

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: November 30, 2018

Findings Date: November 30, 2018

Project Analyst: Julie M. Faenza

Chief: Martha J. Frisone

Project ID #: F-11602-18

Facility: Huntersville Dialysis

FID #: 130490

County: Mecklenburg

Applicant: DVA Renal Healthcare, Inc.

Project: Add four dialysis stations for a total of 22 dialysis stations upon completion of this project and Project I.D. #F-11547-18 (relocate four stations from North Charlotte Dialysis)

### 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

DVA Renal Healthcare, Inc. (DVA) d/b/a Huntersville Dialysis (HD) proposes to add four dialysis stations to the existing facility for a total of 22 dialysis stations upon completion of this project and Project I.D. #F-11547-18 (relocate four stations from North Charlotte Dialysis).

#### **Need Determination**

The 2018 State Medical Facilities Plan (2018 SMFP) provides a county need methodology and a facility need methodology for determining the need for new dialysis stations. According to the July 2018 Semiannual Dialysis Report (SDR), the county need methodology shows there is a surplus of 42 dialysis stations in Mecklenburg County. Therefore, the July 2018 SDR does not indicate a need for additional stations in Mecklenburg County based on the county need

methodology. However, the 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 percent. The utilization rate reported for HDC in the July 2018 SDR is 3.36 patients per station per week, or 83.93 percent, based on 47 in-center dialysis patients and 14 certified dialysis stations [ $47 / 14 = 3.36$ ;  $3.36 / 4 = 0.8393$  or 83.93%].

Below is a table that illustrates the facility need for additional dialysis stations at HD:

<b>JULY SDR</b>		
Required SDR Utilization		80%
Center Utilization Rate as of 12/31/17		83.93%
Certified Stations		14
Pending Stations*		4
<b>Total Existing and Pending Stations</b>		<b>18</b>
In-Center Patients as of 12/31/17 (July 2018 SDR) (SDR2)		47
In-Center Patients as of 6/30/17 (January 2018 SDR) (SDR1)		38
<b>Step</b>	<b>Description</b>	<b>Result</b>
	Difference (SDR2 - SDR1)	9
(i)	Multiply the difference by 2 for the projected net in-center change	18
	Divide the projected net in-center change for 1 year by the number of in-center patients as of 12/31/17	0.4737
(ii)	Divide the result of Step (i) by 12	0.0395
(iii)	Multiply the result of Step (ii) by 12 (the number of months from 12/31/16 until 12/31/17)	0.4737
(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	69.2632
(v)	Divide the result of Step (iv) by 3.2 patients per station	21.6447
	and subtract the number of certified and pending stations to determine the number of stations needed	<b>4</b>

\*Proposed as part of Project I.D. #F-11547-18, which was approved by the Agency on November 28, 2018.

As shown in the table above, based on the facility need methodology for dialysis stations, the potential number of stations needed is four 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 four new stations; therefore, the application is consistent with the facility need determination for dialysis stations.

### **Policies**

There is one policy in the 2018 SMFP which is applicable to this review. Policy GEN-3: Basic Principles, on page 33 of the 2018 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 will promote safety and quality in Section B, pages 9-10; Section K, pages 39-40; Section N, page 50; Section O, page 51; and referenced exhibits. The information provided by the applicant is reasonable and supports the determination that the applicant’s proposal will promote safety and quality.

### Promote Equitable Access

The applicant describes how it believes the proposed project will promote equitable access in Section B, page 10; Section C, page 15; Section L, pages 44-48; Section N, page 50; and referenced exhibits. The information provided by the applicant is reasonable and supports the determination that the applicant’s proposal will promote equitable access.

### Maximize Healthcare Value

The applicant describes how it believes the proposed project will maximize healthcare value in Section B, page 11; Section C, pages 13-15; Section F, pages 23-27; Section K, pages 39-40; Section N, page 50; and referenced exhibits. The information provided by the applicant about its efforts to maximize healthcare value is reasonable and supports the determination that the applicant’s proposal will maximize healthcare value.

The applicant adequately demonstrates how its proposal incorporates 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

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

DVA proposes to add four dialysis stations to the existing HD facility for a total of 22 dialysis stations upon completion of this project and Project I.D. #F-11547-18 (relocate four stations from North Charlotte Dialysis).

