



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
*Olympia, Washington 98504*

April 26, 2017

CERTIFIED MAIL # 7016 0910 0000 3454 9283

Richard Petrich, VP Planning  
CHI Franciscan Health  
1145 Broadway, #1000  
Tacoma, Washington 98402

RE: Certificate of Need Application #17-05A

Dear Mr. Petrich:

We have completed review of the Certificate of Need application submitted by CHI Franciscan Health proposing to establish a seven-station dialysis center in Federal Way, within King County planning area #5. Enclosed is a written evaluation of the application.

For the reasons stated in this evaluation, the department has concluded that the project is not consistent with the Certificate of Need review criteria identified below, and a Certificate of Need is denied.

Washington Administrative Code 246-310-210	Need
Washington Administrative Code 246-310-220	Financial Feasibility
Washington Administrative Code 246-310-230	Structure and Process of Care
Washington Administrative Code 246-310-240	Cost Containment

This decision may be appealed. The two appeal options are listed below.

Appeal Option 1:

You or any person with standing may request a public hearing to reconsider this decision. The request must state the specific reasons for reconsideration in accordance with Washington Administrative Code 246-310-560. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

<u>Mailing Address:</u>	<u>Physical Address</u>
Department of Health	Department of Health
Certificate of Need Program	Certificate of Need Program
Mail Stop 47852	111 Israel Road SE
Olympia, WA 98504-7852	Tumwater, WA 98501

Richard Petrich, VP Planning  
CHI Franciscan Health  
Certificate of Need Application #17-05A  
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Appeal Option 2:

You or any person with standing may request an adjudicative proceeding to contest this decision within 28 calendar days from the date of this letter. The notice of appeal must be filed according to the provisions of Revised Code of Washington 34.05 and Washington Administrative Code 246-310-610. A request for an adjudicative proceeding must be received within the 28 days at one of the following addresses:

Mailing Address:

Department of Health  
Adjudicative Service Unit  
Mail Stop 47879  
Olympia, WA 98504-7879

Physical Address

Department of Health  
Adjudicative Service Unit  
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,



Steve Bowman, PhD, MHA  
Director, Office of Community Health Systems

Enclosure

## **EXECUTIVE SUMMARY**

**EVALUATION DATED APRIL 26, 2017, FOR TWO CERTIFICATE OF NEED APPLICATIONS, EACH PROPOSING TO ADD DIALYSIS STATION CAPACITY TO KING COUNTY PLANNING AREA #5**

- **NORTHWEST KIDNEY CENTERS PROPOSING TO ESTABLISH A SEVEN-STATION DIALYSIS CENTER IN FEDERAL WAY**
- **CHI FRANCISCAN HEALTH PROPOSING TO ESTABLISH A SEVEN-STATION DIALYSIS CENTER IN FEDERAL WAY**

### **BRIEF APPLICANT AND PROJECT DESCRIPTIONS**

#### **Northwest Kidney Centers**

Northwest Kidney Centers (NKC) is a not-for-profit entity that provides kidney dialysis services in Washington State. Currently, NKC is approved to operate 16 dialysis facilities in King and Clallam counties. [source: NKC website and application, p5 and Exhibit 4]

NKC proposes to establish a new seven-station dialysis center at 501 South 336<sup>th</sup> Street, #110 in Federal Way [98003] within King County planning area #5. [source: Application, p5]

If this project is approved, NKC proposes that the new dialysis center would be operating by the end of February 2018. [source: Application, p14]

The estimated capital expenditure for the project is \$1,666,653. Of that amount, NKC is responsible for \$1,427,973 and the landlord is responsible for \$238,680. [source: Application, p10 and p30]

#### **CHI Franciscan Health**

Catholic Health Initiatives (CHI) is a not-for-profit health system and the parent company of Franciscan Health System. CHI, through its subsidiary CHI Franciscan Health System<sup>1</sup>, owns or operates a variety of healthcare facilities under the “CHI Franciscan Health” name. [source: Application, p1] Throughout this evaluation, CHI Franciscan Health will be referenced as ‘CHI Franciscan.’

