



State of Washington
Department of Health

March 4, 2016

CERTIFIED MAIL # 7009 0960 0000 5565 0185

Kathryn Cullen, Director Special Projects
DaVita HealthCare Partners, Inc. – North Star Division Office
32275 – 32nd Avenue South
Federal Way, Washington 98001

CN: 16-08

Dear Ms. Cullen:

We have completed review of the Certificate of Need application submitted by DaVita HealthCare Partners, Inc., proposing to establish a new 11-station kidney dialysis facility in Pierce County planning area #5. For the reasons stated in this evaluation, the application is consistent with applicable criteria of the Certificate of Need Program, provided DaVita HealthCare Partners, Inc., agrees to the following in its entirety

Project Description:

This certificate approves the establishment of a new 11-station dialysis center in Spanaway within Pierce County planning area #5. At project completion, the dialysis center will be approved to certify and operate eleven dialysis stations. Services to be provided at DaVita Elk Plain Dialysis Center include peritoneal and hemodialysis training and support with treatment shifts beginning after 5:00 p.m., a permanent bed station, and an isolation station. A breakdown of all 11 stations is below:

DaVita Elk Plain Dialysis Center

Private Isolation Room	1
Permanent Bed Station	1
Other In-Center Stations	9
Total	11

After the 11 stations are relocated from the 21-station DaVita Parkland Dialysis Center, the dialysis center would have 10 stations remaining. A breakdown of the remaining 10 stations is shown below.

DaVita Parkland Dialysis Center

Private Isolation Room	1
Permanent Bed Station	1
Other In-Center Stations	8
Total	10

Conditions:

1. DaVita HealthCare Partners, Inc. agrees with the project description as stated above. DaVita HealthCare Partners, Inc. further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. DaVita HealthCare Partners, Inc. must decertify 11 stations from the 21-station DaVita Parkland Dialysis Center no later than 30 days following the opening of the new 11-station dialysis center. At project completion, DaVita Elk Plain Dialysis Center would be approved to certify and operate 11 dialysis stations.
3. Prior to providing services, DaVita HealthCare Partners, Inc. will provide an executed copy of the medical director agreement for the department's review and approval. The executed medical director agreement must be consistent with the draft provided in the application.
4. Prior to providing services at DaVita Elk Plain Dialysis Center, DaVita HealthCare Partners, Inc. will provide an executed copy of the dialysis center ancillary and support services agreement for the department's review and approval. The executed ancillary and support services agreement must be consistent with the draft provided in the application.

Approved Capital Costs:

The approved capital expenditure associated with this project is \$1,594,322. This amount represents the total capital expenditure of \$1,636,622, minus the landlord's project costs of \$42,300

Please notify the Department of Health within 20 days of the date of this letter whether you accept the above project description, conditions, and capital costs for your project. If you accept these in entirety, your application will be approved and a Certificate of Need sent to you.

If you reject any of the above provision your application will be denied. The department will send you a letter denying your application and provide you information regarding your appeal rights.

Kathryn Cullen, Director Special Projects
DaVita HealthCare Partners, Inc.
March 4, 2016
Page 3 of 3

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

Mailing Address:

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

Physical Address:

Department of Health
Certificate of Need Program
111 Israel Road SE
Tumwater, WA 98501

If you have any questions, or would like to arrange for a meeting to discuss our decision, please contact Janis Sigman with the Certificate of Need Program at (360) 236-2955.

Sincerely,



Steven M. Saxe, FACHE
Director, Office of Community Health Systems

Enclosure

EVALUATION DATED MARCH 4, 2016, FOR THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY DAVITA HEALTHCARE PARTNERS, INC., PROPOSING TO ESTABLISH ELEVEN STATION KIDNEY DIALYSIS FACILITY IN PIERCE COUNTY END STAGE RENAL DISEASE PLANNING AREA #5

APPLICANT DESCRIPTION

DaVita Healthcare Partners, Inc. is a for-profit corporation and it provides dialysis services in over 2,197 outpatient centers located in 43 states and the District of Columbia. DaVita Healthcare Partners, Inc. also provides acute inpatient dialysis services in approximately 720 hospitals throughout the country. In Washington State, DaVita owns or operates 38 kidney dialysis facilities in 17 separate counties. Below is a listing of DaVita Healthcare Partners, Inc. facilities in Washington. [Source: DaVita Application, page 7]

Benton	Pacific
Chinook Dialysis Center	Seaview Dialysis Center
Kennewick Dialysis Center	
	Pierce
Clark	Graham Dialysis Center
Vancouver Dialysis Center	Lakewood Dialysis Center
Battle Ground Dialysis Center	Parkland Dialysis Center
	Puyallup Dialysis Center
Chelan	Tacoma Dialysis Center
DaVita Dialysis Center	Rainier View Dialysis Center
Wenatchee Valley Dialysis Center	
	Snohomish
Douglas	Everett Dialysis Center ¹
East Wenatchee Dialysis Center	Mill Creek Dialysis Center
	Marysville Dialysis Center ²
Franklin	
Mid-Columbia Kidney Center	Spokane
	Downtown Spokane Renal Center
Island	North Spokane Renal Center
Whidbey Island Dialysis Center	Spokane Valley Renal Center
King	Stevens
Bellevue Dialysis Center	Echo Valley Dialysis Center
Renton Dialysis Center	
Federal Way Dialysis Center	Skagit
Kent Dialysis Center	Cascade Dialysis Center
Olympic View Dialysis Center (management only)	
Westwood Dialysis Center	Thurston
Redondo Heights Dialysis Center	Olympia Dialysis Center
	Tumwater Dialysis Center

¹ Refuge Dialysis, LLC, is owned 80% by DaVita, Inc. and 20% by The Everett Clinic and managed by DaVita.