The applicant submitted Project I.D. #F-11547-18 on July 16, 2018, proposing to relocate four existing dialysis stations from North Charlotte Dialysis to HD. The Agency approved that application on November 28, 2018. Those four stations are included in the facility need methodology calculations.

HD does not serve home hemodialysis patients or home peritoneal dialysis patients and does not propose to begin serving those patients as part of this application.

**Patient Origin**

On page 365, the 2018 SMFP defines the service area for dialysis stations 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 counties is a separate dialysis station planning area.” Thus, the service area is Mecklenburg County. Facilities may serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

<b>HD Patients by County</b>				
	<b>Historical (12/31/2017)</b>		<b>Projected (Operating Year 2)</b>	
<b>County</b>	<b># of Patients</b>	<b>% of Total</b>	<b># of Patients</b>	<b>% of Total</b>
Mecklenburg	42	89.4%	78	94.0%
Gaston	2	4.3%	2	2.4%
Lincoln	2	4.3%	2	2.4%
Rowan	1	2.1%	1	1.2%
<b>Total</b>	<b>47</b>	<b>100.0%</b>	<b>83</b>	<b>100.0%</b>

Table may not foot due to rounding.  
 Source: Section C, pages 13 and 18.

In Section C, pages 13-14, the applicant provides the assumptions and methodology it used to project patient origin. The applicant’s assumptions are reasonable and adequately supported.

### **Analysis of Need**

In Section C.2, page 15, the applicant states that the facility need methodology shows that the facility needs four additional stations based on the population growth at HD. Additionally, the applicant projects the 22-station facility to have a utilization rate of 3.27 patients per station per week, or 81.75 percent, by the end of the first operating year. The projected utilization exceeds the minimum operating standard of 3.2 patients per station per week as promulgated in 10A NCAC 14C. 2203(b).

The information is reasonable and adequately supported for the following reasons:

- HD is currently operating at a rate of 3.36 patients per station per day, or 83.93 percent of capacity.
- The applicant demonstrates eligibility to add dialysis stations to its facility via the facility need methodology. The discussion regarding the facility need methodology found in Criterion (1) is incorporated herein by reference.
- As discussed further below, the facility's growth rate has been higher than the Mecklenburg County Five Year Average Annual Change Rate (AACR) of 3.9 percent.

### **Projected Utilization**

In Section C, pages 13 and 18, the applicant provides historical and projected utilization as illustrated in the following table.

<b>HD Historical and Projected Utilization</b>				
	<b>Historical (12/31/2017)</b>		<b>Projected (Operating Year 2)</b>	
<b>County</b>	<b># of Patients</b>	<b>% of Total</b>	<b># of Patients</b>	<b>% of Total</b>
Mecklenburg	42	89.4%	78	94.0%
Gaston	2	4.3%	2	2.4%
Lincoln	2	4.3%	2	2.4%
Rowan	1	2.1%	1	1.2%
<b>Total</b>	<b>47</b>	<b>100.0%</b>	<b>83</b>	<b>100.0%</b>

Table may not foot due to rounding.

In Section C.1, pages 13-14, the applicant provides the assumptions and methodology it used to project utilization, which are summarized below.

- The applicant begins its utilization projections with its facility census as of December 31, 2017.
- The applicant assumes that the patient population currently receiving treatment at HD and who currently reside in Mecklenburg County will increase annually at a rate of 17 percent.

- On page 13, the applicant states that it experienced an increase of 10 patients between December 31, 2016 and December 31, 2017, which it states is a growth rate of 27 percent. The applicant states that it assumes that the growth rate going forward will be higher than the Mecklenburg County Five Year AACR, but will not be as high as 27 percent. The applicant states on page 14 that based on its historical experience, it projects a growth rate of 17 percent.
- The Project Analyst reviewed the data for HD in published SDRs. HD first reported a patient census in the January 2017 SDR. The Project Analyst calculated that HD had an average growth rate of 16.6 percent for the time period since the January 2017 SDR. Thus, the Project Analyst concludes that the applicant's use of a 17 percent growth rate for Mecklenburg County patients is reasonable and adequately supported.
- The applicant assumes no population growth for the patients who utilize the facility and live in other counties, but assumes that the patients will continue to dialyze at HDC and adds them to the calculations when appropriate.
- The project is scheduled for completion on January 1, 2020. OY1 is CY 2020. OY2 is CY 2021.

