

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: November 17, 2017

Findings Date: November 17, 2017

Project Analyst: Gregory F. Yakaboski

Team Leader: Lisa Pittman

Project ID #: F-11408-17

Facility: Dialysis Care of Rowan County

FID #: 944673

County: Rowan

Applicant(s): Total Renal Care of North Carolina, LLC

Project: Add three dialysis stations to the existing facility for a total of 29 stations upon completion of this project, Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate eight stations) and Project I.D. #F-11324-17 (add one dialysis station).

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §131E-183(a) The Agency shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

Total Renal Care of North Carolina, LLC (TRC and/or the applicant), d/b/a Dialysis Care of Rowan County (DC Rowan County and/or the facility) proposes to add three dialysis stations to the existing facility for a total of 29 stations upon completion of this project, Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station). The parent company of TRC is DaVita, Inc. DC Rowan County offers a peritoneal dialysis (PD) program but does not offer a home hemodialysis (HH) program.

**Need Determination**

The 2017 State Medical Facilities Plan (2017 SMFP) provides a county need methodology and a facility need methodology for determining the need for new dialysis stations. According to the July 2017 Semiannual Dialysis Report (SDR), Table D, the county need methodology shows there is a surplus of four dialysis stations in Rowan County, thus the applicant cannot apply to add any additional stations based on the county need methodology. However, an applicant is eligible to apply for additional dialysis stations based on the facility need methodology if the utilization rate for the dialysis center, as reported in the most recent SDR, is at least 3.2 patients per station per week, or 80%. The applicant is eligible to apply for additional stations in its existing facility based on the facility need methodology because the utilization rate reported for DC Rowan County in the July 2017 SDR, Table B, is 3.9643 patients per station per week, or 99.1% ( $3.9643 / 4 \text{ patients per station} = 0.9910$  or 99.1%). This utilization rate was calculated based on 111 in-center dialysis patients and 28 certified dialysis stations ( $111 \text{ patients} / 28 \text{ stations} = 3.9643 \text{ patients per station per week}$ ).

Application of the facility need methodology indicates additional stations are needed for this facility, as illustrated in the following table:

<b>OCTOBER 1 REVIEW-JULY SDR</b>		
Required SDR Utilization		80%
Center Utilization Rate as of 12/31/16		99.1%
Certified Stations		33
Pending Stations		1
<b>Total Existing and Pending Stations</b>		<b>34</b>
In-Center Patients as of 12/31/16 (July 2017 SDR) (SDR2)		111
In-Center Patients as of 6/30/16 (Jan 2017 SDR) (SDR1)		107
<b>Step</b>	<b>Description</b>	<b>Result</b>
(i)	Difference (SDR2 - SDR1)	4
	Multiply the difference by 2 for the projected net in-center change	8
	Divide the projected net in-center change for 1 year by the number of in-center patients as of 6/30/16	0.0748
(ii)	Divide the result of Step (i) by 12	0.0062
(iii)	Multiply the result of Step (ii) by 12 (the number of months from 12/31/15 until 12/31/16)	0.0748
(iv)	Multiply the result of Step (iii) by the number of in-center patients reported in SDR2 and add the product to the number of in-center patients reported in SDR2	119.299 1
(v)	Divide the result of Step (iv) by 3.2 patients per station	37.2810
	and subtract the number of certified and pending stations to determine the number of stations needed	3.2810

As shown in the table above, based on the facility need methodology for dialysis stations, the potential number of stations needed is three stations. Step (C) of the facility need methodology states, “*The facility may apply to expand to meet the need established . . . , up to a maximum of ten stations.*” The applicant proposes to add three new stations, therefore the application is consistent with the facility need determination for dialysis stations.

## Policies

There is one policy in the 2017 SMFP which is applicable to this review. *POLICY GEN-3: BASIC PRINCIPLES* on page 33 of the 2017 SMFP is applicable to this review because the facility need methodology is applicable to this review. Policy GEN-3 states:

*“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”*

### Promote Safety and Quality

The applicant describes how it believes the proposed project would promote safety and quality in Section B, pages 9-11, Section K.1(g), page 42, Section N.1, page 52 and Section O, page 53, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote safety and quality.

### Promote Equitable Access

The applicant describes how it believes the proposed project would promote equitable access in Section B, pages 10-11, Section I, pages 37-39, Section L, pages 46-50, and referenced exhibits and Section N.1, page 52. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote equitable access.

