



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: End Stage Renal Disease
FID #: 060316
Acquisition by: DaVita, Inc.
Business #: 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





Record# 2452
FID# 060316

Wyrick Robbins Yates & Ponton LLP
ATTORNEYS AT LAW

4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607
PO Drawer 17803, Raleigh, NC 27619
P: 919.781.4000 F: 919.781.4865 www.wyrick.com

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: DaVita Notice of Exempt Acquisition Pursuant to NCGS § 131E-184(a)(8)

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.

With best regards.

Sincerely,

WYRICK ROBBINS YATES & PONTON LLP

Lee M. Whitman