² Ibid

Kittitas	
Ellensburg Dialysis Center	Yakima
	Mt. Adams Dialysis Center
Mason	Union Gap Dialysis Center
Belfair Dialysis Center	Yakima Dialysis Center
	Zillah Dialysis Center

PROJECT DESCRIPTION

DaVita Healthcare Partners, Inc. proposes to relocate eleven dialysis stations from the existing twenty one station Parkland Dialysis Center located at 331—140th Street South in the city of Tacoma in Pierce County planning area #5. The new eleven station facility would be located on lot #4 Pierce County tax parcel number 5004380040 at 204th Street East and Mountain Highway in city of Spanaway within Pierce County planning area #5. The new 11 station facility would be known as Elk Plain Dialysis Center. [Source: Application, pages 1- 5 and Supplemental information received November 16, 2015]

Services to be provided at Elk Plain Dialysis Center would include in center hemodialysis, peritoneal dialysis, peritoneal and hemodialysis training and support for patients. The eleven dialysis stations that would be operational at the facility will include a permanent bed station, an isolation station, and a shift beginning after 5:00 p.m. [Source: Application, Page 11]

If this project is approved, DaVita Healthcare Partners, Inc. anticipates the eleven station facility would become operational in September 2018. Under this timeline, 2019 would be the facility’s first full calendar year of operation with eleven stations. [Source: Application, page 14]

The capital expenditure associated with the eleven station facility is \$1,636,622. DaVita Healthcare Partners, Inc. portion of the cost is \$1,594,322. Of this amount, approximately \$1,075,150 or 67.4% is related to leasehold improvements, \$381,172 or 23.9 % is related to fixed and moveable equipment, and the remainder \$138,00 or 8.7% is related to professional services fees. [Source: Application Page 10 and Appendix 7] For ease of reference, DaVita Healthcare Partners, Inc. is the applicant and it would be referred to as (‘DaVita’) and the 11 station dialysis facility as (‘Elk Plain Dialysis’)

APPLICABILITY OF CERTIFICATE OF NEED LAW

WAC 246-310-289(2) states:

“When an existing facility proposes to relocate a portion of its stations to either another planning area or within the same planning area, a new health care facility is considered to be established under WAC 246-310-020(1).”

Because DaVita plans to relocate 11 of the 21 stations from DaVita Parkland Dialysis Center, this project is reviewed as the establishment of a new health care facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a) and WAC 246-310-289(2).

EVALUATION CRITERIA

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction on how the department is to make its determinations. It states:

“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.

(a) In the use of criteria for making the required determinations, the department shall consider:

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project”.*

In the event WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

“The department may consider any of the following in its use of criteria for making the required determinations:

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington State;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application”.*

WAC 246-310-280 through 289 contains service or facility specific criteria for dialysis projects that must be used to make the required determinations. To obtain Certificate of Need approval, DaVita must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); and 246-310-240 (cost containment)³. Additionally, DaVita must demonstrate compliance with the applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 289.

TYPE OF REVIEW

As directed under WAC 246-310-282(1) the department accepted this application under the Kidney Disease Treatment Centers Concurrent Review Cycle #3 for year 2015. No other kidney disease treatment center applications were received for Pierce County planning area #5 during Cycle #3. The review was converted to a regular review. A chronological summary of the review activities is in the table on the next page.

³ Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), (6); WAC 246-310-240(3); WAC 246-310-284; WAC 246-310-287; and WAC 246-310-288.

APPLICATION CHRONOLOGY

Action	DaVita HealthCare Partners, Inc.
Letter of Intent Submitted	April 30, 2015
Application Submitted	August 31, 2015
Department's Pre-review Activities including <ul style="list-style-type: none"> • DOH 1st Screening Letter • Applicant's 1st Screening Responses Received • DOH 2nd Screening Letter 	September 1, 2015 through September 30, 2015 November 16, 2015 N/A N/A
Applicant's 2nd Screening Responses Received	N/A
Beginning of Review	November 23, 2015
End of Public Comment <ul style="list-style-type: none"> • Public comments accepted through • Public hearing conducted⁴ 	December 28, 2015 N/A
Rebuttal Comments Received	January 12, 2016
Department's Anticipated Decision Date	February 26, 2016
Department's Actual Decision Date	March 4, 2016

AFFECTED PERSONS

Washington Administrative Code 246-310-010(2) defines "affected person as:

"...an "interested person" who:

- (a) Is located or resides in the applicant's health service area;*
- (b) Testified at a public hearing or submitted written evidence; and*
- (c) Requested in writing to be informed of the department's decision."*

Washington Administrative Code 246-310-010(34) defines "interested persons" means:

- (a) The applicant;*
- (b) Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;*
- (c) Third-party payers reimbursing health care facilities in the health service area;*
- (d) Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;*
- (e) Health care facilities and health maintenance organizations, which, in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services in the same planning area;*
- (f) Any person residing within the geographic area to be served by the applicant; and*
- (g) Any person regularly using health care facilities within the geographic area to be served by the applicant.*

⁴ The department did not conduct a public hearing.