### Maximize Healthcare Value

The applicant describes how it believes the proposed project would maximize healthcare value in Section B, page 11, Section F, Section K and Section N, page 52, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would maximize healthcare value.

The applicant adequately demonstrates how its projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the facility need as identified by the applicant. Therefore, the application is consistent with Policy GEN-3.

**Conclusion**

In summary, the applicant adequately demonstrates that the proposal is consistent with the facility need methodology in the July 2017 SDR and Policy GEN-3. Therefore, the application is conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

**C**

TRC proposes to add three dialysis stations to the existing facility for a total of 29 stations upon completion of this project, Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station). DC Rowan County offers a PD program but does not offer a HH program.

**Patient Origin**

On page 373, the 2017 SMFP defines the service area for dialysis services as the dialysis station planning area in which the dialysis station is located. Except for the Cherokee-Clay-Graham Multicounty Planning Area and the Avery-Mitchell-Yancey Multicounty Planning Area, each of the 94 remaining North Carolina counties is a separate dialysis station planning area. Thus, the service area for this facility consists of Rowan County. Facilities may also serve residents of counties not included in their service area.

In Section C, page 21, the applicant provides a table showing the historical patient origin for both in-center (IC) patients and PD patients served by DC Rowan County, as shown below:

**Dialysis Patients as of 12/31/2016**

<b>COUNTY</b>	<b>IC</b>	<b>PD</b>
Rowan	104	28
Alexander	0	1
Cabarrus	1	0
Davidson	2	1
Davie	1	2
Iredell	0	1
Other States	3	0
<b>Total</b>	<b>111</b>	<b>33</b>

In Section C, page 14, the applicant provides the projected patient origin for DC Rowan County for both IC patients and PD patients for operating year one (OY1) and operating year two (OY2) following completion of the proposed project, Project I.D.#F-11154-16 (add six dialysis

stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station), as shown below:

COUNTY	OPERATING YEAR 1 CY2019			OPERATING YEAR 2 CY2020			COUNTY PATIENTS AS % OF TOTAL	
	IC	HH	PD	IC	HH	PD	OY 1	OY 2
Rowan	92	0	29	98	0	30	91.0%	91.4%
Alexander	0	0	1	0	0	1	0.8%	0.7%
Cabarrus	1	0	0	1	0	0	0.8%	0.7%
Davidson	2	0	1	2	0	1	2.3%	2.1%
Davie	1	0	2	1	0	2	2.3%	2.1%
Iredell	0	0	1	0	0	1	0.8%	0.7%
Other States	3	0	0	3	0	0	2.3%	2.1%
Totals	99	0	34	105	0	35	100.0%	100.0%

The applicant provides the assumptions and methodology used to project patient origin on pages 14-17. The applicant adequately identifies the population to be served.

**Analysis of Need**

In Section B-2, pages 6-7, the applicant states the need for the proposed project is based on the facility need methodology. The discussion regarding the need determination found in Criterion (1) is incorporated herein by reference. See also Section C-2, pages 16-17.

In Section N.1, page 52, the applicant also discusses the need for the additional stations at DC Rowan County. The applicant states,

*“...This project primarily serves to address the needs of a population already served (or projected to be served, based on historical growth rates) by Total Renal Care of North Carolina, LLC.*

*The expansion of DC Rowan County will enhance the accessibility to dialysis for our patients, and by reducing the economic and physical burdens on our patients, this project will enhance the quality and cost effectiveness of our services because it will make it easier for patients, family members and other [sic] involved in the dialysis process to receive services.”*

**Projected Utilization-IC Patients**

In Section C, page 14, the applicant provides projected utilization during the first two years of operation following project completion, as illustrated in the table below:

COUNTY	OPERATING YEAR 1 CY2019			OPERATING YEAR 2 CY2020			COUNTY PATIENTS AS % OF TOTAL	
	IC	HH	PD	IC	HH	PD	OY 1	OY 2
Rowan	92	0	29	98	0	30	91.0%	91.4%
Alexander	0	0	1	0	0	1	0.8%	0.7%
Cabarrus	1	0	0	1	0	0	0.8%	0.7%
Davidson	2	0	1	2	0	1	2.3%	2.1%
Davie	1	0	2	1	0	2	2.3%	2.1%
Iredell	0	0	1	0	0	1	0.8%	0.7%
Other States	3	0	0	3	0	0	2.3%	2.1%
Totals	99	0	34	105	0	35	100.0%	100.0%