In Washington State, CHI Franciscan operates a variety of healthcare facilities, including six dialysis centers. For this project, CHI Franciscan proposes to establish a new seven-station dialysis center at 2154 South 314<sup>th</sup> Street in Federal Way [98003] within King County planning area #5. [source: Application p1]

If this project is approved, CHI Franciscan proposes that the new dialysis center would be operating by the end of June 2018. [source: Application, p8 and November 30, 2016, screening response, p1]

The estimated capital expenditure for the project is \$1,628,654. Of that amount, CHI Franciscan is responsible for \$1,503,349 and the landlord is responsible for \$125,305. [source: Application, p26]

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<sup>1</sup> In year 2014 Franciscan Health System changed its name to CHI Franciscan Health. Portions of this evaluation may reference past applications, but continue to reference the applicant as CHI Franciscan Health. The department acknowledges that before 2014, the applicant was known Franciscan Health System.

**APPLICABILITY OF CERTIFICATE OF NEED LAW**

**Northwest Kidney Centers**

This project is subject to Certificate of Need review as the construction, development, or other establishment of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

**CHI Franciscan Health**

This project is subject to Certificate of Need review as the construction, development, or other establishment of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

**CONCLUSIONS**

**Northwest Kidney Centers**

For the reasons stated in this evaluation, the application submitted by Northwest Kidney Centers proposing to establish a seven-station dialysis center located in King County planning area #5 is consistent with applicable criteria of the Certificate of Need Program, provided Northwest Kidney Centers agrees to the following in its entirety.

**Project Description:**

This certificate approves the establishment of a seven-station dialysis center in Federal Way, within King County planning area #5. At project completion, Northwest Kidney Centers is approved to certify and operate a total of seven dialysis stations at the new center. Services to be provided at the new dialysis center include in-center hemodialysis, home hemodialysis and home peritoneal dialysis, training and support for dialysis patients, a permanent bed station, an isolation station, and a shift beginning after 5:00 p.m. A breakdown of all stations at project completion is shown below.

Private Isolation Room	1
Permanent Bed Station	1
Other In-Center Stations	5
<b>Total</b>	<b>7</b>

**Conditions:**

1. Approval of the project description as stated above. Northwest Kidney Centers 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. Northwest Kidney Centers shall finance the project using cash reserves as described in the application.

**Approved Costs:**

The approved capital expenditure for the project is \$1,427,973, which represents the total cost of \$1,666,653, minus the landlord’s cost of \$238,680.

**CHI Franciscan Health**

For the reasons stated in this evaluation, the application submitted by CHI Franciscan proposing to establish a seven-station dialysis facility in Federal Way within the King County planning area #5 is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

**EVALUATION DATED APRIL 26, 2017, FOR TWO CERTIFICATE OF NEED APPLICATIONS, EACH PROPOSING TO ADD DIALYSIS STATION CAPACITY TO KING COUNTY PLANNING AREA #5**

- **NORTHWEST KIDNEY CENTERS PROPOSING TO ESTABLISH A SEVEN STATION DIALYSIS CENTER IN FEDERAL WAY**
- **CHI FRANCISCAN HEALTH PROPOSING TO ESTABLISH A SEVEN-STATION DIALYSIS CENTER IN FEDERAL WAY**

**APPLICANT DESCRIPTIONS**

**Northwest Kidney Centers**

Northwest Kidney Centers (NKC) is a private, not-for-profit corporation, incorporated in the state of Washington. NKC provides dialysis services through its facilities located in King and Clallam counties. Established in 1962, NKC operates as community based dialysis program working to meet the needs of dialysis patients and their physicians. A volunteer board of trustees governs NKC. The board is comprised of medical, civic, and business leaders from the community. An appointed Executive Committee of the Board oversees operating policies, performance, and approves capital expenditures for all of its facilities. [source: Application, pp5-6 and Exhibits 2 & 3]