In Section C.1, page 14, the applicant provides the calculations it used to arrive at the projected patient census for OY1 and OY2, as summarized in the table below.

<b>HD Patients*</b>	
Starting point of calculations is Mecklenburg County patients dialyzing at HD on December 31, 2017.	42
Mecklenburg County patient population is projected forward by one year to December 31, 2018, using the projected growth rate of 17%.	$42 \times 1.17 = 49.14$
Mecklenburg County patient population is projected forward by one year to December 31, 2019, using the projected growth rate of 17%.	$49.14 \times 1.17 = 57.4938$
The patients from other counties are added. This is the projected census on December 31, 2019 and the starting census for this project.	$57.4938 + 5 = 62.4938$
Mecklenburg County patient population is projected forward by one year to December 31, 2020, using the projected growth rate of 17%.	$62.4938 \times 1.17 = 73.1177$
The patients from other counties are added. This is the projected census on December 31, 2020 (end of OY1).	$73.1177 + 5 = 78.1177$
Mecklenburg County patient population is projected forward by one year to December 31, 2021, using the projected growth rate of 17%.	$78.1177 \times 1.17 = 91.3977$
The patients from other counties are added. This is the projected census on December 31, 2021 (end of OY2).	$91.3977 + 5 = 96.3977$

\*On page 14, the applicant projects each year of growth starting on January 1. Doing so in this table would make it difficult to understand what the projections are for the end of OYs 1 and 2, which is important in determining whether the applicant meets the relevant performance standard. To avoid confusion, this table uses December 31 each year to explain the applicant's projections.

The applicant rounds down and projects to serve 72 patients on 22 stations, which is 3.27 patients per station per week ( $72 \text{ patients} / 22 \text{ stations} = 3.27$ ), by the end of OY1 and 83

patients on 22 stations, which is 3.77 patients per station per week (83 patients / 22 stations = 3.77), by the end of OY2. This exceeds the minimum of 3.2 patients per station per week as of the end of the first operating year as required by 10A NCAC 14C .2203(b).

Projected utilization is reasonable and adequately supported for the following reasons:

- The July 2018 SDR states that HD's utilization was 3.36 patients per station per week (a utilization rate of 83.93 percent) as of December 31, 2017.
- The applicant projects future utilization based on historical utilization.
- The applicant uses a growth rate that is reasonable and adequately supported to project growth of Mecklenburg County residents.
- The applicant does not project growth for its patients who do not reside in Mecklenburg County.
- The applicant's projected utilization exceeds the minimum of 3.2 patients per station per week as of the end of the first operating year as required by 10A NCAC 14C .2203(b).

### Access

In Section C.3, page 15, the applicant states:

*“By policy, the proposed services will be made available to all residents in its service area without qualifications. The facility will serve patients without regard to race, sex, age, or handicap. We will serve patients regardless of ethnic or socioeconomic situation.*

*We will make every reasonable effort to accommodate all patients, especially those with special needs such as the handicapped, patients attending school or patients who work.*

...

*Payment will not be required upon admission. Therefore, services are available to all patients including low income persons, racial and ethnic minorities, women, handicapped persons, elderly and other under-served persons.”*

In Section L, page 45, the applicant projects the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

<b>HD Projected Payor Mix CY 2021</b>	
<b>Payment Source</b>	<b>% Total Patients</b>
Private Pay	0.0%
Medicare	14.9%
Medicaid	6.4%
Commercial Insurance	12.8%
Medicare/Commercial	51.1%
Medicare/Medicaid	12.8%
Misc. (including VA)	2.1%
<b>Total</b>	<b>100.00%</b>

The projected payor mix is reasonable and adequately supported.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

- (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

The applicant does not propose to reduce a service, eliminate a service, or relocate a facility or service. Therefore, Criterion (3a) is not applicable to this review.

- (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

DVA proposes to add four dialysis stations to the existing HD facility for a total of 22 dialysis stations upon completion of this project and associated projects.

