approved capital expenditure associated with this project is \$1,923,405. This amount represents the total capital expenditure of \$1,992,705 minus the landlord's project costs of \$69,300.

You have two options, either accept or reject the above in its entirety. If you accept the above in its entirety, your application will be approved and a Certificate of Need sent to you. If you reject any provision of the above, you must identify that provision, and your application will be denied because approval would not be consistent with applicable Certificate of Need review criteria. Please notify the Department of Health within 20 days of the date of this letter whether you accept the above in its entirety.

Your written response should be sent to the Certificate of Need Program, at one of the following addresses.

Mailing Address:
Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Other Than By Mail:
Department of Health
Certificate of Need Program
310 Israel Road SE
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, Health Professions and Facilities

Enclosure

EXECUTIVE SUMMARY

EVALUATIONS DATED FEBRUARY 9, 2012, FOR THE FOLLOWING CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATION CAPACITY TO KING COUNTY PLANNING AREA #4:

- **NORTHWEST KIDNEY CENTERS PROPOSING TO ADD FIVE STATIONS TO SEATAC KIDNEY CENTER**
- **DAVITA, INC. PROPOSING TO ESTABLISH FIVE-STATION DIALYSIS CENTER IN DES MOINES**

BRIEF PROJECT DESCRIPTIONS

Northwest Kidney Centers

Northwest Kidney Centers is a private, not-for-profit corporation, incorporated in the state of Washington that provides dialysis services through its facilities located in King and Clallam counties. Northwest Kidney Centers proposes to add five dialysis stations to its existing SeaTac Kidney Center located in the city of SeaTac, within King County. At project completion, SeaTac Kidney Center would be operating a total of 30 dialysis stations.

The capital expenditure associated with the addition of five stations is \$100,969. If this project is approved, Northwest Kidney Centers anticipates the addition of five stations would occur immediately after approval. Under this timeline, 2013 would be the facility's first full calendar year of operation with 30 stations and 2015 would be year three. [source: Application, p5& Appendix 8; and August 25, 2011, supplemental information, p2]

DaVita, Inc.

DaVita, Inc is a publicly held, for-profit corporation, incorporated in the state of Washington that provides dialysis services through its facilities across the nation. For this project, DaVita, Inc. proposes to establish a five-station dialysis center in the city of Des Moines, within King County. The new dialysis center would be known as the Des Moines Dialysis Center. Since DaVita, Inc. proposes a new facility, at project completion, the dialysis center would be operating a total of five dialysis stations.

The capital expenditure associated with the establishment of the five-station facility is \$1,992,705. If this project is approved, DaVita, Inc. anticipates all five stations would become operational in August 2012. Under this timeline, 2013 would be the facility's first full calendar year of operation and 2015 would be year three. [source: Application, p4, p8, and p12]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Northwest Kidney Centers' project is subject to Certificate of Need review as an increase in dialysis station capacity at an existing center under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-020(1)(e).

DaVita, Inc.'s project is subject to Certificate of Need review as the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CONCLUSIONS

Northwest Kidney Centers

For the reasons stated in this evaluation, the application submitted on behalf of Northwest Kidney Centers proposing to add five stations to SeaTac Kidney Center is not consistent with the applicable criteria of the Certificate of Need Program.

DaVita, Inc.

For the reasons stated in this evaluation, the application submitted by DaVita, Inc. proposing to establish a five-station dialysis center in Des Moines, within King County ESRD planning area #4, is consistent with applicable criteria of the Certificate of Need Program, provided DaVita agrees to the following in its entirety.

Project Description:

Establish a five-station facility providing hemodialysis, peritoneal dialysis, shifts after 5:00 p.m., and home hemo and peritoneal training and support for dialysis patients. At project completion, Des Moines Dialysis Center would be approved to certify and operate a total of five dialysis stations. The stations are listed below.

Private Isolation Room	1
Permanent Bed Station	1
Home Training Station	1
Other In-Center Stations	2
Total	5

Conditions:

1. DaVita, Inc. agrees with the project description above.
2. DaVita Inc. will provide the department with an executed copy of a Patient Transfer Agreement for department review and approval prior to commencement of services consistent with the draft agreement provided within the application.
3. DaVita Inc. will provide the department with an executed copy of the Medical Director Agreement for department review and approval prior to commencement of services consistent with the draft agreement provided within the application.

Approved Costs:

The approved capital expenditure associated with this project is \$1,923,405. This amount represents the total capital expenditure of \$1,992,705 minus the landlord's project costs of \$69,300.

EVALUATIONS DATE FEBRUARY 9, 2012 FOR THE FOLLOWING CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATION CAPACITY TO KING COUNTY PLANNING AREA #4:

- **NORTHWEST KIDNEY CENTERS PROPOSING TO ADD FIVE STATIONS TO SEATAC KINDEY CENTER**
- **DAVITA, INC. PROPOSING TO ESTABLISH FIVE-STATION DIALYSIS CENTER IN DES MOINES**

APPLICANT DESCRIPTIONS

Northwest Kidney Centers

Northwest Kidney Centers (NKC) is a private, not-for-profit corporation, incorporated in the state of Washington that provides dialysis services through its facilities located in King and Clallam counties. Established in 1962, NKC operates as a community based dialysis program working to meet the needs of dialysis patients and their physicians.

NKC is governed by a volunteer Board of Trustees. The Board is comprised of medical, civic and business leaders from the community. An appointed Executive Committee of the Board oversees operating policies, performance and approves capital expenditures for all of its facilities.

In Washington State, NKC owns and operates a total of 15 kidney dialysis facilities. Of these, 14 are located in King County and one is located in Clallam County. Below is a listing of the NKC facilities in Washington. [source: Historical Files, NKC website]

King County

Auburn Kidney Center	Mount Rainier Kidney Center
Broadway Kidney Center ¹	Scribner Kidney Center
Enumclaw Kidney Center	Seattle Kidney Center
Elliot Bay Kidney Center	SeaTac Kidney Center
Kent Kidney Center	Snoqualmie Ridge Kidney Center
Lake City Kidney Center	Totem Lake Kidney Center
Lake Washington Kidney Center	West Seattle Kidney Center

Clallam County

Port Angeles Kidney Center

DaVita, Inc.

DaVita, Inc. (DaVita) is a publicly held, for-profit corporation that provides dialysis services in over 1,500 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 25 kidney dialysis facilities in 12 separate counties. Below is a listing of the DaVita facilities in Washington.² [source: Historical files; DaVita website; and Application p5-6]

¹ Formerly the Haviland Kidney Center

² Five facilities—East Wenatchee Dialysis Center, Battle Ground Dialysis Center, Whidbey Island Dialysis Center, Everett Dialysis Center, and Kennewick Dialysis Center—were recently approved by the department and are not yet operational.