In Washington State, NKC is approved to operate the 16 kidney dialysis facilities listed below. NKC does not own or operate any healthcare facilities outside of Washington State. [source: Application, Exhibit 4]

**King County**

Auburn Kidney Center  
Broadway Kidney Center  
Elliot Bay Kidney Center  
Enumclaw Kidney Center  
Federal Way Kidney Center<sup>2</sup>  
Kent Kidney Center  
Kirkland Kidney Center

**King County**

Lake City Kidney Center  
Lake Washington Kidney Center  
Renton Kidney Center  
Scribner Kidney Center  
Seattle Kidney Center  
SeaTac Kidney Center  
Snoqualmie Ridge Kidney Center  
West Seattle Kidney Center

**Clallam County**

Port Angeles Kidney Center

**CHI Franciscan Health**

Catholic Health Initiatives (CHI) is a not-for-profit health system and the parent company of Franciscan Health System. CHI, through its subsidiary CHI Franciscan Health System, owns or operates a variety of healthcare facilities under the “CHI Franciscan Health” name. CHI does not have direct ownership or management of any facilities in Washington State. [source: Application, p1] Throughout this evaluation, CHI Franciscan Health will be referenced as ‘CHI Franciscan.’

In Washington State, CHI Franciscan operates a variety of healthcare facilities. The following page shows is a listing of the eight hospitals, six dialysis centers, hospice care center, hospice agency, and two ambulatory surgery centers owned or operated by CHI Franciscan in Washington State. [source: Application, p3 and Exhibit 2, and CN historical files]

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<sup>2</sup> On March 10, 2017, CN #1593 was issued to NKC approving the establishment of the 14-station Federal Way East Kidney Center. As of the writing of this evaluation, the facility is not yet operational.

**Hospitals**

Harrison Medical Center, Bremerton  
 Highline Medical Center, Burien  
 Regional Hospital, Tukwila  
 St Anthony Hospital, Gig Harbor  
 St Clare Hospital, Lakewood  
 St Elizabeth Hospital, Enumclaw  
 St Francis Hospital, Federal Way  
 St Joseph Medical Center, Tacoma

**Ambulatory Surgery Centers**

Gig Harbor Ambulatory Surgery Center  
 Franciscan Endoscopy Center

**Dialysis Centers**

Franciscan Bonney Lake Dialysis Center<sup>3</sup>  
 Franciscan Eastside Dialysis Center  
 Franciscan South Tacoma Dialysis Center  
 Greater Puyallup Dialysis Center  
 St Joseph Medical Center  
 St Joseph Dialysis Center Gig Harbor

**Hospice Care Center**

FHS Hospice Care Center

**Hospice Agency**

Franciscan Hospice, Tacoma

In addition to the eight hospitals listed above, on March 10, 2017, Franciscan Specialty Care, LLC was issued CN #1594 approving the establishment of a new, 60-bed level I rehabilitation hospital in Tacoma, within Pierce County. Franciscan Specialty Care, LLC is 51% owned by CHI Franciscan Health dba St Joseph Medical Center and 49% owned by RehabCare Development 4 – a 100% subsidiary of Kindred Healthcare, Inc. The new rehabilitation hospital is expected to be operational by the end of December 2018.

**Pending Sale of CHI Franciscan Health Dialysis Centers**

During the public comment portion of this review, the CN Program received information indicating that some or all of CHI Franciscan’s dialysis facilities were going to be sold to Fresenius Medical Care. As part of its public comment, NKC provided the following information on the pending transaction.