Fresenius Medical Care.

Fresenius Medical Care provides end stage renal disease services in Washington. Fresenius Medical Care provided public comments about this project, requested to be notified of the department's decision, and submitted a letter of intent within the past 12 months. However, Fresenius Medical Care is not located in the planning area therefore, is not an affected person. For ease of reference within this evaluation, the department would refer to Fresenius Medical Care as ('FMC').

SOURCE INFORMATION REVIEWED

- DaVita HealthCare Partners, Inc.'s Certificate of Need application received on August 31, 2015
- DaVita HealthCare Partners, Inc.'s supplemental information received November 16, 2015
- Years 2010 through 2014 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2014 Northwest Renal Network 4th Quarter Data
- Licensing and/or survey data provided by the Department of Health's Inspections and Investigation Office (IIO)
- Licensing and/or survey data provided by out of state health care survey programs
- Certificate of Need historical files
- <http://www.doh.wa.gov/LicensesPermitsandCertificates/MedicalCommission.aspx> - Medical Quality Assurance compliance data
- <http://www.medicare.gov> - Dialysis Facilities Compare

CONCLUSION

For the reasons stated in this evaluation, the application submitted by DaVita HealthCare Partners, Inc. proposing to establish a new 11-station kidney dialysis center in the city of Spanaway within Pierce County planning area #5 is consistent with applicable criteria of the Certificate of Need Program, provided DaVita HealthCare Partners, Inc. agree to the following in its entirety.

Project Description:

This certificate approves the establishment of a new 11-station dialysis center in Spanaway within Pierce County planning area #5. At project completion, the dialysis center will be approved to certify and operate eleven dialysis stations. Services to be provided at DaVita Elk Plain Dialysis Center include peritoneal and hemodialysis training and support with treatment shifts beginning after 5:00 p.m., a permanent bed station, and an isolation station. A breakdown of all 11 stations is below:

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Approved Capital Costs:

The approved capital expenditure associated with this project is \$1,594,322. This amount represents the total capital expenditure of \$1,636,622, minus the landlord's project costs of \$42,300

CRITERIA DETERMINATIONS

A. Need (WAC 246-310-210)

Based on the source information reviewed and the applicant's agreement to the conditions stated in the 'conclusion' section of this evaluation, the department determines that DaVita HealthCare Partners, Inc.'s project has met the applicable need criteria in WAC 246-310-210 and the kidney disease treatment standards in WAC 246-310-289.

- (1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.

Because this project does not propose adding new stations in the planning area no numeric stations projections are applicable. In this case, the focus is on whether the proposed facility is needed to improve access and if other facilities are sufficiently available to meet that need.

DaVita's Application of the Numeric Methodology

DaVita did not provide a methodology. Instead, it stated, "Because this is a partial relocation, no new stations will be added with this project. In previous certificate of need decisions, wherein a "new" facility is being established by relocation of existing stations, the department has concluded that the methodology in WAC 246-310-284 is not applicable." [Source: Application, Page 17]

The department received public comments from FMC related to DaVita's project. Summarized below are the comments.

FMC [Source: Public comments received December 28, 2015]

- There are substantial unmet needs in the planning area for dialysis stations. The planning area has not opened up to new providers because two of DaVita's existing facilities in the planning area were operating below the required 4.8 standard before new stations can be added. The department recently approved DaVita's application to relocate stations to a new facility within the same planning area and that facility DaVita Rainer View is currently operating below the required 4.8 patients per station standard.
- The combination of DaVita Parkland facility failure to achieve the expected patient volume until recently and DaVita's relocation of stations has effectively blocked a new market entry by other dialysis providers from submitting application in the planning area. Clearly, there is significant outmigration of patients in the planning area. It is unknown if DaVita's new request to relocate existing stations yet again will reduce dialysis outmigration of patients in the planning area. FMC does not believe approval of this project will address the 35 stations net need in the planning area.
- DaVita did not explain how relocating existing stations from Tacoma to a new facility in Spanaway would improve patient access. It is unclear how reducing the number of stations at DaVita Parkland will improve patient quality of care because the reduction would be result in overcrowding at the facility. The station relocation project would have the opposite effect because it would not improve patient's access and choice because DaVita is the only provider in the planning area.

- FMC thinks that DaVita might believe that if it relocates stations from an existing facility to a new facility, patient's access is improved, but DaVita's action prevents other dialysis providers from opening facilities in the planning area. DaVita's action negatively affects dialysis patients therefore, DaVita's application should be denied.

In response to FMC's public comments, the department received rebuttal comments from DaVita summarized below.