Clark

Vancouver Dialysis Center
 Battle Ground Dialysis Center

Pacific

Seaview Dialysis Center

Island

Whidbey Island Dialysis Center

Pierce

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

Franklin

Mid-Columbia Kidney Center

Kittitas

Ellensburg Dialysis Center

Douglas

East Wenatchee Dialysis Center

Yakima

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

Thurston

Olympia Dialysis Center

King

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

Snohomish

Everett Dialysis Center
 Mill Creek Dialysis Center

Benton

Kennewick Dialysis Center
 Chinook Dialysis Center

PROJECT DESCRIPTIONS**Northwest Kidney Centers**

This application proposes to add five stations to the existing 25-station dialysis facility known as SeaTac Kidney Center located at 17900 International Boulevard, #302 in the city of SeaTac, within King County. [source: Application, p1 & p5]

With the additional stations, services expected to be provided at SeaTac Kidney Center include hemodialysis, home and peritoneal dialysis, and training/support for dialysis patients. The 30-station facility would include a permanent bed station and an isolation station.³ [source: Application, p7]

The capital expenditure associated with the additional five stations is \$100,969. Of that amount, 86% is related to fixed/moveable equipment; 7% is related to leasehold improvements to accommodate the additional stations; and the remaining 7% is related to taxes. [source: Application, Exhibit 8]

If this project is approved, NKC anticipates all five stations would become operational immediately after CN approval. Under this timeline, 2013 would be the facility's first full calendar year of operation and 2015 would be year three. [source: August 25, 2011, supplemental information, p2]

³ During the review of NKC's application, DaVita submitted comments asserting that NKC would not provide training services at SeaTac Kidney Center. This issue is addressed in the financial feasibility section of this evaluation.

DaVita, Inc.

DaVita proposes to establish a five-station dialysis facility to be located at 27061 Pacific Highway South in the city of Des Moines, within King County. The new dialysis center would be known as Des Moines Dialysis Center. [source: August 31, 2011, supplemental information, p2]

Services expected to be provided at Des Moines Dialysis Center include hemodialysis, home and peritoneal dialysis, and home hemo and peritoneal training and support for dialysis patients. Line drawings of the proposed facility detail the expected layout and show a permanent bed station, an isolation station, and training station. [source: Application, p9; August 31, 2011, supplemental information, Exhibit A]

The capital expenditure associated with the establishment of the five-station facility is \$1,992,705. Of that amount 59% is related to leasehold improvements, 24% for fixed/moveable equipment; and the remaining 15% is related to professional fees and the landlord's portion of costs. [source: Application, Appendix 7]

If this project is approved, DaVita anticipates the five-station facility would become operational in August 2012.⁴ Under this timeline, 2013 would be the facility's first full calendar year of operation 2015 would be year three. [source: Application, p12]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Northwest Kidney Centers' project is subject to Certificate of Need review as an increase in dialysis stations capacity at an existing center under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-020(1)(e).

DaVita, Inc.'s project is subject to Certificate of Need review as the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CRITERIA EVALUATION

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*

⁴ During the review of DaVita's application, NKC submitted comments asserting that the commencement and completion dates identified in DaVita's application are unreliable. This issue is addressed in the need section of this evaluation, under the sub-criterion of WAC 246-310-284(6).

(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 284.⁵

APPLICATION CHRONOLOGY

As directed under WAC 246-310-282(1), the department accepted both projects under the year 2011 Kidney Disease Treatment Centers-Concurrent Review Cycle #2. A chronologic summary of both projects is shown on the following page.

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

Action	NKC	DaVita
Letter of Intent Submitted	April 29, 2011	April 29, 2011
Application Submitted	May 31, 2011	May 31, 2011
Amendment Application Submitted	None	June 30, 2011 ⁶
Department's pre-review activities including screening and responses	July 1, 2011 through September 15, 2011	July 1, 2011 through September 15, 2011
Beginning of Review <ul style="list-style-type: none"> • public comments accepted throughout review • no public hearing conducted 	September 16, 2011	September 16, 2011
End of Public Comment	November 15, 2011	November 15, 2011
Rebuttal Documents Received	December 14, 2011	December 14, 2011
Department's Anticipated Decision Date	January 30, 2012	January 30, 2012
Department's Actual Decision Date	February 9, 2012	February 9, 2012

CONCURRENT REVIEW AND 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

- Northwest Kidney Centers Certificate of Need application received May 31, 2011
- DaVita, Inc. Amended Certificate of Need application received June 30, 2011
- Northwest Kidney Centers supplemental information received August 25, 2011
- DaVita, Inc. supplemental information received August 31, 2011
- Northwest Kidney Centers public comment received November 15, 2011
- DaVita, Inc. public comments received November 15, 2011
- Northwest Kidney Centers rebuttal comments received December 14, 2011
- DaVita rebuttal comments received December 14, 2011
- Years 2005 through 2010 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2010 Northwest Renal Network 4th Quarter Data
- Licensing and survey data provided by the Department of Health’s Investigations and Inspections Office
- Certificate of Need historical files

⁶ DaVita Inc. submitted its initial application on May 31, 2011, consistent with the ESRD concurrent review cycle #2. On June 30, 2011, DaVita Inc. submitted an amendment application consistent with WAC 246-310-100(6). Once the amendment application was received, the initial application is no longer considered part of the review. As a result, the initial application submitted on May 31 will not be further discussed in this evaluation.

CONCLUSIONS

Northwest Kidney Centers

For the reasons stated in this evaluation, the application submitted on behalf of Northwest Kidney Centers proposing to add five stations to SeaTac Kidney Center is not consistent with the applicable criteria of the Certificate of Need Program.

DaVita, Inc.

For the reasons stated in this evaluation, the application submitted by DaVita, Inc. proposing to establish a five-station dialysis center in Des Moines, within King County ESRD planning area #4, is consistent with applicable criteria of the Certificate of Need Program, provided DaVita agrees to the following in its entirety.

Project Description:

Establish a five-station facility providing hemodialysis, peritoneal dialysis, shifts after 5:00 p.m., and home hemo and peritoneal training and support for dialysis patients. At project completion, Des Moines Dialysis Center would be approved to certify and operate a total of five dialysis stations. The stations are listed below.

Private Isolation Room	1
Permanent Bed Station	1
Home Training Station	1
Other In-Center Stations	2
Total	5

Conditions:

1. DaVita, Inc. agrees with the project description above.
2. DaVita, Inc. will provide the department with an executed copy of a Patient Transfer Agreement for department review and approval prior to commencement of services consistent with the draft agreement provided within the application.
3. DaVita Inc. will provide the department with an executed copy of the Medical Director Agreement for department review and approval prior to commencement of services consistent with the draft agreement provided within the application.

Approved Costs:

The approved capital expenditure associated with this project is \$1,923,405. This amount represents the total capital expenditure of \$1,992,705 minus the landlord's project costs of \$69,300.

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department concludes:

- Northwest Kidney Centers' 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
- 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 centers 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).

Kidney Disease Treatment Center Methodology WAC 246-310-284

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.⁷

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.⁸ In planning areas experiencing high rates of growth in the dialysis population (6% or greater growth in each of the last five annual change periods), the method uses exponential regression to project future need. In planning areas experiencing less than 6% growth in any of the last five annual change periods, linear regression is used to project need.

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

WAC 246-310-284(5) identifies that for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties, the number of projected patients is divided by 4.8 to determine the

⁷ 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]

⁸ 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.

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)]

WAC 246-310-280(9) identifies the ESRD planning areas for the state. Both NKC and DaVita propose to add dialysis station capacity to King County planning area #4. The following zip codes are included in this planning area.