**NKC Public Comment**

*“Pending sale: CHI is in the process of selling all of their outpatient centers which is evidence they have no interest in operating the proposed center in the King 5 planning area. The reason that they have not withdrawn their application is because, if successful, they would transfer/sell this facility upon opening to the new owner of former CHI facilities. This is grounds alone for rejection of their application, as it was not disclosed in their initial application or the revised application. How can an applicant make a case for receiving stations when they have no intention in running them? Is approval of this application in the best interest of residents of WA State? We understand CHI’s decision to sell their facilities, but we request this application be denied because the application is not the entity which will operate the facility.”* [source: NKC February 10, 2017, public comment, p1]

**CHI Franciscan Rebuttal**

*“In the recent Pierce 5 concurrent review process, the CN Program declared a Pivotal Unresolved Issue (PUI) regarding the proposed transaction between CHI Franciscan and Fresenius Medical Care regarding the proposed sale of the CHI Franciscan’s dialysis facilities. As outlined in the PUI comments, which we have included as Attachment 1, CHI Franciscan fully intends to complete this CN review process and operate this proposed facility. NKC’s argument is without merit.”* [source: March 16, 2017, CHI Franciscan rebuttal, p1]

<sup>3</sup> On April 29, 2016, CN #1574 was issued to CHI Franciscan Health approving the establishment of the three-station Franciscan Bonney Lake Dialysis Center consistent with the April 11, 2016, Settlement Agreement. As of the writing of this evaluation, the facility is not yet operational.

CHI Franciscan’s rebuttal references an “Attachment 1” that was included as part of their rebuttal response. Attachment 1 is two letters from CHI Franciscan Health to CN Program staff. Both letters were submitted during a concurrent ESRD review for a different dialysis review in a different planning area (Pierce County planning area #5). The letters focus on the pending sale of CHI Franciscan’s dialysis centers to Fresenius Medical Care. One letter is dated January 13, 2017, and the other is dated February 10, 2017. The information provided in both letters is below. [source: March 16, 2017, CHI Franciscan rebuttal, Attachment 1]

January 13, 2017 letter from CHI Franciscan to CN Program Staff

*“Lakewood 44 Station Dialysis Application  
Response to Pivotal Unresolved Issue  
Transaction Description*

*FMCNA proposes to acquire substantially all of the assets (excluding accounts receivable) of CHI-Franciscan Health relating to the chronic renal dialysis programs and the home dialysis programs at the following locations listed below under i through v. With respect to the CHI-Franciscan Health project under development at Bonney Lake (vi) and two pending CN applications (vii) and (viii), CHI-Franciscan Health intends to complete the CN review process (as applicable) and complete and operate those projects. After each of said facilities has been operational for a specified period of time (yet to be determined), FMCNA will have an exclusive option to purchase the facility.*

- i. SJMC; 1717 South J Street, Tacoma, WA 98405*
- ii. Puyallup; 702 South Hill Park Drive, Suite 105, Puyallup, WA 98373*
- iii. Gig Harbor; St. Anthony Medical Building, 4700 Point Fosdick Drive NW., Suite 101, Gig Harbor, WA, 98335*
- iv. East Tacoma; 1415 E. 72nd Street, Suite E, Tacoma, WA 98404*
- v. South Tacoma; 5825 Tacoma Mall Blvd., Tacoma, WA 98409*
- vi. Bonney Lake; 19420 State Route 410, Bonney Lake, WA 98391*
- vii. Lakewood; 2510 84th Street South, Lakewood, WA 98499*
- viii. Federal Way*

*Lakewood 44 Station Dialysis Application  
Response to Pivotal Unresolved Issue*

<i>Facility Name</i>	<i>CMS Number</i>	<i>Status</i>	<i>Effect on Facility</i>	<i>Timeframe</i>
<i>St Joseph Medical Center Nephrology</i>	<i>500108</i>	<i>Operational</i>	<i>To be Transitioned to Fresenius</i>	<i>February to May 2017</i>
<i>Greater Puyallup Dialysis Center</i>	<i>503507</i>	<i>Operational</i>	<i>To be Transitioned to Fresenius</i>	<i>February to May 2017</i>
<i>St Joseph Dialysis Gig Harbor</i>	<i>503510</i>	<i>Operational</i>	<i>To be Transitioned to Fresenius</i>	<i>February to May 2017</i>
<i>Franciscan Dialysis Eastside</i>	<i>503511</i>	<i>Operational</i>	<i>To be Transitioned to Fresenius</i>	<i>February to May 2017</i>
<i>St Joseph Medical Center South</i>	<i>503512</i>	<i>Operational</i>	<i>To be Transitioned to Fresenius</i>	<i>February to May 2017</i>