In Section E, page 22, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- **Maintain the Status Quo:** The applicant states that due to the growth rate at the facility, this is not an effective alternative.
- **Relocate Stations from Another DaVita Facility:** The applicant states that only one of its five operational facilities in Mecklenburg County has a utilization rate below 80 percent, and that facility has already proposed relocating stations to HD (as part of Project I.D. #F-11547-18). The applicant states that relocating additional stations would negatively impact patients; therefore, this is not an effective alternative.

On page 22, the applicant states that its proposal is the most effective alternative because it meets the growing demand for services at HD.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

#### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. DVA Renal Healthcare, Inc. d/b/a Huntersville Dialysis shall materially comply with all representations made in the certificate of need application.**

2. Pursuant to the facility need determination in the July 2018 SDR, DVA Renal Healthcare, Inc. d/b/a Huntersville Dialysis shall develop no more than four additional dialysis stations for a total of no more than 22 certified stations upon completion of this project and Project I.D. #F-11547-18 (relocate four stations from North Charlotte Dialysis), which shall include any home hemodialysis training or isolation stations.
  3. DVA Renal Healthcare, Inc. d/b/a Huntersville Dialysis shall install plumbing and electrical wiring through the walls for no more than four dialysis stations, which shall include any isolation stations.
  4. DVA Renal Healthcare, Inc. d/b/a Huntersville Dialysis shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to 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

DVA proposes to add four dialysis stations to the existing HD facility for a total of 22 dialysis stations upon completion of this project and associated projects.

**Capital and Working Capital Costs**

In Section F.1, page 23, the applicant projects the total capital cost to be \$72,760, with \$59,400 to be used for dialysis machines and \$13,360 for other equipment. In Sections F.10 and F.11, pages 25-26, the applicant states that there are no projected start-up expenses or initial operating expenses because it is an existing facility that is already operational.

**Availability of Funds**

In Section F.2, page 24, the applicant states that it will fund the entire capital cost of the proposed project with accumulated reserves. Exhibit F-5 contains a letter from the applicant on behalf of the Chief Accounting Officer of DaVita, Inc. (DaVita), DVA's parent company, authorizing the use of accumulated reserves for the capital needs of the project. Exhibit F-7 contains a Form 10-K Consolidated Financial Statement from DaVita, which showed that as of December 31, 2017, DaVita had adequate cash and assets to fund the capital cost of the proposed project.

**Financial Feasibility**

The applicant provides pro forma financial statements for the first two full fiscal years of operation following completion of the project. In 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.

<b>Projected Revenues and Operating Expenses</b>		
<b>HD</b>	<b>Operating Year 1 CY 2020</b>	<b>Operating Year 2 CY 2021</b>
Total Treatments	9,929	11,486
Total Gross Revenues (Charges)	\$3,549,467	\$4,106,089
Total Net Revenue	\$3,481,318	\$4,027,249
Average Net Revenue per Treatment	\$351	\$351
Total Operating Expenses (Costs)	\$2,927,193	\$3,288,297
Average Operating Expense per Treatment	\$295	\$286
<b>Net Income/Profit</b>	<b>\$554,124</b>	<b>\$738,952</b>

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.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the capital cost is based on reasonable and adequately supported assumptions.
  - The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal.
  - 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.
- (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

DVA proposes to add four dialysis stations to the existing HD facility for a total of 22 dialysis stations upon completion of this project and associated projects.

On page 365, the 2018 SMFP defines the service area for dialysis stations 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 counties is a separate dialysis station planning area.” Thus, the service area is Mecklenburg County. Facilities may serve residents of counties not included in their service area.

According to Table B of the July 2018 SDR, there are 23 facilities which provide dialysis in Mecklenburg County, 17 of which are operational. Information on all 23 of these dialysis facilities, from Table B of the July 2018 SDR, is provided below:

