

**Acute Care Services Committee
Agency Report
Petition to Create an ESRD Facility Need Policy to Replace
the Need Determination Methodology**

Petitioner:

DaVita, Inc.

Contact:

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Request:

DaVita requests creation of Policy ESRD-3.

Background Information:

Chapter Two of the *North Carolina 2020 State Medical Facilities Plan (SMFP)* provides that “[a]nyone who finds that the North Carolina State Medical Facilities Plan policies or methodologies, or the results of their application, are inappropriate may petition for changes or revisions. Such petitions are of two general types: those requesting changes in basic policies and methodologies, and those requesting adjustments to the need projections.” The annual planning process and timeline allow for submission of petitions for changes to policies and methodologies in the spring.

Two need methodologies exist for ESRD services, a county methodology and a facility-specific methodology. A new approach to the facility need methodology took effect January 1, 2020, reflecting the collaborative work of the Acute Care Services (ACS) Committee, Division of Health Regulation Service (DHSR) staff and dialysis providers over the past year.

Analysis/Implications:

The Petitioner requests the creation of the following policy as an alternative to the facility need methodology:

Policy ESRD-3: Addition of Dialysis Stations Based on Facility Need

A kidney disease treatment center (facility) may submit a certificate of need (CON) application no more than three times in one calendar year pursuant to the review schedule in Chapter 3 of the SMFP. A facility qualifies to add stations if:

1. Current facility utilization reported in the CON application is 80% or greater (i.e., 3.2 patients per station per week; “current” means in-center utilization as of a reporting date no more than 90 days before the date the certificate of need application is submitted.); and
2. The facility’s growth rate demonstrates a deficit of at least one station, based on the utilization data in Form C of the CON application. The applicant must demonstrate the need for the stations and satisfy the performance standards at 10A NCAC 14C .2203.

The Petitioner is requesting a policy approach instead of the facility need methodology. This Petition is similar to the one they submitted in the Summer of 2019.

The ACS Committee and the SHCC agreed the modified facility need methodology will be evaluated 1 year after implementation. The first time that dialysis patient data derived from the modified methodologies in the 2020 SMFP will be available for review is at the ACS Committee meeting in May 2021.

Agency Recommendation:

The Agency supports the standard methodologies for ESRD facilities. The Agency sees no reason to change the original plan to review the modified methodology after its first year of implementation. Given available information and comments submitted by the March 18, 2020 deadline, and in consideration of factors discussed above, the Agency recommends denial of the Petition.