<i>Facility Name</i>	<i>CMS Number</i>	<i>Status</i>	<i>Effect on Facility</i>	<i>Timeframe</i>
<i>Bonney Lake Facility</i>	<i>n/a</i>	<i>CN Approved – not yet operational</i>	<i>To be Completed and Operated by CHI</i>	<i>Projected date of operation per CN App: December 2017</i>
<i>Proposed Pierce 5</i>	<i>n/a</i>	<i>Under CN Review</i>	<i>To be Completed and Operated by CHI</i>	<i>Projected date of operation per CN App: January 2018</i>
<i>Proposed King 5</i>	<i>n/a</i>	<i>Under CN Review</i>	<i>To be Completed and Operated by CHI</i>	<i>Projected date of operation per CN App: July 2018</i>

Also included in CHI Franciscan’s Attachment 1 is a February 10, 2017, letter from CHI Franciscan Health to CN Program staff. This letter was also submitted during a concurrent ESRD review for Pierce County planning area #5. Below is the information provided in the February 10, 2017, letter.

February 10, 2017 letter from CHI Franciscan to CN Program Staff

*“We appreciate the opportunity to address the public comments submitted by Puget Sound Kidney Centers (PSKC) and DaVita. Our competitors essentially argue that due to the proposed transaction with Fresenius, the CHI application should be rejected or discounted in some manner by the Department: We strongly object to their arguments for the reasons outlined below and respectfully request the Department to review our application and approve our proposed project.*

- 1. CHI has the expertise, infrastructure, staff and capacity to develop and operate the project. Regardless of the proposed transaction with Fresenius, CHI operates extensive health care services in the community with eight hospitals, over 200 ambulatory care facilities, 11,000 employees and over \$2.6 billion in revenue annually. We have extensive experience developing and operating all types of health care facilities, including ESRD facilities, and will continue to have such capabilities into the future.*
- 2. No request for relocation has been made. Contrary to PSKC's assertion, neither the statute nor the regulations requires a party granted a CN to operate a new facility for a specified period of time. PSKC's reference to operation for a minimum period of years presumably is to the relocation rule, which does not apply to this situation. No authority exists for the Department to consider PSKC's request that CHI operate the facility for a minimum period of operation.*
- 3. Nonprofit status is not a CN review criteria. PSKC appears to argue that an applicant's status as a nonprofit organization is relevant to the Department's review. Neither the statute nor the rules, however, identify an applicant's status as a nonprofit as a relevant review criteria and no authority exists for the Department to consider such a distinction.*
- 4. CHI is a valid applicant and its project should be reviewed. It is possible that the proposed transaction with Fresenius will not close and even if it does, that CHI will choose to develop and operate the project as proposed. CHI has invested significant resources into this project for almost two years, and its application should be fully reviewed on the merits according to the criteria set forth in the relevant statute and regulations. Thank you for the opportunity to submit these rebuttal comments. Very truly yours, etc...”*

[source: March 16, 2017, CHI Franciscan rebuttal, Attachment 1]



## Department Evaluation

In their public comment, NKC questions whether approval of the application would be in the best interests of the community because the applicant receiving the approval is not the entity that would ultimately be operating the dialysis center. This concern is not without merit.

NKC also raises concerns that CHI Franciscan did not disclose its plans to sell the dialysis center in either the initial or this amendment application. NKC asserts CHI Franciscan's failure to disclose the sale of the dialysis center in the application is grounds to deny the application.

Unlike the Pierce County planning area #5 review referenced by CHI Franciscan in their rebuttal comment, the timing for this review allowed CHI Franciscan ample opportunity to provide a detailed description of the transaction between them and Fresenius. Yet, CHI Franciscan's information only includes a broad outline of the transaction. It does not offer the level of specificity the department would need to reasonably conclude that the volume and financial projections within this application would maintain any integrity following the transaction. A more detailed analysis of this will be found later on in this evaluation under WAC 246-310-284(6), WAC 246-310-220(1) and (2), and WAC 246-310-230(2) and (4).