In Section C, pages 14-17, the applicant provides the assumptions and methodology used to project utilization. On pages 14-15, the applicant illustrates how in-center patient utilization was projected, which is summarized below:

- OY1 is January 1, 2019 – December 31, 2019 (OY1)
- OY2 is January 1, 2019 – December 31, 2020 (OY2)
- In-center patient population comprised of residents of Rowan County is projected to grow at 6.5%, the Five Year Average Annual Growth Rate (AAGR) for Rowan County pursuant to Table D in the July 2017 SDR.
- DC Rowan County had 111 in-center patients as of December 31, 2016. One hundred and four in-center patients were residents of Rowan County and seven in-center patients were not residents of Rowan County. In projecting utilization no growth calculations were performed on the seven in-center patients dialyzing at DC Rowan County who were not residents of Rowan County.
- 30 in-center patients currently dialyzing at DC Rowan County are projected to transfer to the approved Spencer Dialysis facility upon its certification.

In Section C, page 15, the following table illustrates application of these assumptions and the methodology used.

Begin with the Rowan County patients dialyzing at DC Rowan County as of January 1, 2017.	104
Project this patient population forward one year to December 31, 2017.	$1.065 \times 104 = 110.76$
Project this patient population forward one year to December 31, 2018.	$1.065 \times 110.76 = 117.9594$
Subtract the 30 Rowan County residents projected to transfer to the new Spencer Dialysis facility.	$117 - 30 = 87$
Project this patient population forward one year to December 31, 2019.	$1.065 \times 87 = 92.655$
<b>OY1: Add seven patients from outside the county. This is the projected ending census for OY 1 (CY2019).</b>	$92.655 + 7 = 99.655$
Project the Rowan County patient population forward one year to December 31, 2020.	$1.065 \times 92.655 = 98.67758$
<b>OY2: Add seven patients from outside the county. This is the projected ending census for OY 2 (CY2020).</b>	$98.67758 + 7 = 105.67758$

Projected patients for OY1 and OY2 are rounded down to the nearest whole number. Therefore, at the end of OY1 the facility is projected to serve 99 in-center patients and at the end of OY2 the facility is projected to serve 105 in-center patients.

- OY1: 99 in-center patients = 3.41 patients per station per week or 85.34% (99 patients / 29 stations = 3.4137/ 4 = .8534 or 85.34%).
- OY2: 105 in-center patients = 3.62 patients per station per week or 90.5% (105 patients / 29 stations = 3.6206/4 = .905 or 90.5%).

The projected utilization of 3.41 patients per station per week at the end of OY1 exceeds the minimum standard of 3.2 in-center patients per station per week required by 10A NCAC 14C .2203(b).

Projected utilization for in-center patients is based on reasonable and adequately supported assumptions regarding continued growth at DC Rowan County.

Projected Utilization-Home PD Patients

The applicant does not currently nor does the applicant propose to provide home hemodialysis. Those services are provided through a service agreement with Dialysis Care of Kannapolis to provide home hemodialysis training. See Exhibit I-1.

The applicant does, however, provide peritoneal dialysis training and plans to continue providing that service. Projected PD utilization is discussed on page 16 of the application. The applicant states that it is “reasonable to assume that the DC Rowan County home-training program will grow at a rate of at least one patient per year during the period of growth.” In

a table on the same page, the applicant projects PD patient growth of two patients per year. The AAGR for IC patients in Rowan County pursuant to Table D in the July 2017 SDR is 6.5%. As shown in the table below, PD patients are projected to grow at less than half of the AAGR for IC patients.

	CY2017	CY2018	CY2019 (OY1)	CY2020 (OY2)
PD Patients (Start of Year)	33	34	35-2=33*	34
PD Patients (End of Year)	34	35	34	35
% Growth Year over Year	na	2.9%	na	2.9%

\*2 Rowan County patients projected to transfer to Spencer Dialysis upon its certification.

Projected utilization for OY1 and OY2 at DC Rowan County for PD patients is based on reasonable and adequately supported assumptions regarding continued growth.

**Access**

In Section L, page 46, the applicant states that DC Rowan County makes services available to all patients in the service area without qualifications which includes low-income, racial and ethnic minorities, women, handicapped, elderly, and other traditionally underserved persons.

In Section L, page 50, the applicant reports that 87.9% of the in-center patients who received treatments at DC Rowan County had some or all of their services paid for by Medicare or Medicaid in CY 2016, as illustrated in the table below.