<u>Zip</u>	<u>City</u>
98148	SeaTac
98158	SeaTac
98166	Burien/Normandy Park
98188	Tukwila/SeaTac
98198	Des Moines

Northwest Kidney Centers’ Application of the Numeric Methodology

NKC proposes to add five stations to its existing dialysis center in the SeaTac zip code of 98188. Based on the calculation of the annual growth rate in the planning area as described above, NKC used a linear regression to project need. Given that SeaTac Kidney Center is located in King 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: Application, Appendices 16 and 17]

DaVita, Inc.’s Application of the Numeric Methodology

DaVita proposes to establish a five-station dialysis facility located in the Des Moines zip code of 98198. 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 area need. The number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [source: Application, pp17-18]

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 King 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).

Table 1 on the following page shows a summary of the projected net need provided by both applicants and the department for the planning area.

Table 1
King County Planning Area #4
Numeric Methodology Summary

	4.8 in-center patients per station		
	2014 Projected # of stations	Minus Current # of stations	2014 Net Need
NKC	29.4	25	4.4
DaVita	30	25	5
DOH	30	25	5

NKC’s methodology shows a need for 4.4 stations in year 2014. When NKC’s results are rounded as required in WAC 246-310-284(4)(c), both applicants and the department’s methodology show need for an additional five stations in the planning area in 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 May 1, 2011. [WAC 246-310-282] The quarterly modality report from NRN available at that time was December 31, 2010. For King County planning area #4, there are 25 dialysis stations located in one facility—NKC’s SeaTac Kidney Center. Table 2 shows the utilization of SeaTac Kidney Center as of December 31, 2010.

Table 2
December 31, 2010 - Facility Utilization Data

Facility Name	# of Stations	# of Pts	Pts/Station
NKC-SeaTac Kidney Center	25	120	4.8

Table 2 above demonstrates that the current facility satisfies this utilization requirement. **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 King County planning area #4, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)] As a result, each applicant must demonstrate compliance with this criterion using the 4.8 in-center patient per station.

Northwest Kidney Centers

NKC expects to add the five stations immediately after CN approval. Under this timeline, SeaTac Kidney Center would begin operating 30 dialysis stations in 2012. Calendar year 2013 would be the facility’s first full calendar year of operation with all 30 stations and 2015 would be year three. A summary of NKC’s projected utilization for the third year of operation is shown in Table 3 on the following page. [source: Application, p6]

Table 3
NKC-SeaTac Kidney Center - Third Year Projected Facility Utilization

Facility Name	Year 3	# of Stations	# of In-Center Patients	Patients/Station
SeaTac Kidney Center	2015	30	144	4.80

As shown in Table 3 above, NKC’s SeaTac Kidney Center is expected to meet this standard with 30 dialysis stations. **This sub-criterion is met.**

DaVita, Inc.

DaVita anticipates its five-station Des Moines Dialysis Center would become operational in August 2012. Under this timeline, year 2013 would be the facility’s first full calendar year of operation and 2015 would be year three.

During the review of this project, NKC submitted comments asserting that DaVita’s completion dates for the project are not reasonable. Page 8 of DaVita’s application shows a table with three separate dates for the facility to become operational. The completion dates are the first day of August, October, or December 2012, depending on the approval date of the project. NKC’s concern is based on the lease agreement provided in DaVita’s application that indicates a portion of the premises being leased by DaVita for this facility is already part of an existing lease through March 2012. As a result, DaVita would not have access to the entire premises until after March 31, 2012, making the commencement dates identified in the application unreliable. [source: NKC public comments received November 15, 2011, p3]

In response to NKC’s assertions, DaVita acknowledges that a portion of the space to be leased is currently under lease to a state agency. The state agency lease expires March 31, 2012, and the state agency has confirmed to the landlord that it will cease operations on or before the expiration date. As a result, DaVita states that there should be no concern about DaVita’s timeline for the project. [source: DaVita rebuttal documents, p5]

After reviewing NKC’s comments and DaVita’s responses, the department determines that DaVita’s timeline for completion of the project is reasonable. Even though a portion of the premises to be leased by DaVita is currently under another lease, DaVita submitted reasonable information that the entire premises would be available in year 2012. The utilization standard under WAC 246-310-284(6) requires specific utilization for dialysis centers by the end of the third full year of operation. Therefore, regardless of whether DaVita’s facility becomes operational on the first day of August, October, or December 2012 as identified on page 8 of DaVita’s application, year 2013 would still be the first full year of operation and year 2015 would still be full year three.

A summary of DaVita’s projected utilization for the third year of operation is shown in Table 4 below. [source: Application, p16]

Table 4
DaVita’s Des Moines Dialysis Center - Third Year Projected Facility Utilization

Facility Name	Year 3	# of Stations	# of In-Center Patients	Patients/Station
Des Moines Dialysis Center	2015	5	24	4.80

As shown above, the proposed Des Moines Dialysis Center is expected to meet this standard with five dialysis stations. **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.

Northwest Kidney Centers

As previously stated, the applicant currently provides health care services to residents of Washington State.

To determine whether all residents of King County planning area #4 would 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.

To demonstrate compliance with this sub-criterion, NKC provided a copy of its current Admission Criteria for SeaTac Kidney Center that would continue to be used at the facility. The Admission Criteria outlines the process/criteria that the facility will use to admit patients for treatment, and ensures that patients will receive appropriate care at the dialysis center. The Admission Criteria 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, color, religion, sex, national origin, or age. [source: Application, Appendix 21]

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.

NKC currently provides services to Medicaid eligible patients in this dialysis center. Details provided in the application demonstrate that NKC intends to maintain this status. A review of the anticipated revenue indicates that the facility expects to continue to receive Medicaid reimbursements. [source: Application, p8]

NKC currently provides services to Medicare eligible patients in this dialysis center. Details provided in the application demonstrate that NKC intends to maintain this status. A review of the anticipated revenues indicates that the facility expects to continue to receive Medicare reimbursements. [source: Application, p8]

NKC demonstrated its intent to provide charity care to King County planning area #4 residents by submitting the Charity policy currently used within the facility. It outlines the process one would use to access services when they do not have the financial resources to pay for required treatments. NKC also included a 'charity' line item as a deduction from revenue within the pro forma income statements for each proposed facility. [source: Application, Appendices 10 and 22]

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

DaVita, Inc.

As previously stated, the applicant currently provides health care services to residents of Washington State. To determine whether all residents of the King County planning area #4 would 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.

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 the DaVita facilities will use to admit patients for treatment, and ensures that patients will receive appropriate care at the dialysis center. The policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the facilities without regard to race, color, nation origin, sex, age, religion, or disability. [source: 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 at its existing dialysis centers. It expects to also provide services to these patients at the proposed new facility. A review of the anticipated revenue indicates that the new facility expects to receive Medicaid reimbursements. [source: Application, p10 and Appendix 9]

DaVita currently provides services to Medicare eligible patients at its existing dialysis centers. It expects to also provide services to these patients at the proposed new facility. A review of the anticipated revenues indicates that the new facility also expects to receive Medicare reimbursements. [source: Application, p10 and Appendix 9]

DaVita demonstrated its intent to provide charity care to King 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' line item as a deduction from revenue within the pro forma income statements for the facility. [source: Application, Appendices 9 and 14]

The Department concludes that all residents of the service area would have adequate access to the health services at the proposed DaVita Des Moines Dialysis Center. **This sub-criterion is met.**

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

Based on the source information reviewed, the department concludes:

- Northwest Kidney Centers’ project has met the financial feasibility criteria in WAC 246-310-220; and
- DaVita, Inc.’s project has met the financial feasibility criteria in WAC 246-310-220

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

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.