## **PROJECT DESCRIPTIONS**

### **Northwest Kidney Centers**

NKC proposes to establish a new seven-station dialysis center at 501 South 336<sup>th</sup> Street, #110 in Federal Way [98003] within King County planning area #5. [source: Application, p5] The new dialysis center is referenced in this evaluation as 'NKC-Federal Way West.'

Services to be provided at NKC-Federal Way West include in-center hemodialysis, home hemodialysis and home peritoneal dialysis training. The facility will have an isolation area, a permanent bed station, and offer evening treatments beginning after 5:00pm. [source: Application, pp10-11 and Exhibits 8 and 9]

If this project is approved, NKC proposes that the new dialysis center would be operating by the end of February 2018. [source: Application, p14]

The estimated capital expenditure for the project is \$1,666,653. Of that amount, NKC is responsible for \$1,427,973 and the landlord will invest a total of \$238,680 in tenant improvements and real estate commission. [source: Application, p10 and p30]

### **CHI Franciscan Health**

CHI Franciscan proposes to establish a seven-station dialysis center at 2154 South 134<sup>th</sup> Street in Federal Way [98003] in King County planning area #5. The new dialysis center is referenced in this evaluation as 'Franciscan Federal Way.' [source: Application, p1]

Services to be provided at Franciscan Federal Way include in-center hemodialysis, backup dialysis service, home hemodialysis and home peritoneal dialysis training, a dedicated isolation station, a permanent bed station, and shifts beginning after 5 pm. [source: Application, p7 and p23]

If this project is approved, CHI Franciscan would be operating the new facility by the end of June 2018. [source: Application, p8 and November 30, 2016, screening response, p1]

The estimated capital expenditure for the project is \$1,628,654. CHI Franciscan's share of the costs is \$1,503,349 and the landlord is responsible for \$125,305 in tenant improvements. [source: Application, p7 and p26]

## **APPLICABILITY OF CERTIFICATE OF NEED LAW**

### **Northwest Kidney Centers**

NKC's project is subject to Certificate of Need review as the construction, establishment, or other development of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

### **CHI Franciscan Health**

CHI Franciscan's project is subject to Certificate of Need review as the construction, establishment, or other development of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

## **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 in 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 contain service or facility specific criteria for dialysis projects and must be used to make the certain determinations. Specific to these two projects, in order to obtain Certificate of

Need approval, each applicant must demonstrate compliance with the applicable 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). Additionally, each applicant must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 (definitions); WAC 246-310-282 (concurrent review cycle); WAC 246-310-284 (methodology and standards); and WAC 246-310-287 (exceptions).

**TYPE OF REVIEW**

As directed under WAC 246-310-282(1) the department accepted these two projects under the Kidney Disease Treatment Centers-Concurrent Review Cycle #3 for calendar year 2016. A chronological summary of the review is shown below.

**APPLICATION CHRONOLOGY**

<b>Action</b>	<b>NKC</b>	<b>CHI Franciscan</b>
Letter of Intent Submitted	July 28, 2016	July 29, 2016
Application Submitted	August 31, 2016	August 31, 2016
Amendment Application Submitted	N/A	September 30, 2016
Department’s pre-review activities <ul style="list-style-type: none"> <li>• DOH 1<sup>st</sup> Screening Letter</li> <li>• Applicant’s Responses Received</li> <li>• Applicant’s Supplemental Responses Received</li> </ul>	October 31, 2016 November 29, 2016 December 5, 2016	October 31, 2016 November 30, 2016 None
Beginning of Review	December 16, 2016	
Public Hearing Conducted	None Requested or Conducted	
Public Comments accepted through the end of public comment on February 14, 2017	February 10, 2017	February 14, 2017
Rebuttal Comments Submitted	March 13, 2017	
Department's Anticipated Decision Date	May 1, 2017	
Department's Actual Decision Date	April 26, 2017	

**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.”*

As noted above, WAC 246-310-010(2) requires an affected person to first meet the definition of an ‘interested person.’ WAC 246-310-010(34) defines “interested person” as:

- (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.*

Under concurrent review, each applicant is an affected person for the other application.