**Historical Payor Mix CY 2016**

Payment Source	IC Patients	PD Patients	Percent of Total Patients
Medicare	39.3%	35.7%	38.5%
Medicaid	2.8%	3.6%	3.0%
Commercial Insurance	3.7%	10.7%	5.2%
Medicare/Commercial	23.4%	28.6%	24.4%
Medicare/Medicaid	22.4%	10.7%	20.0%
VA	8.4%	10.7%	8.9%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

The applicant projects that for OY2 (CY2020) 87.9% of its IC patients will be Medicare or Medicaid recipients. (See application page 47) The applicant adequately demonstrates the extent to which all residents of the service area, including underserved groups, are likely to have access to its services.

**Conclusion**

In summary, the applicant adequately identifies the population to be served, adequately demonstrates the need that population has for the services proposed and the extent to which all residents of the area, including underserved groups, are likely to have access to the proposed services. Therefore, the application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

In Section E-1, page 25, the applicant discusses the alternatives considered prior to submitting this application, which include:

1. Maintain the Status Quo – based on the growth rate at DC Rowan County the applicant dismissed this option as not effective
2. Relocate existing stations from other DaVita facilities in Rowan County- The applicant states that there are two existing DaVita facilities in Rowan County. The other existing facility is Dialysis Care of Kannapolis which is operating at over 80% capacity. The applicant states relocating existing stations from Dialysis Care of Kannapolis to DC Rowan County when Dialysis Care of Kannapolis is already operating at over 80% capacity would negatively impact the patients currently dialyzing at Dialysis Care of Kannapolis. There is a third approved dialysis facility, Spencer Dialysis, in Rowan County which is also a DaVita facility. Spencer Dialysis is a ten dialysis station facility. A dialysis facility must have at least ten dialysis stations therefore relocating any stations from Spencer Dialysis, once it is completed, is not an option.

After considering these alternatives to its proposal, the applicant believes the most effective and least costly alternative is to add three stations to ensure adequate access for the patients of DC Rowan County.

Furthermore, the application is conforming to all other statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that this proposal is the least costly or most effective alternative to meet the identified need for three additional station at DC Rowan County. Therefore, the application is conforming to this criterion subject to the following conditions:

- 1. Total Renal Care of North Carolina, LLC d/b/a Dialysis Care of Rowan County shall materially comply with all representations made in the certificate of need application.**

2. Pursuant to the facility need determination in the July 2017 SDR, Total Renal Care of North Carolina, LLC d/b/a Dialysis Care of Rowan County shall develop no more than 3 additional dialysis stations for a total of no more than 29 certified stations at Dialysis Care of Rowan County upon completion of this project and Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station), which shall include any home hemodialysis training or isolation stations.
  3. Total Renal Care of North Carolina, LLC d/b/a Dialysis Care of Rowan County shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to the issuance of the certificate of need.
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

TRC proposes to add three dialysis stations to the existing facility for a total of 29 stations upon completion of this project, Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station). DC Rowan County offers a PD program but does not offer a HH program.

**Capital and Working Capital Costs**

In Section F, page 26, the applicant states that there are no projected capital costs associated with the proposed project.

In Section F, pages 27-29, the applicant states that there are no working capital needs for the proposed project since DC Rowan is an existing facility.

**Financial Feasibility**

The applicant provided pro forma financial statements for the first two years of the project. In the pro forma financial statement (Form B), the applicant projects that revenues will exceed operating expenses in the first two operating years of the project, as shown in the table below.

	Operating Year 1	Operating Year 2
Total Treatments	19,266	20,229
Total Gross Revenues (Charges)	\$5,438,744	\$5,704,311
Total Net Revenue	\$5,098,319	\$5,346,700
Average Revenue per Treatment	\$264.63	\$264.31
Total Operating Expenses (Costs)	\$4,292,987	\$4,487,602
Average Expense per Treatment	\$222.83	\$221.84
Net Income	\$805,333	\$859,098

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section R of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

### **Conclusion**

In summary, the applicant adequately demonstrates the financial feasibility of the project is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. Therefore, the application is conforming to this criterion.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

### C

TRC proposes to add three dialysis stations to the existing facility for a total of 29 stations upon completion of this project, Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station). DC Rowan County offers a PD program but does not offer a HH program.

On page 373, the 2016 SMFP defines the service area for dialysis services as the dialysis station planning area in which the dialysis station is located. Except for the Cherokee-Clay-Graham Multicounty Planning Area and the Avery-Mitchell-Yancey Multicounty Planning Area, each of the 94 remaining North Carolina counties is a separate dialysis station planning area. Thus, the service area for this facility consists of Rowan County. Facilities may also serve residents of counties not included in their service area.

