



Liberty Healthcare & Rehabilitation Services

Caring with Excellence

2334 S. 41st Street • Wilmington, NC 28403
(910) 815-3122 • FAX: (910) 815-3111

March 13, 2023

North Carolina State Health Coordinating Council
Acute Care Services Committee Healthcare Planning
Division of Health Service Regulation
North Carolina Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

Re: Liberty's Comments Opposing DaVita's petition to amend the Assumptions of the Methodology found in Chapter 9: END STAGE RENAL DISEASE DIALYSIS FACILITIES as currently published in the 2023 SMFP

Dear North Carolina State Health Coordinating Council:

Long Term Care Management Services, LLC d/b/a Liberty Healthcare and Rehabilitation Services ("Liberty") is writing to offer the following comments opposing the DaVita Petition to amend the Assumptions of the Methodology found in Chapter 9: END-STAGE RENAL DISEASE DIALYSIS FACILITIES as currently published in the 2023 SMFP.

According to DaVita's Petition, the Agency only received two (2) applications last year proposing to develop new dialysis stations at home training facilities, dedicated exclusively to HHD training. Both applications proposed to develop only one (1) one dialysis station to be used exclusively for home hemodialysis training and support services. Both applications were denied because the applications would increase an existing surplus of dialysis stations in each respective County. However, the proposed DaVita petition opens the door to the possibility of putting a boundless number of dialysis centers into service – as the request would allow providers to apply for a CON without regard to need determinations.

However, an existing option is currently available to providers, which is to submit a summer petition to the SHCC for an adjusted county need determination. As stated above, the Agency only received two (2) applications last year proposing to develop new dialysis stations at home training facilities – both of which only requested to develop one (1) dialysis station. Thus, this petition relates to a small-scale of dialysis requests and not the statewide effect needed for a spring petition.

As the SMFP states on page 7¹, "Spring petitions involve requests for changes to the SMFP that have the potential for a **statewide effect**..." Unlike the 2023 Spring Petition filed by Liberty that

1

https://info.ncdhhs.gov/dhsr/ncsmfp/2023/2023_SMFP_COMPLETE_v3_w_covers_signed_sec_memo_signed_gov_approval.pdf

would have a statewide effect, DaVita’s petition is better suited for the Summer Petition process, as that is where they may request for adjustments to need determinations in the Proposed SMFP. If adopted, the proposed amendment could have drastic effects on the inventory of dialysis stations. In 2022, DaVita provided comments to the Agency regarding Liberty’s Policy ESRD-4 Petition². In it, they stated Liberty’s Policy would result in unnecessary duplication of dialysis services due to there being 422 licensed nursing facility in the state and “the proposed policy opens the door to the possibility of putting an additional 422 dialysis centers into service...” However, they are now requesting to amend the assumptions of the methodology to allow providers proposing to develop new dialysis stations at Home Training Facilities to apply for a CON without regard to a need determination. The Agency should read through the hypocrisy of the DaVita petition and recognize their petition to amend the Assumptions of the Methodology found in Chapter 9 would directly result in unnecessary duplication of dialysis services.

Lastly, and although not listed in DaVita’s petition as an alternative, another option exists for dialysis providers to provide home dialysis without the need for a methodology amendment. In-center dialysis providers may request a no review determination from the Certificate of Need Section to add home peritoneal or home hemodialysis training and support services to the facility. This request does not require a Certificate of Need and does not add any additional dialysis stations. It is a request that has been used in the past by DaVita³.

For the reasons stated herein, Liberty respectfully requests that the Acute Care Services Committee and the SHCC to reject DaVita’s Petition and refrain from amend the Assumptions of the Methodology found in Chapter 9: END-STAGE RENAL DISEASE DIALYSIS FACILITIES as currently published in the 2023 SMFP.

Best Regards,



Timothy Walsh
Director of Business Development
Liberty Senior Living
TWalsh@libertyseniorliving.com
(910) 332-1982

² <https://info.ncdhhs.gov/DHSR/mfp/pets/2022/spring/A07-ESRD-DaVitaCommentsLibertyPetition.pdf>

³ https://info.ncdhhs.gov/DHSR/mfp/pets/2023/spring/A01_Davita_ESRD_HomeTrainingFacilities_Petition.pdf