DaVita [Source: Rebuttal comment received January 12, 216]

- Pierce Five is different from any other planning area because Joint Base Lewis McChord occupies much of the planning area. There are three facilities that serve patients in the planning area however, these facilities are not well located for ESRD patients residing to the south and east of Joint Base Lewis McChord specifically, patients in zip code 98387 (Spanaway). For patients residing within this zip code, traffic routes to existing facilities are limited.
- There are fifty-six incenter patients residing in zip code 98387. Currently these patients mainly use anyone of the two dialysis facilities located in the north of Joint Base Lewis McChord or they leave the planning area to obtain care. Based on recent dialysis data the number of incenter dialysis patients residing in zip code 98387 is growing faster than the rest of the ESRD population in the planning area. DaVita's project proposes to relocate stations to Spanaway because it would results in high utilization rate if the 56 patients who reside in zip code 98387 choose to remain close to home and obtain treatments at the new facility.
- If the planning area ESRD population continues to grow, DaVita believes the utilization rate would be even higher. With just ten more patients Spanaway ESRD's population is enough to support an eleven-station facility operating at 100% utilization.

Department Evaluation

DaVita argued because the Joint Base Lewis McChord geographic location splits the population using dialysis services in the planning area, the proposed project would create a new facility that would more easily be reached by people living in the south end of the planning area. Currently there are no facilities located in the south end of the planning area therefore; the dialysis facilities located within the planning area are not sufficiently available or accessible to meet the need of the people as proposed by DaVita's project.

The department confirmed that recent ESRD patient data for zip code 98387 shows that 56 patients reside within that zip code. The department agrees with DaVita's assertions that if these 56 patients receive treatments at DaVita Elk Plain, the new facility will be operating at a high utilization rate with enough patients to support the eleven station facility. However, the department is also aware that DaVita has not always kept to the commencement timelines provided in its applications. The department noticed that some of DaVita's CN approved projects have taken longer than expected to become operational. Since this project proposes to relocate eleven stations, that are currently counted as existing stations in the planning area and patients are currently being treated in them, the department expects that DaVita would make these stations operational at the new location as soon possible in accordance with the timelines it proposed in the application if this project is approvable.

The department is optimistic that a new dialysis facility located in the southern portion of Pierce County planning area #5 would be readily accessible to all ESRD patients in Spanaway. Based on the review, the department concludes **this sub-criterion is met.**

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

DaVita is currently a provider of health care services to the residents of Washington State, including low-income, racial and ethnic minorities, handicapped and other underserved groups. To determine whether all residents of the planning area would have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, DaVita provided a copy of its Accepting Patients for Treatment Policy used at dialysis centers owned or operated by DaVita or its subsidiaries. The policy outlines the process and guidelines that DaVita uses to admit patients for treatment at its dialysis centers. The policy asserted that any patient needing treatment would be accepted at the dialysis facility without regard to race, creed, color, age, sex, or national origin. [Source: Application Appendix 14]

The department uses a facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access to the proposed services. DaVita currently provides services to Medicaid eligible patients at its existing dialysis centers in Washington. A review of the proposed dialysis center anticipated revenue sources indicates that DaVita expects to receive Medicaid reimbursements. [Source: Application Page 10]

The department uses the facility's Medicare certification to determine whether the elderly would have access or continue to have access to the proposed services. DaVita currently provides services to Medicare eligible patients at its existing dialysis centers. A review of DaVita's anticipated revenue sources indicates that DaVita expects to receive Medicare reimbursements. [Source: Application Page 10]

A facility's charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process a patient would use to access charity care at the facility. DaVita demonstrated its intent to provide charity care to patients receiving treatments at the proposed facility by providing a detailed Projected Financial Operating Statement that shows a 'charity care' line item as a deduction from revenue. [Source: Application Appendix 9] In addition, DaVita also provided a copy of its Patient Financial Evaluation Policy that is used at facilities owned or operated by it. [Source: Application Appendix 14]

In the financial information provided to support this project, DaVita projects that Elk Plain Dialysis will be operating above 4.8 patients per station by the end of year 2012 the project third year of operation. While this is not a standard that is required to be met for application of this type, it is a strong indicator of DaVita intent to serve all residents of the service area. [Source: Application, Appendix 9]

Based on the review, the department concludes that all residents of the planning area would have access to the health services provided at the facility. **This sub-criterion is met.**

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

Based on the source information reviewed and the applicant’s agreement to the conditions stated in the ‘conclusion’ section of this evaluation, the department determines that DaVita HealthCare Partners, Inc.’s project has met the financial feasibility criteria in WAC 246-310-220.

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

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant’s pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

As stated in the project description portion of this evaluation, if this project is approved, DaVita anticipates that the new stations would become operational by the end of September 2018. Under this timeline, calendar year 2019 would be the first full calendar year of operation and 2021 would be the year three. [Source: Application, Page 14] DaVita provided its projected revenue and expense statement for the proposed dialysis center. The table below summarizes that information. [Source: Application Appendix 9]

**Table 4
DaVita Elk Plain Dialysis Center
Projected Revenue and Expenses for Years 2018-2021**

	Partial Year 2018	Year 1- 2019	Year 2- 2020	Year -3 2021
# of Stations	11	11	11	11
# of Treatments [1]	10,296	10,296	10,296	10,296
# of Patients [2]	50	52	55	57
Utilization Rate [2]	4.55	4.73	5.00	5.18
Net Patient Revenue[1]	\$4,007,933	\$4,280,231	\$4,571,030	\$4,881,586
Total Operating Expenses [1, 3]	\$2,269,694	\$2,443,010	\$2,586,024	\$2,739,093
Net Profit or (Loss)[1]	\$1,738,239	\$1,837,221	\$1,985,006	\$2,142,493

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

As shown above, DaVita Elk Plain Dialysis Center would be operating at a profit beginning from partial year 2018 through the proposed project third full year of operation or by year

2021. DaVita provided an executed lease agreement between Kirkbo Mountain Highway, LLC (“Landlord”) and Total Renal Care, Inc. (“Tenant”). [Source: Application, Appendix 15] The department noted that the site control documentation provided by DaVita stated the proposed facility physical address is yet to be determined therefore, if this project is approvable, the department would require that before DaVita commence the project, it must submit a site control documentation with the proposed facility physical address to the department.