According to Table B of the July 2017 SDR indicates there are two existing and one approved dialysis facilities in Rowan County, as shown below.

**Rowan County Dialysis Facilities**

<b>Dialysis Facilities</b>	<b>Owner</b>	<b># of Patients</b>	<b>Location</b>	<b># of Certified Stations as of 6/9/17</b>	<b># of Approved Stations as of 6/9/17</b>	<b>Percent Utilization</b>
Dialysis Care of Kannapolis*	DaVita	88	Kannapolis	25	3	81.48%
Dialysis Care of Rowan County**	DaVita	111	Salisbury	33	-8	99.07%
Spencer Dialysis***	DaVita	0	Spencer	0	10	0.0%

Source: Table B, July 2017 SDR

\*Note: Dialysis Care of Kannapolis has received a certificate of need to add 5 stations pursuant to Project I.D. #F-11245-16.

\*\*Note: Dialysis Care of Rowan County has received a certificate of need for the following projects: Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate eight stations) and Project I.D. #F-11324-17 (add one dialysis station).

\*\*\*Note: Total Renal Care of North Carolina, LLC., Project ID #F-11264-16, received a certificate of need dated April 7, 2017, to develop a new 10-station facility to be known as Spencer Dialysis by relocating 8 stations from DC Rowan County and 2 stations from Dialysis Care of Kannapolis.

As illustrated above, the three dialysis facilities (two existing and one approved) in Rowan County are operated by DaVita. Based on the most recent SDR, the two existing facilities in Rowan County operated at 81.0% utilization rate or above.

In Section C, pages 14-17, the applicant demonstrates that DC Rowan County will service a total of 99 in-center patients at the end of OY1 (CY2019) for a utilization rate of 85.34% or 3.41 patients per station per week ( $99 \text{ patients} / 29 \text{ stations} = 3.4137 / 4 = .8534$  or 85.34%). The projected utilization of 3.41 patients per station per week for Operating Year One satisfies the 3.2 in-center patients per station per week threshold as required by 10A NCAC 14C .2203(b).

The applicant proposes to add three dialysis stations to the existing DC Rowan County facility in Salisbury, in Rowan County. The applicant adequately demonstrates the need to add three additional station at DC Rowan County based on the number of in-center patients it proposes to serve. The discussion on projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the proposal will not result in the unnecessary duplication of existing or approved dialysis stations in Rowan County. Consequently, the application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

In Section H, page 33, the applicant provides the following table to illustrate the projected staffing in full time equivalents (FTEs) for DC Rowan County. The applicant states the Medical Director will not be employed by the facility, and thus is not reflected on the staffing chart.

<b>DC ROWAN COUNTY</b>			
<b>POSITION</b>	<b>CURRENT # FTEs</b>	<b># FTEs TO BE ADDED</b>	<b>PROJECTED # FTEs</b>
Registered Nurse	4.0	0.0	4.0
Technician (Patient Care)	11.0	0.0	11.0
Administrator	1.0	0.0	1.0
Dietician	1.0	0.0	1.0
Social Worker	1.0	0.0	1.0
Home Training RN	2.0	0.0	2.0
Administrative Assistant	1.0	0.0	1.0
Bio-med Technician	1.0	0.0	1.0
<b>Total</b>	<b>22.0</b>	<b>0.0</b>	<b>22.0</b>

As illustrated in the table above, the applicant projects a total of 22.0 FTEs at DC Rowan County.

In Section H-7, page 36, the applicant provides the projected direct care staff for DC Rowan County in OY2 (CY2020), as shown below in the table:

<b>DC ROWAN COUNTY</b>					
<b>DIRECT CARE POSITIONS</b>	<b># FTEs</b>	<b>HOURS PER YEAR PER FTE</b>	<b>TOTAL ANNUAL FTE HOURS</b>	<b>TOTAL ANNUAL HOURS OF OPERATION</b>	<b># FTE HOURS PER HOUR OF OPERATION</b>
Registered Nurse	4	2,080	8,320	3,120	2.7
Patient Care Tech	11	2,080	22,800	3,120	7.3
<b>Total</b>	<b>15</b>	<b>2,080</b>	<b>31,200</b>	<b>3,120</b>	<b>10.0</b>

In Section I-3, page 38, the applicant identifies Dr. Earnest Johnson of Metrolina Nephrology Associates, PA, as the Medical Director of the proposed facility. In Exhibit I, the applicant provides a copy of an August 15, 2017 letter signed by Dr. Johnson, supporting the project and confirming his commitment to serve as Medical Director. In Section H-3, page 34, the applicant states that vacant staff positions are filled by one or more of the following: the DaVita Teammate Recruiter, Teammate Referral Program and/or Student Internship Program. The applicant states on page 35 that DaVita offers a wide range of teammate benefits and maintains a competitive salary structure in order to attract qualified teammates.