No other entities requested interested or affected person status for either of the two projects.

### **SOURCE INFORMATION REVIEWED**

- Northwest Kidney Centers Certificate of Need application received August 31, 2016
- Northwest Kidney Centers screening responses received November 29 and December 5, 2016
- CHI Franciscan Health amended Certificate of Need application received September 30, 2016<sup>4</sup>
- CHI Franciscan Health's screening responses received November 30, 2016
- Northwest Kidney Centers public comments received February 10, 2017
- CHI Franciscan Health public comments received February 14, 2017
- Northwest Kidney Centers' rebuttal responses received March 16, 2017
- CHI Franciscan Health's rebuttal responses received March 16, 2017
- Licensing and/or survey data provided by the Department of Health's Investigations and Inspections Office
- Licensing data provided by the Medical Quality Assurance Commission
- Northwest Kidney Centers website at [www.nwkidney.org](http://www.nwkidney.org)
- CHI Franciscan Health website at [www.chifranciscan.org/](http://www.chifranciscan.org/)
- Northwest Renal Network website at [www.nwrn.org](http://www.nwrn.org)
- Centers for Medicare and Medicaid website at [www.medicare.gov/dialysisfacilitycompare](http://www.medicare.gov/dialysisfacilitycompare)
- Geographic Map of King County Planning Area #5 at [www.usnaviguide.com](http://www.usnaviguide.com)
- Rosen Harbottle real estate website at [www.rosenharbottle.com](http://www.rosenharbottle.com)
- Certificate of Need historical files

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<sup>4</sup> CHI Franciscan submitted its initial application on August 30, 2016, consistent with the ESRD concurrent review cycle #3. On September 30, 2016, CHI Franciscan submitted its first amendment application consistent with WAC 246-310-100(6). Once the amendment application was received, the initial application is no longer considered in this review and will not be discussed further in this evaluation.

## **CONCLUSIONS**

### **Northwest Kidney Centers**

For the reasons stated in this evaluation, the application submitted by Northwest Kidney Centers proposing to establish a seven-station dialysis center located in King County planning area #5 is consistent with applicable criteria of the Certificate of Need Program, provided Northwest Kidney Centers agrees to the following in its entirety.

### **Project Description:**

This certificate approves the construction of a seven-station dialysis center in Federal Way, within King County planning area #5. At project completion, Northwest Kidney Centers is approved to certify and operate a total of seven dialysis stations at the new center. Services to be provided at the new dialysis center include in-center hemodialysis, home hemodialysis and home peritoneal dialysis, training and support for dialysis patients, a permanent bed station, an isolation station, and a shift beginning after 5:00 p.m. A breakdown of all stations at project completion is shown below.

Private Isolation Room	1
Permanent Bed Station	1
Other In-Center Stations	5
<b>Total</b>	<b>7</b>

### **Conditions:**

3. Approval of the project description as stated above. Northwest Kidney Centers 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.
4. Northwest Kidney Centers shall finance the project using cash reserves as described in the application.

### **Approved Costs:**

The approved capital expenditure for the project is \$1,427,973, which represents the total cost of \$1,666,653, minus the landlord's cost of \$238,680.

### **CHI Franciscan Health**

For the reasons stated in this evaluation, the application submitted by CHI Franciscan proposing to establish a seven-station dialysis facility in Federal Way within the King County planning area #5 is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

## **CRITERIA DETERMINATIONS**

### **A. Need (WAC 246-310-210)**

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Northwest Kidney Centers project **met** the applicable need criteria in WAC 246-310-210 and met the applicable kidney disease treatment facility criteria in WAC 246-310-280 through 289.