Northwest Kidney Centers

NKC anticipates the additional five stations would become operational immediately after approval. Using the fiscal years provided in the application, FY 2013 would be SeaTac Kidney Center’s first full 12 months of operation with 30 dialysis stations. Table 5 illustrates the projected revenue, expenses, and net income for fiscal years 2013 through 2015 for SeaTac Kidney Center. [source: Application, p6 and Exhibit 10]

**Table 5
SeaTac Kidney Center
Projected Revenue and Expenses Fiscal Years 2013 - 2015⁹**

	FY 1 - 2013	FY 2 - 2014	FY 3 - 2015
# of Stations	30	30	30
# of Treatments [1]	18,460	19,596	20,448
# of Patients [2]	130	138	144
Utilization Rate [2]	4.3	4.6	4.8
Net Revenue [1]	\$ 7,312,846	\$ 7,763,958	\$ 8,100,383
Total Expense [1,3]	\$ 6,953,884	\$ 7,346,860	\$ 7,641,593
Net Profit or (Loss) [1]	\$ 358,962	\$ 417,098	\$ 458,790

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

The ‘Net Revenue’ line item is gross revenue minus any deductions for charity care, bad debt, and contractual allowances. The ‘Total Expenses’ line item includes salaries and wages, depreciation, and allocated costs for SeaTac Kidney Center. As shown in Table 5, at the projected volumes identified in the application, NKC anticipates that the 30-station facility would be operating at a profit in each of the forecast years.

NKC currently operates the facility at 17900 International Boulevard in the city of SeaTac. The lease provided in the application outlines the initial terms and the annual rent for the space and includes a

⁹ Whole numbers may not add due to rounding.

copy of the lease for the premises executed and notarized on July 17, 2006, and extends for ten years. The lease begins on June 1, 2007, and extends through June 1, 2017. The annual lease costs are substantiated in the pro forma financial documents presented. [source: Application, Attachment 10 and Supplement 2]

Additionally, NKC provided a copy of the Medical Director Agreement and compensation amendment currently in effect between itself and Razan R. Al-Kudsi, MD. The medical director service costs are also substantiated in the pro forma documents. [source: Application, Supplement 1]

During the review of this project, DaVita submitted extensive comments related to three areas: documentation of site control, rent/lease costs, and medical director costs. Below is a summary by topic of the comments provided by DaVita.

DaVita Public Comments

Site Control [source: DaVita public comment, pp2-3, plus supplemental exhibits]

NKC submitted a lease agreement between Northwest Kidney Centers and Kilroy Realty Investments Corporation. The King County assessor's website and a July 2007 Special Warranty Deed shows that the current property owner is Sea-Tac Venture 2010, LLC, which means that Kilroy Realty Investments Corporation no longer owns the property. The documents do not demonstrate site control of the SeaTac Kidney Center property by NKC.

Rent/Lease Costs [source: DaVita public comment, pp3-5, plus supplemental exhibits]

Because of the inaccurate information related to site control, the site-related costs cannot be confirmed. Additionally, there is a mismatch between NKC's property lease and the 'rent' values in the pro forma revenue and expense statements. This mismatch prevents DaVita from providing pertinent comments related to NKC's application and prevents the department from evaluating the accuracy of the application. Additionally, DaVita compared this application's rent expenses with the rent expenses for the SeaTac Kidney Center during a review in 2007.

Medical Director Costs [source: DaVita public comment, p6]

NKC's medical director agreement between itself and Dr. Al-Kudsi is for one year, as a result, the third year of medical director costs cannot be substantiated. NKC's failure to document medical director costs for more than one year prevents an evaluation of the pro forma revenue and expense statements.

NKC provided responses to DaVita's assertions above which are summarized below by topic.

NKC Rebuttal Comments

Site Control [source: NKC rebuttal documents, p1]

The lease submitted in the application is the correct and only lease for the SeaTac Kidney Center premises. The purpose of the lease is to affirm that the site control and basic lease terms that were established on July 17, 2006, are unchanged. The suggestion by DaVita that a change in property owner invalidates the lease is inconsistent with the facts and the law. Many commercial properties change ownership on a regular basis without disturbing the existing leases and without the new owner entering into a new lease with the existing tenant(s). Under Washington law, leases run with the land and survive the sale of the property provided they are in writing and acknowledged. The enforceability of the lease upon conveyance of the property is contemplated in the lease in paragraph 30 on page 23, which states:

30. Successors and Assigns

The covenants, conditions and agreements contained in this lease shall bind and inure to the benefit of the landlord and tenant and, except as otherwise provided in this lease, their respective heirs, personal representatives, successors, and assigns.

Rent/Lease Costs [source: NKC rebuttal documents, pp1-3]

There is no large mismatch between the rent amounts detailed in the property lease and the rent values identified in the pro forma revenues and expense statements. DaVita's demonstrative table provided in their public comments fails to include the rent allocation scheme at the leased premises for the dialysis operations alone; instead all of the other administrative and support programs that NKC chose to house in the building are included in DaVita's table. The rebuttal documents include Exhibit 2 which is the month-by-month base rent, as scheduled in the lease, then reported on an annual fiscal year basis for the whole premises, and finally adjusted per the space allocation scheme (47.2% of total lease space). The difference between the fully allocated annual base rent presented in Exhibit 2 [of NKC's rebuttal documents] and the amounts shown in the pro forma operating statement represent estimated building operating expenses based on current experience of \$81,035 per year. This also accounts for the rent differences between the pro forma operating statement in this application compared to the pro forma operating statement in the application submitted four years ago (2007) when we had not even one full year of experience to estimate, much less report, the building operating expenses for the lease. We now have a basis for that estimate and concluded it would be unacceptable to exclude it as part of the total rent expense.

Medical Director Costs [source: NKC rebuttal documents, pp3-4]

The medical director agreement between NKC and Dr. Al-Kudsi has an initial one-year term and then annual automatic renewals. For this particular agreement, the initial one-year term began in June 1, 1999, and has automatically renewed every year since. NKC is confident the terms would still be accurate even if the medical director is replaced.

Department's Evaluation

After reviewing the issues raised by DaVita and the responses provided by NKC, the department concludes the following.

Site Control

DaVita's assertion that NKC does not have proper site control of the premises where SeaTac Kidney Center has been operating for five years was thoroughly addressed by NKC. Based on the information submitted, the department concludes NKC has appropriate site control of the premises.

Rent/Lease Costs

One concern stated by DaVita's is that because NKC does not have site control, the site-related costs cannot be confirmed. Since the department concluded that NKC provided documents to demonstrate site control for the SeaTac Kidney Center premises, this is no longer at issue.

DaVita's second concern is that there is a mismatch between NKC's property lease and the 'rent' values in the pro forma revenue and expense statements. With the mismatch, the pro forma revenue and expense statement would not be accurate as presented. In response to this concern, NKC provided an extensive discussion on how the rent/lease costs are calculated and what is included in the calculations (base amount plus operating expenses). NKC also provided a 120 month breakdown of rental costs for each month beginning in September 2007 through August

2016. The department concludes that NKC’s rent/lease costs can be substantiated in the pro forma revenue and expense statements.

DaVita’s last concern is based on a comparison of NKC’s current SeaTac Kidney Center application with the application submitted for SeaTac Kidney Center during a review in 2007. NKC provided extensive documentation to dispute that there is an issue under this topic. The department concludes there is no issue here.