The applicant documents the availability of adequate health manpower and management personnel, including the Medical Director, for the provision of the proposed dialysis services. Therefore, the application is conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support

services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C

In Section I-1, page 36, the applicant identifies the necessary ancillary and support services and indicates how they will be made available. The applicant discusses coordination with the existing health care system on pages 37-39. Exhibit I contains a copy of an agreement with DaVita Laboratory Services, Inc. Exhibit I also contains a letter from Dr. Ernest Johnson of Metrolina Nephrology Associates, P.A., medical director of the facility expressing his support for the proposed project and a letter from the Facility's Administrator stating that acute dialysis services will be provided by Rowan Medical Center and transplant services will be provided by Carolinas Medical Center. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
  - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
  - (iii) would cost no more than if the services were provided by the HMO; and
  - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

(13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

(a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

In Section L, page 50, the applicant reports that 87.9% of the in-center patients who received treatments at DC Rowan County had some or all of their services paid for by Medicare or Medicaid in CY 2016, as illustrated in the table below.

**Historical Payor Mix CY 2016**

Payment Source	IC Patients	PD Patients	Percent of Total Patients
Medicare	39.3%	35.7%	38.5%
Medicaid	2.8%	3.6%	3.0%
Commercial Insurance	3.7%	10.7%	5.2%
Medicare/Commercial	23.4%	28.6%	24.4%
Medicare/Medicaid	22.4%	10.7%	20.0%
VA	8.4%	10.7%	8.9%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant's service area.

Percent of Population						
County	% 65+	% Female	% Racial and Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
2016 Estimate	2016 Estimate	2016 Estimate	2016 Estimate	2015 Estimate	2011-2015	2015 Estimate
Rowan	17%	51%	27%	17%	12%	14%
Statewide	16%	51%	37%	16%	10%	13%

Source: <http://www.census.gov/quickfacts/table> Latest Data 7/1/16 as of 8/22/17

\*Excludes "White alone" who are "not Hispanic or Latino"

\*\*\*This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable... The vintage year (e.g., V2016) refers to the final year of the series (2010 thru 2016). Different vintage years of estimates are not comparable."

The IPRO ESRD Network of the South Atlantic Network 6 (IPRO SA Network 6) consists of North Carolina, South Carolina and Georgia. IPRO SA Network 6 provides a 2015 Annual Report which includes aggregate ESRD patient data from all three states. However, a comparison of the *Southeastern Kidney Council Network 6 Inc. 2014 Annual Report*<sup>1</sup> percentages for North Carolina and the aggregate data for all three states in IPRO SA Network 6 shows very little variance; therefore the statistics for IPRO SA Network 6 are representative of North Carolina.

The IPRO SA Network 6 provides prevalence data on dialysis patients by age, race, and gender in its 2015 annual report, pages 27-28<sup>2</sup>. In 2015, over 85% of dialysis patients in Network 6 were 45 years of age and older, over 67% were non-Caucasian and 45% were female. (IPRO SA Network 6).

The applicant adequately demonstrates that it currently provides access to medically underserved populations. Therefore, the application is conforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

In Section L.3(e), page 49, the applicant states, “*DC Rowan County has no obligation under any federal regulations to provide uncompensated care, community service or access by minorities and handicapped persons except those obligations which are placed on all medical facilities under Section 504 of the Rehabilitation Act of 1973 and its subsequent amendment in 1993. The facility has no obligation under the Hill Burton Act.*” In Section L.6, page 49, the applicant states, “*There have been no civil rights equal access complaints filed within the last five years.*” The application is conforming to this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section L.1, page 46, the applicant states:

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<sup>1</sup><http://esrd.ipro.org/wp-content/uploads/2016/06/2014-Network-6-Annual-Report-web.pdf>