<b>Mecklenburg County Dialysis Facilities            Certified Stations and Utilization as of December 31, 2017</b>				
<b>Dialysis Facility</b>	<b>Owner</b>	<b>Location</b>	<b># of Certified Stations</b>	<b>Utilization</b>
Brookshire Dialysis*	DaVita	Charlotte	0	0.00%
Charlotte Dialysis	DaVita	Charlotte	36	86.11%
Charlotte East Dialysis	DaVita	Charlotte	34	90.44%
Huntersville Dialysis	DaVita	Huntersville	14	83.93%
Mint Hill Dialysis	DaVita	Mint Hill	16	84.38%
North Charlotte Dialysis Center	DaVita	Charlotte	37	68.24%
South Charlotte Dialysis**	DaVita	Charlotte	23	83.70%
South Charlotte Dialysis*	DaVita	Charlotte	0	0.00%
Sugar Creek Dialysis*	DaVita	Charlotte	0	0.00%
BMA Beatties Ford	BMA	Charlotte	32	89.84%
BMA Nations Ford	BMA	Charlotte	28	91.96%
BMA of East Charlotte	BMA	Charlotte	26	88.46%
BMA of North Charlotte	BMA	Charlotte	40	98.75%
BMA West Charlotte	BMA	Charlotte	29	87.93%
Carolinas Medical Center	CMC	Charlotte	9	25.00%
DSI Charlotte Latrobe Dialysis	DSI	Charlotte	24	69.79%
DSI Glenwater Dialysis	DSI	Charlotte	42	75.00%
FKC Mallard Creek*	BMA	Charlotte	0	0.00%
FKC Regal Oaks	BMA	Charlotte	12	43.75%
FKC Southeast Charlotte*	BMA	Charlotte	0	0.00%
FMC Aldersgate*	BMA	Charlotte	0	0.00%
FMC Charlotte	BMA	Charlotte	44	89.20%
FMC Matthews	BMA	Matthews	21	115.48%
FMC Southwest Charlotte	BMA	Charlotte	13	84.62%

Source: July 2018 SDR, Table B.

\* Facility under development.

\*\*Per Project I.D. #F-11323-17, this facility is being relocated to a new location.

In Section G, page 30, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved dialysis services in Mecklenburg County. The applicant states:

*“One [of six] DaVita facilit[ies that are operational] was operating at less than 80% utilization. As discussed in Section E, the applicant has already proposed the relocation of 4 stations from North Charlotte Dialysis to Huntersville Dialysis in Project ID# F-*

*11547-18. In Section B-2 and Section C of this application, we demonstrate the need that Huntersville Dialysis has for adding stations. While adding stations at this facility does increase the number of stations in Mecklenburg County, it is based on the facility need methodology. It ultimately serves to meet the needs of the facility's growing population of patients referred by the facility's admitting nephrologists. The addition of stations, therefore, serves to increase capacity rather than duplicate any existing or approved services in the service area."*

The applicant adequately demonstrates that the proposal will not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- There is a facility need determination, as calculated using the methodology in the July 2018 SDR, for the proposed dialysis stations.
- The applicant adequately demonstrates that the proposed dialysis stations are needed in addition to the existing or approved dialysis stations.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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.

### C

In Section H, page 31, the applicant provides current and projected staffing for the proposed services, as illustrated in the following table.

<b>HD Current and Projected Staffing</b>			
	<b>Current</b>	<b>To Be Added</b>	<b>Total</b>
Registered Nurses	2.0	1.0	3.0
Patient Care Technician	6.0	3.0	9.0
Administrator	1.0	0.0	1.0
Dietician	0.5	0.0	0.5
Social Worker	0.5	0.0	0.5
Administrative Assistant	1.0	0.0	1.0
Biomed Technician	0.5	0.0	0.5
<b>TOTAL</b>	<b>11.5</b>	<b>4.0</b>	<b>15.5</b>

Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form A, which is found in Section R. In Section H, pages 32-33, the applicant describes the methods used to recruit or fill new positions and its proposed training and continuing education programs. The applicant provides supporting documentation in Exhibit H-4. In Section H, page 32, the applicant identifies the current medical director. In Exhibit I-3, the applicant provides a letter from the current medical director indicating an interest in continuing to serve as medical director for the proposed services.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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, page 35, the applicant states that the following ancillary and support services are necessary for the proposed services, and explains how each ancillary and support service is made available:

<b>HD – Ancillary and Support Services</b>	
<b>Services</b>	<b>Provider</b>
In-center dialysis/maintenance	On site
Self-care training (in-center)	On site
Home training	
HH	Charlotte East Dialysis
PD	Charlotte East Dialysis
Accessible follow-up program	Charlotte East Dialysis
Psychological counseling	On site
Isolation – hepatitis	On site
Nutritional counseling	On site
Social Work services	On site
Acute dialysis in an acute care setting	Carolinas Medical Center
Emergency care	Carolinas Medical Center
Blood bank services	Carolinas Medical Center
Diagnostic and evaluation services	Carolinas Medical Center
X-ray services	Carolinas Medical Center
Laboratory services	DaVita Laboratory Services, Inc.
Pediatric nephrology	Carolinas Medical Center
Vascular surgery	Carolinas Medical Center
Transplantation services	Carolinas Medical Center
Vocational rehabilitation & counseling	NC DHHS Vocational Rehab Services
Transportation	Mecklenburg County DSS & other providers

The applicant provides supporting documentation in Exhibit I-1.