DaVita identified Dr. Sancar Eke as the medical director for DaVita Elk Plain Dialysis Center and provided copy of a draft medical director agreement. The initial terms of the agreement is three years with automatic annual renewal. The agreement identifies the annual compensation for the medical director position. Additionally, DaVita’s pro-forma financial income statement also confirms the annual compensation for the medical director. [Source: Application, Appendices 3 and 9]

In response to this sub criterion, FMC provided public comments to the department. Summarized below are the comments.

FMC [Source: Public comments received December 28, 2015]

- DaVita has not provided the required documentation that the landlord has site control over the proposed site. This is required because without it, the department cannot establish the proposed project is feasible.

In response to FMC’s public comments DaVita provided rebuttal comments summarized below.

DaVita [Source: Rebuttal comments received January 12, 2016]

- Fresenius argued that DaVita failed to demonstrate site control but this is not true because DaVita provided an executed copy of its site control documentation with its application. DaVita provided an executed copy of the lease agreement with the landlord Kirkbo Mountain Highway, LLC the legal owner of the proposed site.

Department Evaluation

The department disagrees with FMC’s assertions that DaVita did not provide site control documentation. The department notes that DaVita provided an executed lease agreement that identified its proposed facility site legal owner. Additionally, DaVita also provided a notarized site control documentation with its screening responses to the department screening questions. The department review of DaVita’s executed lease agreement and site control documentation shows that rent costs⁵ identified in the lease are consistent with the financial information used to prepare DaVita’s pro-forma financial income statement projections summarized in Table 4. Based on the information reviewed, the department concludes **this sub-criterion is met**

⁵ DaVita’s lease agreement identified costs associated with the property common areas and taxes.

(2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2) (a) (i). There are also no known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

The capital expenditure associated with the establishment of the DaVita Elk Plain Dialysis Center is \$1,636,622 and DaVita's portion of the cost is \$1,594,322. [Source: Application, page 10 and Appendix 7]

**Table 5
DaVita Elk Plain Dialysis Center Capital Cost**

Item	Cost	% of Total
Leasehold improvements	\$1,075,150	67.4%
Fixed and Moveable Equipment	\$381,172	23.9%
Professional Services Fee	\$138,150	8.7%
Total Project Cost	\$1,594.322	100%

To further demonstrate compliance with this sub-criterion, DaVita provided the sources of its revenue by payer expected at the facility shown in Table 6 below. [Source: Application, page 12]

**Table 6
DaVita Elk Plain Dialysis Center Revenue Source by Payer**

Sources of Revenue Type of Payor		Sources of Revenue Percentage of Patients per Payor
Source	Percent	Percent
Medicare	56.7%	78.9%
Medicaid/State	4.5%	7.7%
Insurance/HMO	38.8%	13.4%
Total	100%	100%

The proposed DaVita Elk Plain Dialysis Center is expected to obtain 38.8% of its revenue from commercial insurance/HMO. For Medicare and Medicaid, DaVita expects it would obtain 61.2% of its revenue from Medicare and Medicaid. [Source: Application, page 12]

The department received public comments from FMC related to this sub criterion. Summarized below are the comments

FMC [Source: Public comments received December 28, 2015]

- DaVita's estimated capital expenditure of \$1.64 million is unnecessary because DaVita did not demonstrate need for the project. The project would essentially double the build out cost of DaVita Parkland because when these stations are relocated, this facility would be operating at less than half of its built-out capacity. The impact of the relocation would be higher average costs to provide care that would be borne by payers and their insured. As the only provider in the planning area, DaVita will have more flexibility negotiating rates and this would negatively affect patients who may have to bear higher cost for care.

- DaVita's project would result in unnecessary spending and inefficiency because the project would create a significant idle capacity at the Parkland facility since it was built out for twenty-one stations removing stations would lead to less treatment stations for patients. Relocating stations away from this facility would also mean higher average operating costs at the new and existing facility.

In response to FMC's comments, the department received rebuttal comments from DaVita. Those comments are summarized below.

DaVita [Source: Rebuttal comments received January 12, 2016]

- FMC argued that DaVita's application approval will result in a significant dialysis stations idle capacity in the planning area, but the number of dialysis stations in the planning area would still be the same if the department approves this project.
- FMC argues that the application should be denied because the new facility would cost \$1.6 million without increasing station availability in the planning area. The department regularly approves stations relocations because it recognizes that there are good reasons to relocate stations within a planning area. DaVita's project cost of \$1.6 million (\$145,000 per station) is very reasonable. The department has approved other applicant's projects that cost more money per station than DaVita's project.
- FMC cannot logically argue that the planning area's existing stations will be underutilized and at the same time say the planning area needs more dialysis stations. Relocating stations from Parkland to Spanaway will not change the number of stations in the planning area. It would simply make eleven of existing stations more accessible to ESRD patients who live in the Spanaway area of the planning area with limited traffic routes to facilities located in the northward areas of the planning area.