<sup>2</sup>[http://network6.esrd.ipro.org/wp-content/uploads/sites/4/2017/05/2015\\_NW-6\\_Annual-Report\\_Final-11-29-2016.pdf](http://network6.esrd.ipro.org/wp-content/uploads/sites/4/2017/05/2015_NW-6_Annual-Report_Final-11-29-2016.pdf)

*“DC Rowan County, by policy, makes dialysis services available to all residents in its service area without qualifications. We serve patients without regard to race, color, national origin, gender, sexual orientation, age, religion, or disability.”*

In Section L.1(b), page 47, the applicant projects that 87.9% in-center patients who will receive dialysis treatments at DC Rowan County will have all or part of their services paid for by Medicare and or Medicaid, as illustrated below:

**DC Rowan County  
Projected Payor Mix OY2 (CY2020)**

<b>Payment Source</b>	<b>IC Patients</b>	<b>PD Patients</b>	<b>Percent of Total Patients</b>
Medicare	39.3%	35.7%	38.5%
Medicaid	2.8%	3.6%	3.0%
Commercial Insurance	3.7%	10.7%	5.2%
Medicare/Commercial	23.4%	28.6%	24.4%
Medicare/Medicaid	22.4%	10.7%	20.0%
VA	8.4%	10.7%	8.9%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

The applicant states on page 47, that projected payor mix is based on its historical payor mix with no adjustments to the rates.

The applicant adequately demonstrates that medically underserved populations will have access to the proposed services. Therefore, the application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

**C**

In Section L-4, page 49, the applicant states:

*“Patients with End Stage Renal Disease have access to dialysis services upon referral by a Nephrologist with privileges at DC Rowan County. ... Patients from outside the facility catchment area requesting transfer to this facility will be processed in accordance with the facility transfer and transient policies, found at Exhibit L-3. ...”*

The applicant adequately demonstrates that it will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

In Section M-1, page 51, the applicant states that DC Rowan County has been offered as a clinical training site for nursing students attending Brookstone College. Exhibit M-2 contains a copy of the training agreement with Brookstone College. The information provided in Section M and referenced exhibits is reasonable and supports a finding of conformity to this criterion.

- (15) Repealed effective July 1, 1987.
  - (16) Repealed effective July 1, 1987.
  - (17) Repealed effective July 1, 1987.
  - (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

TRC proposes to add three dialysis stations to the existing facility for a total of 29 stations upon completion of this project, Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate 8 stations) and Project I.D. #F-11324-17 (add one dialysis station). DC Rowan County offers a PD program but does not offer a HH program.

On page 373, the 2016 SMFP defines the service area for dialysis services as the dialysis station planning area in which the dialysis station is located. Except for the Cherokee-Clay-Graham Multicounty Planning Area and the Avery-Mitchell-Yancey Multicounty Planning Area, each of the 94 remaining North Carolina counties is a separate dialysis station planning area. Thus, the service area for this facility consists of Rowan County. Facilities may also serve residents of counties not included in their service area.

According to Table B of the July 2017 SDR indicates there are two existing and one approved dialysis facilities in Rowan County, as shown below.

**Rowan County Dialysis Facilities**

Dialysis Facilities	Owner	# of Patients	Location	# of Certified Stations as of 6/9/17	# of Approved Stations as of 6/9/17	Percent Utilization
Dialysis Care of Kannapolis*	DaVita	88	Kannapolis	25	3	81.48%
Dialysis Care of Rowan County**	DaVita	111	Salisbury	33	-8	99.07%
Spencer Dialysis***	DaVita	0	Spencer	0	10	0.0%

Source: Table B, July 2017 SDR

\*Note: Dialysis Care of Kannapolis has received a certificate of need to add 5 stations pursuant to Project I.D. #F-11245-16.

\*\*Note: Dialysis Care of Rowan County has received a certificate of need for the following projects: Project I.D. #F-11154-16 (add six dialysis stations), Project I.D. #F-11264-16 (relocate eight stations) and Project I.D. #F-11324-17(add one dialysis station).

\*\*\*Note: Total Renal Care of North Carolina, LLC, Project ID #F-11264-16, received a certificate of need dated April 7, 2017, to develop a new 10-station facility to be known as Spencer Dialysis by relocating 8 stations from DC Rowan County and 2 stations from Dialysis Care of Kannapolis.

As illustrated above, the three dialysis facilities (two existing and one approved) in Rowan County are operated by DaVita. Based on the most recent SDR, the two existing facilities in Rowan County operated at 81.0% utilization rate or above.