In Section I, pages 36-37, the applicant describes its existing and proposed relationships with other local health care and social service providers.

The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (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

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (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

The applicant does not propose to construct any new space or renovate any existing space. Therefore, Criterion (12) is not applicable to this review.

- (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 48, the applicant provides the historical payor mix during CY 2017 for its existing services, as shown in the table below.

<b>HD Historical Payor Mix CY 2017</b>	
<b>Payment Source</b>	<b>% Total Patients</b>
Private Pay	0.0%
Medicare	14.9%
Medicaid	6.4%
Commercial Insurance	12.8%
Medicare/Commercial	51.1%
Medicare/Medicaid	12.8%
Misc. (including VA)	2.1%
<b>Total</b>	<b>100.00%</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.

<b>Percent of Population</b>						
<b>County</b>	<b>% 65+</b>	<b>% Female</b>	<b>% Racial &amp; Ethnic Minority*</b>	<b>% Persons in Poverty**</b>	<b>% &lt; Age 65 with a Disability</b>	<b>% &lt; Age 65 without Health Insurance**</b>
Mecklenburg	11%	52%	53%	12%	6%	12%
Statewide	16%	51%	37%	15%	10%	12%

Source: <http://www.census.gov/quickfacts/table>; Latest Data 7/1/17 as of 7/17/18

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

\*\*"Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources. 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., V2017) refers to the final year of the series (2010 thru 2017). Different vintage years of estimates are not comparable."

The IPRO ESRD Network of the South Atlantic Network 6 (IPRO SA Network 6) consisting of North Carolina, South Carolina and Georgia, provides an Annual Report which includes aggregate ESRD patient data from all three states. The 2016 Annual Report does not provide state-specific ESRD patient data, but the aggregate data is likely to be similar to North Carolina's based on the Network's recent annual reports which included state-specific data.

The IPRO SA Network 6 2016 Annual Report (pages 25-26<sup>1</sup>) provides the following prevalence data on dialysis patients by age, race, and gender. As of December 31, 2016, over 85% of dialysis patients in Network 6 were 45 years of age and older, over 66% were other than Caucasian and 45% were female.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicant adequately documents 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. 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**

Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, the applicant states in Section L, page 47, that it has no obligation by any of its facilities to provide uncompensated care or community service under any federal regulations.

In Section L, page 47, the applicant states that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicant or a related entity and located in North Carolina.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

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<sup>1</sup><https://network6.esrd.ipro.org/wp-content/uploads/sites/4/2017/07/NW6-2016-Annual-Report-FINAL.pdf>

- (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, page 45, the applicant projects the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

<b>HD Projected Payor Mix CY 2021</b>	
<b>Payment Source</b>	<b>% Total Patients</b>
Private Pay	0.0%
Medicare	14.9%
Medicaid	6.4%
Commercial Insurance	12.8%
Medicare/Commercial	51.1%
Medicare/Medicaid	12.8%
Misc. (including VA)	2.1%
<b>Total</b>	<b>100.00%</b>

As shown in the table above, during the second full fiscal year of operation, the applicant projects that 85.1 percent of all patients will have some or all of their services covered by Medicare and/or Medicaid.

On page 45, the applicant provides the assumptions and methodology it uses to project payor mix during the second full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- The projected payor mix is based on the historical payor mix.
- Projected utilization is reasonable and adequately supported. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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, page 47, the applicant adequately describes the range of means by which patients will have access to the proposed services.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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, page 49, the applicant describes the extent to which health professional training programs in the area have access to the facility for training purposes and provides supporting documentation in Exhibit M-2.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming 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

DVA proposes to add four dialysis stations to the existing HD facility for a total of 22 dialysis stations upon completion of this project and associated projects.