Department Evaluation

The department does not have an adopted standard on what constitutes an unreasonable impact on charges for healthcare services. Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. Under the new ESRD PPS payment system, Medicare pays dialysis facilities a bundled rate per treatment, that rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate.

However, there are a number of adjustments both at the facility and at patient-specific level that affects the final reimbursement rate each facility will receive. What a dialysis facility receives from its commercial payors will also vary. Even if two different dialysis providers billed the same commercial payor the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payor from each individual provider.

FMC's assertions that relocation of stations would create idle capacity is not true, but it does create unfinished space. If this project is approved, the same number of stations that currently exists in the planning area would remain. FMC's assertions that DaVita's relocation of stations would result in higher average operating costs between the new and existing facility, that is true because the existing facility would have unnecessary finished space and would continue to

support the costs of that space with the reduced number of stations. In addition, DaVita may lose some economies of scale due to the smaller number of stations. The department notes this type of project is explicitly allowed in rule, therefore it does not believe FMC's argument is grounds for disapproval of this project.

While the department notes that, relocated stations and any existing stations would have to be operating at the required 4.8 standard before new stations can be added in the planning area, the status quo remains whether these stations are relocated or remains at their current location. Comments provided by DaVita stated the eleven stations would be relocated to Spanaway in order to provide access to 56 ESRD patients living in that part of the planning area. The department review of the June 2015 ESRD data shows this area has experienced rapid growth when compared to other areas in the planning area. Based on the information, the department concludes this project would not result in an unreasonable impact on the costs and charges for healthcare services in the planning area. **This sub-criterion is met.**

(3) The project can be appropriately financed.

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2) (a) (i). There are also no known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

The capital expenditure associated with the establishment of the 11-station DaVita Elk Plain Dialysis Center is \$1,636,622 and DaVita's portion of the total cost is \$1,594,322. DaVita stated the funds needed for the project would be funded from its own reserves. A letter from DaVita chief operating officer was provided confirming that corporate funding is available. Based on the information provided, the department concludes **this sub-criterion is met.**

C. Structure and Process (Quality) of Care (WAC 246-310-230)

Based on the source information reviewed and provided the applicant agree to the conditions stated in the 'conclusion' section of this evaluation, the department determines that DaVita HealthCare Partners, Inc.'s project has met the structure and process (quality) of care criteria in WAC 246-310-230.

(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs (full time equivalents) that should be employed for projects of this type or size.

Since DaVita Elk Plain Dialysis Center would be a new facility, DaVita provided a breakdown of the proposed facility staff beginning from September 2018 (4 partial months) and three full calendar years of operation (2019-2021). [Source: Application, page 21] A breakdown of the proposed staffing is summarized in Table 7.

Table 7
DaVita Elk Plain Dialysis Center proposed FTE's Year 2018 – 2022

Staff/FTEs	Partial Year - 2018	Year 1- 2019 Increase	Year 2- 2020 Increase	Year 3- 2021 Increase	Total FTEs
Medical Director	Professional Services Contract				
Administrator	1.0	0.1	0.0	0.1	1.2
Registered Nurses	1.4	0.2	0.1	0.2	2.0
Patient Care Tech	3.8	0.0	0.1	0.0	4.0
Biomedical Tech	0.3	0.0	0.0	0.0	0.3
Administrative Assistant	0.5	0.0	0.0	0.0	0.5
Social Worker	0.5	0.0	0.0	0.0	0.5
Dietician	0.5	0.0	0.0	0.0	0.5
Re-Use Tech	0.0	0.0	0.0	0.0	0.0
Total FTEs	8.0	0.3	0.2	0.3	9.0

As shown in the Table 7 above, DaVita expects to open the facility with eight FTEs and increase staffing as the utilization increases through year 2021. DaVita states it does not anticipate any difficulty recruiting staff because it offers competitive wage and benefit packages to employees. Additionally, the applicant stated that DaVita posts job openings nationally and internally and it has an extensive employee traveling program that guarantees it will maintain staffing at its facilities. [Source: Application Page 22]

DaVita identified Sancar Eke, MD as the medical director for the proposed facility and provided a draft medical director's agreement between MultiCare Health System d/b/a MultiCare Medical Associates a/k/a Good Samaritan Nephrology ("Group"), and Total Renal Care, Inc. ("Company"). According to the draft medical director agreement recitals, Dr. Sancar Eke is a physician employee of the Group. [Source: Application Page 8 and Appendix 3]

The draft medical director agreement outlines the roles and responsibilities of Group and Company. Additionally, the agreement also identifies the annual compensation for the medical director. [Source: Application Page 8 and Appendix 3] A review of the medical director's agreement between DaVita and Dr. Sancar Eke shows that the agreement outlines the roles and responsibilities of both parties involved. Based on the information reviewed, the department concludes **this sub-criterion is met.**

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

WAC 246-310 does not contain specific WAC 246-310-230(2) as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

As a provider of dialysis services in Washington State, DaVita currently maintains the appropriate relationships with ancillary and support services for its existing dialysis centers. For the proposed DaVita Elk Plain Dialysis Center, ancillary and support services, such as social services, nutrition services, pharmacy, patient and staff education, financial counseling, human resources, material management, administration, and technical services would be provided on site. Additional services are coordinated through DaVita's corporate offices in El Segundo, California and support offices in Tacoma, Washington; Denver, Colorado; Nashville, Tennessee; Berwyn, Pennsylvania; and Deland, Florida. [Source: Application, Pages 22- 23]