In Section C, pages 14-17, the applicant demonstrates that DC Rowan County will service a total of 99 in-center patients at the end of OY1 (CY2019) for a utilization rate of 85.34% or 3.41 patients per station per week (99 patients / 29 stations = 3.4137/ 4 = .8534 or 85.34%). The projected utilization of 3.41 patients per station per week for Operating Year One satisfies the 3.2 in-center patients per station per week threshold as required by 10A NCAC 14C .2203(b).

In Section N.1, page 52, the applicant discusses how any enhanced competition in the service area will promote cost-effectiveness, quality and access to the proposed services. The applicant states:

*“The expansion of DC Rowan County will have no effect on competition in Rowan County. Although the addition of stations at this facility could serve to provide more patients another option to select a provider that gives them the highest quality service and better meets their needs, this project primarily serves to address the needs of a population already served (or projected to be served...) by Total Renal Care of North Carolina, LLC.*

*The expansion of DC Rowan County will enhance accessibility to dialysis for our patients, and by reducing the economic and physical burdens on our patients, this project will enhance the quality and cost effectiveness of our services because it will make it easier for patients, family members and other [sic] involved in the dialysis process to receive services.”*

See also Sections C, F, G, H, L and P where the applicant discusses the impact of the project on cost-effectiveness, quality and access.

The information provided by the applicant in the sections referenced above is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on the cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application, and the following analysis:

- The applicant adequately demonstrates the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicant adequately demonstrates that it will continue to provide quality dialysis services. The discussions regarding quality found in Criteria (1) and (20) are incorporated herein by reference.
- The applicant demonstrates that it will continue to provide adequate access to medically underserved populations. The discussions regarding access found in Criteria (1) and (13) are incorporated herein by reference.

The application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

DaVita Inc. owns and operates seventy facilities in North Carolina as of September 15, 2017. (See application page 5.) In Section O and referenced Exhibits, the applicant identifies the kidney disease treatment centers located in North Carolina owned and operated by the applicant or an affiliated company that did not operate in compliance with the Medicare conditions of participation during the 18 month look-back period. In Section B-4, pages 9-10, the applicant discusses the methods it uses to ensure and maintain quality. In Section O, page 53 and Exhibit O-2, the applicant states that the most recent recertification survey for DC Rowan County was completed on May 16, 2017 and no condition-level deficiencies were cited. In Section A.11, page 5, and Exhibit O-3, the applicant states that out of the 70 facilities located in North Carolina operated by the applicant only the two listed below were not in compliance with Medicare conditions of participation during the 18 months prior to submission of the application.

<b>DVA Quality Care</b>			
<b>Facility</b>	<b>Survey Date</b>	<b>Back in Compliance</b>	
Southeastern Dialysis Center- Kenansville	3/22/2016	Yes	6/10/2016
Durham Dialysis	3/22/2016	Yes	5/31/2016

Based on a review of the certificate of need application and publicly available data, the applicant adequately demonstrates that it has provided quality care during the 18 months immediately preceding the submittal of the application through the date of the decision. The application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

### C

The application is conforming with all applicable Criteria and Standards for End-Stage Renal Disease Services. The specific criteria are discussed below.

## **SECTION .2200 – CRITERIA AND STANDARDS FOR END-STAGE RENAL DISEASE SERVICES**

### **10A NCAC 14C .2203 PERFORMANCE STANDARDS**

- (a) An applicant proposing to establish a new End Stage Renal Disease facility shall document the need for at least 10 stations based on utilization of 3.2 patients per station per week as of the end of the first operating year of the facility, with the exception that the performance standard shall be waived for a need in the State Medical Facilities Plan that is based on an adjusted need determination.
- NA- The applicant is not proposing to establish a new End Stage Renal Disease facility
- (b) An applicant proposing to increase the number of dialysis stations in an existing End Stage Renal Disease facility or one that was not operational prior to the beginning of the review period but which had been issued a certificate of need shall document the need for the additional stations based on utilization of 3.2 patients per station per week as of the end of the first operating year of the additional stations.
- C- In Section C, pages 14-17, the applicant demonstrates that DC Rowan County will service a total of 99 in-center patients at the end of OY1 (CY2019) for a utilization rate of 85.34% or 3.41 patients per station per week ( $99 \text{ patients} / 29 \text{ stations} = 3.4137 / 4 = .8534$  or 85.34%). The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

- (c) An applicant shall provide all assumptions, including the methodology by which patient utilization is projected.
- C- In Section C, pages 14-17, the applicant provides the assumptions and methodology used to project utilization of the facility. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.