Medical Director Costs

DaVita’s concern appears to be two-fold. One is that NKC’s medical director agreement is not binding enough, which may result in NKC having to enter into a contract with a new medical director in short notice. The second concern is that a new medical director has no obligation to agree to the compensation identified in the current contract; if medical director costs increase, then the pro forma revenue and expense statement would not be accurate as presented. The department recognizes that the medical director agreement provided by NKC is an executed agreement with annual renewal clause, which is consistent with executed agreements review in past ESRD applications. One purpose of the medical director contract is to ensure appropriate and quality medical oversight for a dialysis facility. Compensation identified in a medical director contract is one specific area where the department can substantiate costs for the project as part of its financial feasibility evaluation. The medical director costs identified in NKC’s application can be substantiated in the pro forma statements.

Based on the above information, the department concludes that NKC’s projected revenues and expenses are reasonable and can be substantiated. **This sub-criterion is met.**

DaVita, Inc.

DaVita anticipates the five-station dialysis center would become operational by December 2012. Under this timeline, calendar year (CY) 2013 would be Des Moines Dialysis Center’s first full year of operation and 2015 would be year three. Table 6 illustrates the projected revenue, expenses, and net income for calendar years 2013 through 2015 for Des Moines Dialysis. [source: August 31, 2011, supplemental information, Exhibit B]

**Table 6
Des Moines Dialysis Center
Projected Revenue and Expenses Calendar Years 2013 - 2015¹⁰**

	CY 1 - 2013	CY 2 - 2014	CY 3 - 2015
# of Stations	5	5	5
# of Treatments [1]	1,217	2,652	3,320
# of Patients [2]	15	20	24
Utilization Rate [2]	3.0	4.0	4.8
Net Revenue [1]	\$ 590,639	\$1,403,004	\$ 1,716,696
Total Expense [1,3]	\$ 1,438,606	\$ 1,430,762	\$ 1,694,856
Net Profit or (Loss) [1]	(\$ 847,967)	(\$ 27,758)	\$ 21,840

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

¹⁰ Whole numbers may not add due to rounding.

The 'Net Revenue' line item is gross revenue minus any deductions for charity care and bad debt. The 'Total Expenses' line item includes salaries and wages, depreciation, and allocated costs for Des Moines Dialysis Center. As shown in Table 6, at the projected volumes identified in the application, DaVita anticipates a loss in the first two years of operation, and a profit in year three.

In addition to the financial documents summarized above, DaVita also provided a copy of its executed lease agreement for the site at 27061 Pacific Highway South in the city of Des Moines. The lease is between DaVita (Total Renal Care, Inc.) and Joshua Green Corporation in Seattle. Documentation from the King County Assessors' office demonstrates appropriate control of the site by Joshua Green Corporation to allow a lease agreement with DaVita. The lease agreement outlines the roles and responsibilities for both the lessor and lessee and outlines the initial terms and the annual rent for the space. The agreement commences within four months from possession date and extends for ten years. The executed agreement was notarized on June 30, 2011. [source: Application, Attachment 15]

Additionally, DaVita provided a copy of a draft Medical Director Agreement between itself and Edwin Chin, MD. The draft agreement identifies roles and responsibilities for both and identifies annual compensation for the services. The medical director service costs are also substantiated in the pro forma documents. [source: Application, Attachment 3 and August 31, 2011, supplemental information, Exhibit B]

During the review of this project, NKC submitted comments related to the pro forma revenue and expense statement provide in the application. Below is a summary of the comments provided by NKC. [source: NKC public comments, pp2-3]

NKC Public Comments

The revenue and expense statement submitted in the amendment application did not demonstrate that the new center's revenues would cover expenses by the end of the third year of operation [2015]. The revised pro forma submitted in response to the department's July 29, 2011, request for information does not accurately project costs for the proposed project. It omits the annual operating expense as part of the lease expense, thereby understating the actual, reasonably estimated lease expense and inaccurately projecting a profit in full year three. Given the terms of the lease, DaVita will incur annual operating expenses of taxes, CAM [common area maintenance] charges, and insurance; it is not reasonable to omit those expenses from the pro forma. If these costs are included, the five-station center would also operate at a loss in year three.

DaVita provided responses to NKC's comments above which are summarized below. [source: DaVita, rebuttal comments, pp2-4]

DaVita Rebuttal Comments

NKC cites no rule requiring estimates of future landlord operating expenses and does not dispute such expenses are typically omitted by dialysis facility applications. The department recognized in its recent review of the expansion of our existing Tacoma Dialysis Center making the following statement in its August 9, 2011, evaluation of the expansion project.

"Typically dialysis applicants have not included estimates for these lease related expenses. This is particularly true for new dialysis facilities."

In a recent review of NKC's Kent Kidney Center expansion application, NKC provided the following statements about the rent value provided in its pro forma revenue and expense statement.

DaVita also asserts a rent mismatch because the rent shown for our fiscal year 2012 and 2013 in the pro forma of the original Certificate of Need application to establish the NKC Kent Kidney Center in 2009 does not include operating expenses and is thus different from what is now shown in the pro forma to expand the facility by one stations. In 2009 we had no direct experience to estimate operating expenses associated with the lease, but would certainly have done so if either DaVita or the Department of Health had requested it. Neither did. Today we have good experience about those operating expenses and felt it would be improper not to include them, which accounts for the difference. There is not a mismatch, just better information.”

Department’s Evaluation

After reviewing the issues raised by NKC and the responses provided by DaVita, the department concludes that both DaVita and NKC have been diligent in providing accurate estimates in their applications. For this project, DaVita appropriately identified the costs for the new five-station facility.

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.

Northwest Kidney Centers

The capital expenditure associated with the additional five stations is \$100,969. Of that amount, 86% is related to fixed/moveable equipment; 7% is related to leasehold improvements to accommodate the additional stations; and the remaining 7% is related to taxes. [source: Application, Exhibit 8] The capital cost breakdown is shown in Table 7 below.

**Table 7
NKC Estimated Capital Costs**

Item	Cost	% of Total
Construction/Leasehold Improvements	\$ 6,933	7%
Fixed & Moveable Equipment	\$ 86,407	86%
Sales Tax	\$ 7,566	7%
Total Estimated Capital Costs	\$ 100,969	100%

NKC intends to finance the project entirely from available board reserves. A review of the historical financial statement provided in the application indicates that NKC has sufficient cash assets and board approval to fund the project. [source: Application, Attachment 8 and August 25, 2011, supplemental information, Exhibit 4]

The department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD reimbursements. To further demonstrate compliance with this sub-criterion, NKC also provided the sources of patient revenue shown in Table 8 below. [source: Application, p8]

Table 8
NKC-SeaTac Kidney Center
Sources and Percentages of Revenue

Source of Revenue	% of Revenue
Medicare	73%
State	9%
Other [1]	18%
Total	100%

[1] Other sources include Blue Cross, Group Health, private pay, and other insurances

As shown above, the Medicare and State reimbursements are projected to equal 82% of the revenue at the SeaTac Kidney Center. The department concludes that since the majority of revenue is dependent upon sources that are not cost based reimbursement, they are not expected to have an unreasonable impact on charges for services. The remaining 18% will be derived through a variety of reimbursement sources.

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, Inc.