DaVita stated because the Rainier View Dialysis Center would be a new facility in Pierce County #5, transfer agreements will be established with a local healthcare provider before the facility becomes operational. To further demonstrate compliance with this sub-criterion, DaVita provided a sample transfer agreement and stated, "*Without an operating facility, actual transfer agreement with specifics cannot be executed*". [Source: Application Page 22, and Appendix 12]

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

- (3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2) (a) (i). There are known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

For this application, the department reviewed information available at the Center for Medicare & Medicaid Services (CMS) website related to dialysis facilities star ratings. CMS assigns a one to five 'star rating' in two separate categories: best treatment practices, hospitalizations, and deaths. The more stars, the better the rating. Below is a summary of the data within the two categories.

- Best Treatment Practices
This is a measure of the facility's treatment practices in the areas of anemia management; dialysis adequacy, vascular access, and mineral & bone disorder. This category reviews both adult and child dialysis patients.
- Hospitalization and Deaths
This measure takes a facility's expected total number of hospital admissions and compares it to the actual total number of hospital admissions among its Medicare dialysis patients. It also takes a facility's expected patient death ratio and compares it to the actual patient death ratio taking into consideration the patient's age, race, sex, diabetes, years on dialysis, and any co-morbidity.

Based on the star rating in each of the two categories, CMS then compiles an 'overall rating' for the facility. As with the separate categories: the more stars, the better the rating. The star rating is based on data collected from January 1, 2010 through December 31, 2013. DaVita is a for-profit corporation that provides dialysis services in over 2,197 outpatient centers located in 43 states and the District of Columbia. DaVita also provides acute inpatient dialysis services in approximately 720 hospitals throughout the country.

In Washington State, DaVita owns or operates 38 kidney dialysis facilities in 16 separate counties. As part of its review, the department must conclude that the proposed services would be provided in a manner that ensures safe and adequate care to the public.⁶ Historically, the department has requested quality of care compliance history from the licensing and/or surveying entities in each state where DaVita or any of its subsidiaries have healthcare facilities.

In April 2013, the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for conducting surveys where DaVita or any of its subsidiaries have healthcare facilities. Of the 45 states⁷ and the non-state entities surveyed, the department received 30⁸ responses or 65.2% of those surveyed. One of the states⁹ responding to the survey indicated significant compliance and the rest reported non-compliance deficiencies were cited at DaVita facilities in the past three years. DaVita submitted and implemented acceptable plans of correction. Given the results of the out-of-state compliance history of the facilities owned or operated by DaVita, the department concludes that considering that it owns or operates more than 2,197 facilities the number of out-of-state non-compliance surveys is acceptable. [Source: Application, Page 6 and Licensing and/or survey data provided by out of state health care survey programs]

As stated earlier DaVita owns, operates, or manages 38 facilities in Washington the department reviewed CMS star ratings for these facilities. The department review shows that nine of the 38 facilities did not have a CMS star rating because they were not open for the entire reporting period.¹⁰ Below is the overview of the CMS star rating for the remaining 29 DaVita facilities.

⁶ WAC 246-310-230(5)

⁷ This figure excludes Washington. The department did not send a survey to itself for compliance.

⁸ The department did not receive responses from California, Georgia, Illinois, Louisiana, Massachusetts, Maryland, Maine, Michigan, Mississippi, North Carolina, Nebraska, Rhode Island, Utah, Virginia and Wyoming.

⁹ Indiana reported significant citation

¹⁰ Burlington, Belfair, Battleground, Tumwater, Pilchuck, Echo Valley, Rainier View, Redondo and Renton,

Table 8
DaVita Dialysis Centers Medicare and Medicaid Star Rating

Facility	City	Star Rating
Battle Ground Dialysis Center	Battle Ground	-
Belfair Dialysis Center	Belfair	-
Bellevue Dialysis Center	Bellevue	4
Burlington Dialysis Center	Burlington	-
Chinook Kidney Center	Richland	4
Downtown Spokane Renal Center	Spokane	3
East Wenatchee Dialysis Center	East Wenatchee	5
Echo Valley Dialysis Center	Colville	-
Ellensburg Dialysis Center	Ellensburg	3
Everett Dialysis Center	Everett	4
Federal Way Community Dialysis Center	Federal Way	4
Olympic View Dialysis Center	Seattle	2
Parkland Dialysis Center	Tacoma	3
Pilchuck Dialysis Center	Marysville	-
Puyallup Community Dialysis Center	Puyallup	3
Rainer View Dialysis Center	Tacoma	-
Redondo Dialysis Center	Federal Way	-
Renton Dialysis Center	Renton	-
Seaview Dialysis Center	Seaview	4
Spokane Valley Renal Center	Spokane	3
Tacoma Dialysis Center	Tacoma	4
Tumwater Dialysis Center	Tumwater	-
Graham Dialysis Center	Graham	5
Kennewick Dialysis Center	Kennewick	3
Kent Dialysis Center	Kent	4
Lakewood Community Dialysis Center	Lakewood	4
Mid-Columbia Kidney Center	Pasco	4
Mill Creek Dialysis Center	Bothell	4
Mt. Adams Kidney Center	Sunnyside	5
North Spokane Renal Center	Spokane	3
Olympia Dialysis Center	Olympia	5
Union Gap Dialysis Center ¹¹	Union Gap	5
Vancouver Dialysis Center	Vancouver	3
Wenatchee Valley Dialysis Center	Wenatchee	4
Westwood Dialysis Center	Seattle	3
Whidbey Island Dialysis Center	Oak Harbor	4
Yakima Dialysis Center	Yakima	5
Zillah Dialysis Center	Zillah	5

