

**To the Healthcare Planning and Certificate of Need Section and
Acute Care Services Committee of the State Health Coordinating Council**

**Comments on the Wake Forest Baptist Health
Petition for Changes in Basic Policies and Methodologies in the 2020 SMFP
End-Stage Renal Disease Need Determinations**

March 21, 2019

DaVita Kidney Care and its related entities currently operate 91 dialysis facilities in North Carolina, providing dialysis care and support to over 5,900 dialysis patients. As we have engaged with members of the Acute Care Services Committee and Agency staff in the ESRD Interested Parties Meetings over the past year, analyzing and providing feedback on the proposed adjustments as the Agency transitions from twice-yearly reporting of ESRD data in Semiannual Dialysis Reports (SDR) to annual reporting of ESRD data in the State Medical Facilities Plan (SMFP), our primary concern has been the impact of the Agency's proposed changes on patient access. We sincerely appreciate the efforts made by the Agency and the Committee to include the comments and suggestions of dialysis providers in this process.

Wake Forest Baptist Health (WFBH) has proposed a number of changes be made to the basic policies and methodologies in the 2020 State Medical Facilities Plan (SMFP). DaVita offers the following comments in support of approving the petition, in part.

1. Convert the Facility Need Methodology for end-stage renal disease (“ESRD” or “dialysis”) services from a need determination to a new policy, Policy ESRD-1

DaVita supports this proposed change. The SMFP would still project the need for additional dialysis stations via the County Need Methodology. The proposed change would have the effect of allowing providers to continue to have the ability to develop sufficient facilities and stations in a timely manner, which was the expressed goal of the Agency Staff and Council committee members throughout the various ESRD Interested Parties meetings.

This change does not radically deviate from the guidance the Agency has provided the Council regarding the expansion of existing facilities:

“...the State Medical Facilities Plan (Plan) includes a Facility Need methodology, which is designed to allow any existing facility to submit an application to expand if its utilization exceeds 80 percent and the facility is located in a service area where there is no need shown by the County Need methodology. This Facility Need methodology is permissive, *allowing providers to determine whether or not*

to pursue additional stations based on the business and patient needs at each facility.”¹

Creating a Policy ESRD-1, as outlined in WFBH’s petition, is entirely in alignment with this framework. At more than one of the ESRD Interested Parties Meetings, Ms. Frisone, Chief of the Healthcare Planning and Certificate of Need Section, suggested that eliminating the Facility Need Methodology in favor of a “policy approach” to determining when existing facilities are eligible to apply for additional stations might be a part of the way forward in this transition to annual ESRD data reporting in the SMFP.

An application submitted pursuant to Policy ESRD-1, as with the current Policy ESRD-2, would have to show that it met the Performance Standards in 10A NCAC 14C .2203, so concerns about overdevelopment in the absence of a facility need determination are unwarranted. Providers have successfully applied for *only* the additional stations they could prove a facility had a need for, not necessarily the number of stations a facility need determination indicated.

- 2. Revision of Policy ESRD-2, to take into account the elimination of the SDR.**
- 3. Revision to several of the Basic Principles and other portions of the SMFP, to eliminate reference to the SDR.**

DaVita understands and agrees that changes will need to be made to the SMFP to reflect the elimination of the Semiannual Dialysis Report (SDR), but does not believe any additional substantive changes need to be made to Policy ESRD-2 or the timeline for Policy ESRD-2 application submissions.

DaVita appreciates the opportunity to share these comments and looks forward to continued partnership with Agency Staff and the Acute Care Services Committee as we transition to annual data reporting in the SMFP.

¹ “Agency Report for Petition to Amend ESRD Need Methodology Utilization Standard, Proposed 2013 State Medical Facilities Plan,” https://www2.ncdhhs.gov/dhsr/mfp/pdf/2012/lrbh/0409_agencyreport_esrdutil.pdf