

DEPARTMENT OF HEALTH AND HUMAN SERVICES DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER GOVERNOR

MANDY COHEN, MD, MPH SECRETARY

> MARK PAYNE DIRECTOR

December 8, 2017

Lee M. Whitman 4101 Lake Boone Trail, Suite 300 Raleigh, NC 27607

Exempt from Review - Acquisition of Facility

Record #:

2452

Facility Name:

Duke Hospital Dialysis

Type of Facility: FID #:

End Stage Renal Disease

Acquisition by:

060316

Business #:

DaVita, Inc. 600

County:

Durham

Dear Mr. Whitman:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of December 1, 2017, the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(a)(8). Therefore, DaVita, Inc., may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section, DHSR to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C. Gen. Stat. §131E-181(b): "A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need."

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Bernetta Thorne-Williams

Project Analyst

Martha J. Frisone, Chief

Healthcare Planning and Certificate of Need Section

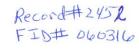
cc: Acute and Home Care Licensure and Certification Section, DHSR

Sharetta Blackwell, Program Assistant Healthcare Planning, DHSR

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

WWW.NCDHHS.GOV TELEPHONE 919-855-3873

LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603 MAILING ADDRESS: 2704 MAIL SERVICE CENTER •RALEIGH, NC 27699-2704 AN EQUAL OPPORTUNITY/ AFFIRMATIVE ACTION EMPLOYER





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LEE M. WHITMAN lwhitman@wyrick.com

December 1, 2017

VIA HAND DELIVERY AND FIRST CLASS MAIL

Martha Frisone Certificate of Need Section Division of Health Service Regulation 2704 Mail Service Center 809 Ruggles Drive Raleigh, NC 27699-2704



Re: <u>DaVita Notice of Exempt Acquisition Pursuant to NCGS § 131E-184(a)(8)</u>

Dear Ms. Frisone:

We write on behalf of our client DaVita, Inc. ("DaVita") to provide the Certificate of Need Section ("CON Section") with prior written notice of DaVita's intent to acquire Duke Hospital Dialysis in Durham, which is a kidney disease treatment center with 16 certified hemodialysis stations. Duke Hospital Dialysis is an existing health service facility, as that term is defined by N.C. Gen. Stat. § 131E-176(9b).

DaVita understands that its acquisition of Duke Hospital Dialysis is exempt from Certificate of Need review upon prior written notice to the CON Section. See N.C. Gen. Stat. § 131E-184(a)(8). Please accept this correspondence as such prior written notice of DaVita's planned acquisition of Duke Hospital Dialysis.

Thank you for your attention to this matter, and please do not hesitate to contact me with any questions.

Sincerely,

With best regards.

WYRICK ROBBINS YATES & PONTON LLP

Lee M. Whitman