On page 365, the 2018 SMFP defines the service area for dialysis stations 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 counties is a separate dialysis station planning area.*” Thus, the service area is Mecklenburg County. Facilities may serve residents of counties not included in their service area.

According to Table B of the July 2018 SDR, there are 23 facilities which provide dialysis in Mecklenburg County, 17 of which are operational. Information on all 23 of these dialysis facilities, from Table B of the July 2018 SDR, is provided below:

<b>Mecklenburg County Dialysis Facilities            Certified Stations and Utilization as of December 31, 2017</b>				
<b>Dialysis Facility</b>	<b>Owner</b>	<b>Location</b>	<b># of Certified Stations</b>	<b>Utilization</b>
Brookshire Dialysis*	DaVita	Charlotte	0	0.00%
Charlotte Dialysis	DaVita	Charlotte	36	86.11%
Charlotte East Dialysis	DaVita	Charlotte	34	90.44%
Huntersville Dialysis	DaVita	Huntersville	14	83.93%
Mint Hill Dialysis	DaVita	Mint Hill	16	84.38%
North Charlotte Dialysis Center	DaVita	Charlotte	37	68.24%
South Charlotte Dialysis**	DaVita	Charlotte	23	83.70%
South Charlotte Dialysis*	DaVita	Charlotte	0	0.00%
Sugar Creek Dialysis*	DaVita	Charlotte	0	0.00%
BMA Beatties Ford	BMA	Charlotte	32	89.84%
BMA Nations Ford	BMA	Charlotte	28	91.96%
BMA of East Charlotte	BMA	Charlotte	26	88.46%
BMA of North Charlotte	BMA	Charlotte	40	98.75%
BMA West Charlotte	BMA	Charlotte	29	87.93%
Carolinas Medical Center	CMC	Charlotte	9	25.00%
DSI Charlotte Latrobe Dialysis	DSI	Charlotte	24	69.79%
DSI Glenwater Dialysis	DSI	Charlotte	42	75.00%
FKC Mallard Creek*	BMA	Charlotte	0	0.00%
FKC Regal Oaks	BMA	Charlotte	12	43.75%
FKC Southeast Charlotte*	BMA	Charlotte	0	0.00%
FMC Aldersgate*	BMA	Charlotte	0	0.00%
FMC Charlotte	BMA	Charlotte	44	89.20%
FMC Matthews	BMA	Matthews	21	115.48%
FMC Southwest Charlotte	BMA	Charlotte	13	84.62%

Source: July 2018 SDR, Table B.

\* Facility under development.

\*\*Per Project I.D. #F-11323-17, this facility is being relocated to a new location.

In Section N, page 50, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality, and access to the proposed services. On page 50, the applicant states:

*“The expansion of Hendersonville Dialysis will have no effect on competition in Mecklenburg County. ..., this project primarily serves to address the needs of a population already served (or projected to be served, based on historical growth rates) by DVA Healthcare Renal Care, Inc.. [sic]*

*The expansion of Hendersonville Dialysis 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 others involved in the dialysis process to receive services.”*

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- The cost-effectiveness of the proposal (see Sections F and R of the application and any exhibits).
- Quality services will be provided (see Section O of the application and any exhibits).
- Access will be provided to underserved groups (see Section L of the application and any exhibits).

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

In Exhibit A-11, the applicant identifies the kidney disease treatment centers located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of 104 dialysis facilities located in North Carolina.

In Section O, page 51, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in two of these facilities. Supporting documentation is provided in Exhibit O-3. The applicant states that all of the problems have been corrected. After reviewing and considering information provided by the applicant and publicly available data and considering the quality of care provided at all 104 facilities, the applicant provides sufficient evidence that quality care has been provided in the past. Therefore, 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 Criteria and Standards for End Stage Renal Disease Services promulgated in 10A NCAC 14C .2200 are applicable to this review. The application is conforming to all applicable criteria, as discussed below.

**10 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- HD is an existing facility. Therefore, this Rule is not applicable to this review.

(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, page 13, the applicant projects that HD will serve 72 patients on 22 stations, or a rate of 3.27 patients per station per week, as of the end of the first operating year following project completion. 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 13-14, the applicant provides the assumptions and methodology it used to project utilization of the facility. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.