The capital expenditure associated with the establishment of the five-station facility is \$1,992,705. Of that amount 58% is related to leasehold improvements, 24% for fixed/moveable equipment; 15% is related to professional fees; and the remaining 3% is the landlord’s portion of costs. [source: Application, Appendix 7] The capital cost breakdown is shown in Table 9 below

Table 9
DaVita Estimated Capital Costs

Item	Cost	% of Total
Construction/Leasehold Improvements	\$ 1,166,000	58%
Landlord Project Costs	\$ 69,300	3%
Fixed & Moveable Equipment (w/ tax)	\$ 468,405	24%
Professional Service Fees	\$ 289,000	15%
Total Estimated Capital Costs	\$ 1,992,705	100%

DaVita intends to finance its portion of the project, which is \$1,923,405, entirely from available board reserves. A review of the historical financial statement provided in the application indicates that DaVita has sufficient cash assets and board approval to fund the project. [source: Application, Appendix 10]

The department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD reimbursements. To further demonstrate compliance with this sub-criterion, DaVita also provided the sources of patient revenue shown in Table 10 below. [source: Application, p10]

Table 10
DaVita-Des Moines Dialysis Center
Sources and Percentages of Revenue

Source of Revenue	% of Revenue
Medicare	78%
State	9%
Other [1]	13%
Total	100%

[1] Other sources include Blue Cross, Group Health, private pay, and other insurances

As shown above, the Medicare and State reimbursements are projected to equal 87% of the revenue at the Des Moines Dialysis Center. The department concludes that since the majority of revenue is dependent upon sources that are not cost based reimbursement, they are not expected to have an unreasonable impact on charges for services. The remaining 13% will be derived through a variety of reimbursement sources.

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.

Northwest Kidney Centers

As previously stated, the capital expenditure associated with the additional five stations is \$100,969. NKC states that the project will be funded from available board reserves. A review of NKC's historical financial statements show the funds necessary to finance the project are available. [source: August 25, 2011, supplemental information, Exhibit 4]

Based on the information provided, the department concludes that approval of this project would not adversely affect the financial stability of NKC as a whole. **This sub-criterion is met.**

DaVita, Inc.

As previously stated, the capital expenditure associated with the establishment of the five-station Des Moines Dialysis Center is 1,992,705, and DaVita's portion of the costs is \$1,923,405. DaVita intends to finance its portion entirely from available board reserves. A review of the historical financial statements provided in the application indicates that DaVita has sufficient cash assets to fund the project. [source: Application, Appendix 10]

Based on the information provided, the Department concludes that 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, the department concludes:

- Northwest Kidney Centers’ project has met the structure and process of care criteria in WAC 246-310-230; and
- DaVita, Inc.’s project 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.

Northwest Kidney Centers

SeaTac Kidney Center has been operational for many years. To accommodate the additional patients associated with the five new stations, NKC expects to add a total of 4.43 FTEs to the center. A breakdown of the additional FTEs by year is shown in Table 11 below. [source: Application, p17]

**Table 11
SeaTac Kidney Center Current and Projected FTEs**

Staff/FTEs	2011 Current	2012 Increase	2013 Increase	2014 Increase	Total
Medical Director	Professional Services Contract				
Registered Nurse	8.45	0.48	0.55	0.41	9.89
Patient Care Techs	15.69	0.90	1.02	0.76	18.37
Clerical	1.00	0.00	0.00	0.00	1.00
Dietician	0.82	0.05	0.05	0.04	0.96
MSW	1.03	0.05	0.07	0.05	1.20
Total FTEs	26.99	1.48	1.69	1.26	31.42

As shown in Table 11 above, NKC plans for small annual increases in FTEs that coincide with the increase in patients and dialyses each year. NKC states that it does not anticipate any difficulty in recruiting staff for SeaTac Kidney Center due to its location and past success in attracting qualified health personnel. Further, NKC states its employees have an average length of service of 9.5 years. [source: Application, p18]

NKC identified Razan R. Al-Kudsi as the current medical director for SeaTac Kidney Center and provided a copy of the executed medical director’s agreement. The agreement outlines the roles and responsibilities for both NKC and the medical director. The agreement also identifies the annual compensation for the medical director services. [source: Application, Supplement 1]

Based on the information reviewed, the department concludes adequate staffing for the additional five stations and the 30-station SeaTac Kidney Center is available or can be recruited. **This sub-criterion is met.**

DaVita, Inc.

Since Des Moines Dialysis Center would be a new facility, DaVita provided a breakdown of all proposed staff beginning in partial year 2012 through full year 2015. [source: Application, p23] A breakdown of the FTEs for years 2012 through 2015 is shown in Table 12 below.

**Table 12
Des Moines Dialysis Center Projected FTEs**

Staff/FTEs	2012 Total	2013 Increase	2014 Increase	2015 Increase	Total
Medical Director	Professional Services Contract				
Administrator	1.00	0.00	0.00	0.00	1.00
Registered Nurse	2.00	0.20	0.50	0.50	3.20
Patient Care Techs	1.80	0.00	0.30	0.30	2.40
Biomedical Techs	0.20	0.00	0.00	0.00	0.20
Administrative Asst	0.30	0.20	0.10	0.20	0.80
MSW	0.80	0.00	0.00	0.00	0.80
Dietician	0.80	0.00	0.00	0.00	0.80
Total FTEs	6.90	0.40	0.90	1.00	9.20

As shown in Table 12 above, after the initial recruitment in 2012, DaVita expects minimal FTEs added in each of the following years. DaVita states that it does not anticipate any difficulty in recruiting staff for the Des Moines Dialysis Center due to its location and past success in attracting qualified health personnel. Further, DaVita states that this is aided by their wage and benefit package and that ‘*DaVita has an extensive employee-traveling program guaranteeing all appropriate staff.*’ [source: Application, p24]

DaVita identified Edwin Chin, M.D. as the medical director for the proposed facility and provided a copy of the draft medical director’s agreement. The agreement outlines the roles and responsibilities of both DaVita and Dr. Chin and identifies the annual compensation for the medical director services. [source: Application, Appendix 3] If this project is approved, the department would attach a condition to the approval requiring DaVita to provide a copy of the executed medical director agreement for review.

Based on the information reviewed, the department concludes adequate staffing for the five-station Des Moines Dialysis Center is available or can be recruited. **With the medical director condition, 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.

Northwest Kidney Centers

The information and transfer agreement provided in the application confirm that NKC maintains the appropriate relationships with ancillary and support services for SeaTac Kidney Center. Ancillary and support services, such as social services, nutrition services, pharmacy, patient and staff education, human resources, material management, administration, and technical services are currently provided by "one of our support offices in Seattle, Lake Forest Park, or SeaTac" which already provide services daily or on demand for the existing NKC facilities. [source: Application, p19]

Based on this information, the department concludes NKC currently has access to the necessary ancillary and support services for the existing facility. **This sub-criterion is met.**

DaVita, Inc.

As a provider of dialysis services in Washington State, DaVita currently maintains the appropriate relationships with ancillary and support services for its existing dialysis centers. For its proposed Des Moines Dialysis Center, ancillary and support services, such as social services, nutrition services, pharmacy, patient and staff education, financial counseling, human resources, material management, administration, and technical services would be provided on site. Additional services would be coordinated through DaVita's corporate offices in El Segundo, California and support offices in Tacoma, Washington; Denver, Colorado; Nashville, Tennessee; Berwyn, Pennsylvania; and Deland, Florida. [source: Application, p24]

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

Based on this information, the department concludes DaVita currently has access to the necessary ancillary and support services that could support the proposed facility. If this project is approved, the department would include a condition requiring DaVita to provide a copy of the executed transfer agreement with a local hospital that is consistent with the example presented in the application. **With the condition, 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 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.