¹¹ DaVita Union Gap Dialysis Center was last surveyed on December 11, 2013 by DOH

On October 22, 2014, DaVita entered into a final settlement agreement with the United States Department of Justice (DOJ) on behalf of United States Department of Health and Human Services and other governmental agencies to resolve the US Attorney Physician Relationships Investigations. Under the settlement agreement, DaVita agreed to pay the sum of \$350 million plus accrued interest and a civil forfeiture of \$39 million. In addition, DaVita also agreed to pay certain state Medicaid claim in the amount of \$11.5 million plus interest.

Under the DOJ settlement agreement, DaVita is released from any civil or administration monetary liability arising from allegations that it caused the submission of certain claims to the government healthcare programs that were ineligible for reimbursement due to violations of the Anti-Kickback Statute in connection with the operations of some of its dialysis centers joint venture arrangements. Information provided by DaVita within the application stated the DOJ settlement agreement reflects its disagreement with the government regarding the allegations. According to information in the documents provided, DaVita is not prohibited from billing or participating in Federal healthcare programs. [Source Application Appendix 4]

For medical director services, DaVita provided a draft copy of its medical director agreement between Company and Group and Dr. Sancar Eke. The department review of the compliance history the Dr. Sancar Eke revealed no recorded sanctions or license restrictions. Based on the compliance history of DaVita and Dr. Sancar Eke, the department concludes that there is reasonable assurance the proposed DaVita Elk Plain Dialysis Center would operate in conformance with state and federal regulations. **This sub-criterion is met.**

- (4) *The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.*

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

In response to this criterion, DaVita provided a summary of the quality and continuity of care indicators used at its existing facilities. The quality of care program provided by the applicant incorporates all areas of the dialysis program it monitors and evaluates all activities related to clinical outcomes, operations management, and process flow. Further, the applicant provided examples of its quality index data known as 'Empower'.

Additionally, DaVita provided a draft sample of the patient transfer agreement used at the majority owner and managing member existing facilities in Washington. [Source: Application, Appendices 12, 17 & 18] Since the patient transfer agreement is a draft, the department would attach a condition to the approval of this project. With agreement to the condition related to the patient transfer agreement, the department concludes approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. **This sub-criterion is met.**

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

For this project, this sub-criterion is addressed in sub-section (3) above and **is met**

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

Based on the source information reviewed and provided the applicant agree to the conditions stated in the 'conclusion' section of this evaluation, the department determines that DaVita HealthCare Partners, Inc.'s project met the cost containment criteria in WAC 246-310-240.

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria, then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met WAC 246-310-210 thru 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific criteria (tiebreaker) contained in WAC 246-310. The tiebreaker criteria are objective measures used to compare competing projects and make the determination between two or more equally approvable projects, which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2) (a) (i), then the department would look to WAC 246-310-240(2) (a) (ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

Step One

DaVita proposed to establish a new 11-station kidney dialysis facility by relocating existing stations in Pierce County planning area #5 to a new site within the same planning area. The department concludes that the project met the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

Step Two

Before submitting this application, DaVita stated it considered two alternatives that are summarized below. [Source: Application, Page 24]

Alternative 1: Do nothing continue to operate DaVita Parkland

DaVita stated it considered doing nothing but the addition of a dialysis center in Spanaway would increase patient's access in the planning area therefore, it rejected this option.

Alternative 2: Relocate 11 stations from Parkland facility

The applicant stated relocating existing stations supports patient's access and choice in the planning area. Therefore, this option is acceptable.

Departments Evaluation

Given the two options considered by DaVita and given that it chose to relocate existing stations already counted as existing dialysis station in the planning area, the department did not identify any other alternative besides those proposed by the applicant. DaVita's rebuttal comments stated the number of ESRD patients in Spanaway has grown. Recent NWRN (June 2015) data confirms that presently fifty-six ESRD patients reside in that zip code. If these high number of dialysis patients dialyze within that zip code area, it would be more than enough for a new 11 station facility to reach the 4.8 standard. Therefore, the department concludes the project is the applicant best available alternative. **This sub-criterion is met.**

Step Three

This step is used to determine the best available alternative between two or more approvable projects. There was no other project submitted in Pierce County ESRD planning area #5 during Review Cycle #3 proposing to relocate stations. Therefore, this step is not applicable to the project.

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

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

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

DaVita proposes to lease the facility from a real estate developer. DaVita states that the scope and methods of the facility will meet Medicare certification and the local authority construction and energy conservation code. The proposed property lease costs were evaluated in the financial feasibility section of this analysis. Within this evaluation, the department concluded the overall project meet the financial feasibility criterion. Based on the information, the department concludes **this sub-criterion is met.**

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

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes **this sub-criterion is met.**