Northwest Kidney Centers

As stated earlier, NKC is currently a provider of dialysis services within Washington State, and operates 15 kidney dialysis treatment centers in two 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.¹¹

Since January 2008, the Department of Health's Investigations and Inspections Office has completed certification and compliance surveys for a number of the operational NKC facilities. Of the surveys completed, four revealed minor non-compliance issues related to the care and management of the facilities which required plans of correction¹². These non-compliance issues were typical of a dialysis facility and the plans of correction were fully implemented. [source: Facility survey data provided by the Investigations and Inspections Office]

For medical director services, NKC provided a copy of the Medical Director Agreement and compensation amendment currently in effect between itself and Razan R. Al-Kudsi, the current medical director at SeaTac Kidney Center. A review of the compliance history for Dr. Al-Kudsi revealed no recorded sanctions. [source: Compliance history provided by Medical Quality Assurance Commission]

Given the compliance history of NKC, and that of the proposed medical director, the department concludes that there is reasonable assurance that the SeaTac Kidney Center would continue to operate in compliance with state and federal regulations with the addition of five stations. **This sub-criterion is met.**

DaVita, Inc.

As previously stated, DaVita provides dialysis services in over 1,500 outpatient centers located in 43 states, the District of Columbia, and San Juan Puerto Rico. For Washington State, DaVita owns or operates 25 kidney dialysis treatment centers in 12 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.¹³ 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, District of Columbia, and San Juan Puerto Rico where DaVita, Inc. or any subsidiaries have health care facilities.

Of the 45 states and entities, the department received responses from 21 states or 47% of the 45 entities.¹⁴ The compliance history of the remaining 22 states, and 2 non-state entities Puerto Rico and the District of Columbia is unknown.¹⁵

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 as a private ESRD facility, none of the deficiencies

¹¹ WAC 246-310-230(5).

¹² Broadway Kidney Center, May, 2009; Lake City Kidney Center, July, 2009; Port Angeles Kidney Center, April, 2010; and the Snoqualmie Ridge Kidney Center, June, 2010

¹³ WAC 246-310-230(5).

¹⁴ 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

¹⁵ 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 and Puerto Rico did not respond to the survey.

are reported to have resulted in fines or enforcement action.¹⁶ All other facilities comply with applicable regulations. [source: Compliance history from state licensing and/or surveying entities]

The department concludes that considering the more than 1,500 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.¹⁷ 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. [source: DOH Investigations and Inspections Office records]

For medical director services, DaVita provided a copy of its draft medical director agreement with Edwin Chin, MD, for medical director services at Des Moines Dialysis Center. A review of the compliance history for Dr. Chin revealed no recorded sanctions. [source: Application, Appendix 3 and Compliance history provided by Medical Quality Assurance Commission]

Given the compliance history of DaVita and that of the proposed medical director, the department concludes that there is reasonable assurance that the Des Moines Dialysis Center would operate in compliance 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.

Northwest Kidney Centers

The department considered NKC's history of providing care to residents in Washington State. The department concludes that the applicant has been providing dialysis services to the residents of Washington State for several years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this expansion would change these relationships.

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology

¹⁶ The Iowa facility chose voluntarily 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.

¹⁷ As of the writing of this evaluation, five facilities—East Wenatchee Dialysis Center, Battle Ground Dialysis Center, Whidbey Island Dialysis Center, Everett 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.

shows a need for five dialysis stations in King County planning area #4. This project proposes to add five stations to SeaTac Kidney Center located in the planning area.

Approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, NKC demonstrated it is likely to maintain the appropriate relationships to the service area's existing health care system within the planning area. **This sub-criterion is met.**

DaVita, Inc.

The department considered DaVita's history of providing care to residents in Washington State. The department concludes that the applicant has been providing dialysis services to the residents of Washington State for several years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change these relationships.

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for five dialysis stations in King County planning area #4. This project proposes to establish a five-station facility in Des Moines within the planning area.

Approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. **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.*

Northwest Kidney Centers

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

DaVita, Inc.

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

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

Based on the source information reviewed, the department concludes that

- Northwest Kidney Centers' project does not meet the cost containment criteria in WAC 246-310-240(1) and (2); and
- DaVita, Inc.'s project has met the cost containment criteria in WAC 246-310-240(1) and (2).

- (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

Northwest Kidney Centers and DaVita, Inc.

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

Step Two

Northwest Kidney Centers

Within the application, NKC identified and rejected seven alternatives before submitting this project. A summary of each alternative is below. [source: Application, pp20-23]

Alternative 1-Establish a new dialysis facility in the planning area

This option was most extensively considered by NKC and ultimately rejected for a variety of reasons. First, SeaTac Kidney Center has the capacity to add five additional stations at its current site. Second, the costs incurred to build a new facility are significantly greater than the costs to add stations to an existing facility. Third and fourth is availability and accessibility. The five additional stations can be made operational in a short time, rather than the 12 months typically required to build a new facility. Since SeaTac Kidney Center is located next to the airport, it is accessible by public transportation, including both King County Metro bus service and the Puget Sound Link Light Rail. Finally, NKC considers SeaTac Kidney Center to be a valuable community resource. SeaTac Pavilion, a multi-purpose facility located at the SeaTac Kidney Center site, has four large classrooms available for community meetings and education, ranging in capacity from 20 to 120 people. NKC has hosted a number of chronic kidney disease related events for future patients to assist them in learning about early care and treatment before reaching the onset of stage five renal failure that requires dialysis.

Alternative 2-Postpone or do nothing

This alternative continues as status quo and ultimately requires patients to travel outside of the planning area to receive treatment.

Alternative 3-Add a night shift to SeaTac Kidney Center

Outpatient dialysis requires 3 to 4 hours of treatment at least three times a week. Dialysis facilities generally operate three patient shifts to accommodate patient schedules. This option requires the dialysis facility to add a fourth patient shift from 11:00pm to 7:00am. This fourth shift is usually not appealing to the majority of patients.

Alternative 4-Shorten treatment times at SeaTac Kidney Center

This alternative would add treatment capacity, however, there is some medical evidence suggesting that longer dialysis times, not shorter, result in better overall care and outcomes. As a result, the average treatment time at NKC has been increasing rather than decreasing.

Alternative 5-Increase home dialysis services

NKC offers both home peritoneal dialysis and home hemodialysis, and advocates to both nephrologists and patient for use of these modalities rather than opting for outpatient dialysis at treatment centers. As of December 31, 2010, NKC had 204 home dialysis patients, which is the largest home dialysis program in Washington State. However, not all patients opt to use this modality. Further, the numeric methodology outlined in WAC 246-310-284 projects station need based on patients who specifically choose incenter dialysis.

Alternative 6-Kidney transplantation

NKC advocates for kidney transplants for ESRD patients for whom it is not contraindicated and who demonstrate interest. Currently, over 19% of NKC patients are on the waiting list at one or more of the three transplant centers in Seattle. However, the supply of available donor organs has not kept pace with demand.

Alternative 7-Shared/contract service arrangements

NKC states that there are no other dialysis facilities in King County planning area #4.

Based on the seven options considered and rejected by NKC above, submission of this application was the preferred alternative.

DaVita, Inc

Within the application, DaVita identified and rejected one alternative before submitting this application. A summary of the alternative and DaVita's rationale for rejection is below. [source: Application, p26]

Alternative 1-Do Nothing

DaVita states it rejected this option for a variety of reasons. First, NKC is the only provider in the planning area, so at this time, there is no patient choice of providers. Second, since the existing provider already operates a 25-station facility, there are no significant economies of scale to be achieved at that site that would offset the improved access for a center located at least three miles from the existing provider. Finally, during the 'letter of intent' phase of this concurrent review cycle, two other providers submitted letters of intent indicating interest in establishing a new five-station facility in the planning area.

In summary, DaVita simply considered do nothing or submit this application. Considering there was a projected numeric need for additional dialysis station capacity in the planning area and DaVita does not have an existing facility in that planning area, the department concludes that the 'do nothing' option was appropriately rejected.

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 this tie-breaker 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 a 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.

Northwest Kidney Centers

A total of five points is possible. Table 13 shows the distribution of tie-breaker points under this sub-criterion for NKC.

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

WAC 246-310-288(1)	Point	Source
(a) Training services	1	Application, p7
(b) Private room(s) for isolating patients	1	Application, p7
(c) Permanent bed stations at the facility	1	Application, p7
(d) Evening shift	1	Application, p7
(e) Meeting the projected need	1	Application, Appendix 17
Total Points	5	

DaVita

A total of five points is possible. Table 14 on the following page shows the distribution of tie-breaker points under this sub-criterion for DaVita.

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

WAC 246-310-288(1)	Point	Source
(a) Training services	1	Application, p9
(b) Private room(s) for isolating patients	1	Application, p9
(c) Permanent bed stations at the facility	1	Application, p9
(d) Evening shift	1	Application, p9
(e) Meeting the projected need	1	Application, p18
Total Points	5	

Under WAC 246-310-288(1) where each applicant could receive a maximum of 5 points, both NKC 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 on the following page shows the distribution of tie-breaker points under this sub-criterion for NKC.

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

WAC 246-310-288(2)	Point	Source
(a) Economies of Scale	1	Application, p5 [\$20,194]
(b) Historical Provider	0	
(c) Patient Geographical Access	0	
(d) Provider Choice	0	
Total Points	1	

Table 16 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	Screening, Table 1A [\$398,541]
(b) Historical Provider	0	
(c) Patient Geographical Access	1	Mapquest and Yahoo Maps
(d) Provider Choice	1	
Total Points	2	

Table 17 below shows the total accumulation of tie-breaker points for both NKC and DaVita.

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

	Tie-Breaker Point Distribution	
	NKC	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	1
2(d) – Provider Choice	0	1
Cumulative Total	6	7

At the completion of the tie-breaker point allocations, NKC accumulated a total of six (6) points and DaVita accumulated a total of seven (7) points. Due to the results outlined in this section, the department concludes that DaVita’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 the DaVita project accounts for all five of the stations projected for the planning area, there are no stations remaining to award to NKC as the application earning the next highest point total.

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

Northwest Kidney Centers

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

DaVita, Inc

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

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

(a) *The costs, scope, and methods of construction and energy conservation are reasonable:*

WAC 246-310 does not contain specific WAC 246-310-240(2)(a) criteria as identified in WAC 246-310-200(2)(a)(i). There are known minimum building and energy standards that healthcare facilities must meet to be licensed or certified to provide care. If built to only the minimum standards all construction projects could be determined to be reasonable. However, the department, through its experience knows that construction projects are usually built to exceed these minimum standards. Therefore, the department considered information in the applications that addressed the reasonableness of their construction projects that exceeded the minimum standards.

Northwest Kidney Centers

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is met.**

DaVita, Inc.

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is met.**

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

Northwest Kidney Centers

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is met.**

DaVita, Inc.

This sub-criterion is also evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is met.**



2011
King County 4
ESRD Need Projection Methodology

Planning Area		6 Year Utilization Data - Resident Incenter Patients					
King Four	2005	2006	2007	2008	2009	2010	
98148	9	11	13	10	10	10	
98158	0	0	0	0	0	0	
98166	17	18	20	22	17	23	
98188	21	21	22	21	32	40	
98198	43	38	37	35	43	46	
TOTALS	90	88	92	88	102	119	
246-310-284(4)(a)	Rate of Change 6% Growth or Greater? Regression Method:		-2.22% FALSE	4.55% FALSE	-4.35% FALSE	15.91% TRUE	16.67% TRUE
	Linear						
246-310-284(4)(c)			Year 1 2011	Year 2 2012	Year 3 2013	Year 4 2014	
Projected Resident Incenter Patients Station Need for Patients	from 246-310-284(4)(b)		119.40	126.60	133.80	141.00	
	Divide Resident Incenter Patients by 4.8		24.8750	26.3750	27.8750	29.3750	
	Rounded to next whole number		25	27	28	30	
246-310-284(5)	subtract (4)(c) from approved stations						
Existing CN Approved Stations			25	25	25	25	
Results of (4)(c) above			25	27	28	30	
Net Station Need			0	-2	-3	-5	
Negative number indicates need for stations							
246-310-284(4)(e)							
Name of Center	# of Stations	Patients	Utilization (Patients per Station)				
NKC SeaTac (Cascade)	25	120	4.80				
Total	25	120					
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							

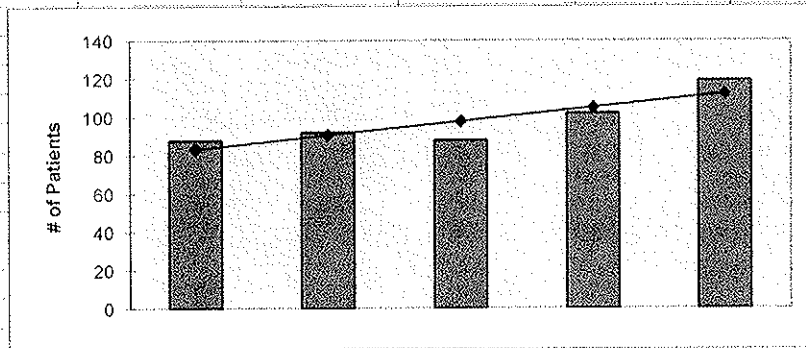


2011
King County 4
ESRD Need Projection Methodology

x	y	Linear
2006	88	83
2007	92	91
2008	88	98
2009	102	105
2010	119	112
2011		119.40
2012		126.60
2013		133.80
2014		141.00

SUMMARY OUTPUT

Regression Statistics	
Multiple R	0.865024796
R Square	0.748267898
Adjusted R Square	0.664357198
Standard Error	7.624521843
Observations	5



ANOVA

	df	SS	MS	F	Significance F
Regression	1	518.4	518.4	8.917431193	0.058306994
Residual	3	174.4	58.13333333		
Total	4	692.8			

	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95.0%	Upper 95.0%
Intercept	-14359.8	4841.460903	-2.966005569	0.05925763	-29767.48936	1047.889363	-29767.48936	1047.889363
X Variable 1	7.2	2.411085509	2.986206823	0.058306994	-0.47315017	14.87315017	-0.47315017	14.87315017

RESIDUAL OUTPUT

Observation	Predicted Y	Residuals
1	83.4	4.6
2	90.6	1.4
3	97.8	-9.8
4	105	-3
5	112.2	6.8