Based on the source information reviewed, the department concludes that the CHI Franciscan project **does not meet** the need criteria in WAC 246-310-210 and **does not meet** the applicable kidney disease treatment facility criteria in WAC 246-310-280 through 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.*

WAC 246-310-284 requires the department to evaluate kidney disease treatment center applications based on the populations need for the service and determine whether other services and facilities of the type proposed are not, or will not, be sufficiently available or accessible to meet that need as required in WAC 246-310-210. The kidney disease treatment center specific numeric methodology applied is detailed under WAC 246-310-284(4). WAC 246-310-210(1) criteria is also identified in WAC 246-310-284(5) and (6).

### **WAC 246-310-284 Kidney Disease Treatment Center Numeric Methodology**

WAC 246-310-284 contains the methodology for projecting numeric need for dialysis stations within a planning area. This methodology projects the need for kidney dialysis treatment stations through a regression analysis of the historical number of dialysis patients residing in the planning area using verified utilization information obtained from the Northwest Renal Network (NRN).<sup>5</sup>

The first step in the methodology calls for the determination of the type of regression analysis to be used to project resident in-center station need [WAC 246-310-284(4)(a)]. This is derived by calculating the annual growth rate in the planning area using the year-end number of resident in-center patients for each of the previous six consecutive years, concluding with the base year.<sup>6</sup>

In planning areas experiencing high rates of growth in the dialysis population (6% or greater growth in each of the last five annual change periods), the method uses exponential regression to project future need. In planning areas experiencing less than 6% growth in any of the last five annual change periods, linear regression is used to project need.

Once the type of regression is determined as described above, the next step in the methodology is to determine the projected number of resident in-center stations needed in the planning area based on the planning area's previous five consecutive years NRN data, again concluding with the base year [WAC 246-310-284(4)(b) and (c)].

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<sup>5</sup> Northwest Renal Network was established in 1978 and is a private, not-for-profit corporation independent of any dialysis company, dialysis unit, or transplant center. It is funded by Centers for Medicare and Medicaid Services, Department of Health and Human Services. Northwest Renal Network collects and analyzes data on patients enrolled in the Medicare ESRD programs, serves as an information resource, and monitors the quality of care given to dialysis and transplant patients in the Pacific Northwest. [source: Northwest Renal Network website]

<sup>6</sup> WAC 246-310-280 defines base year as “*the most recent calendar year for which December 31 data is available as of the first day of the application submission period from the Northwest Renal Network's Modality Report or successor report.*” For these projects submitted on August 31, 2016, the base year is 2015.

WAC 246-310-284(5) identifies that for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties, the number of projected patients is divided by 4.8 to determine the number of stations needed in the planning area. For the specific counties listed above, the number of projected patients is divided by 3.2 to determine needed stations. Additionally, the number of stations projected as needed in the target year is rounded up to the nearest whole number.

Finally, once station need has been calculated for the projection year, the number of CN approved in-center stations are then subtracted from the total need, resulting in a net need for the planning area. [WAC 246-310-284(4)(d)]

WAC 246-310-280(9) identifies the 57 separate ESRD planning areas for the state. King County is broken into 12 sub-planning areas. NKC and CHI Franciscan propose to add dialysis station capacity to King County planning area #5. The following two zip codes are included in this planning area.

Zip	City	Zip	City
98003	Federal Way	98023	Federal Way

The department calculates the numeric methodology for each of the 57 planning areas and posts the results to its website. The year 2016 numeric methodology was posted on March 2016 and will be used for evaluating these two projects.

**Northwest Kidney Centers Numeric Methodology**

[source: Application, p3 and Exhibit 12]

NKC proposes to establish a seven-station dialysis center in the Federal Way zip code of 98003. NKC submitted the numeric methodology posted to the department’s website for King County planning area #5. The methodology projected need for seven new stations in year 2019.

**Public Comments**

None

**Rebuttal Comments**

None

The department’s evaluation of the NKC’s numeric methodology will be discussed below, concurrently with the CHI Franciscan’s project.

**CHI Franciscan Health Numeric Methodology**

[source: Application, p1 and pp16-17]

CHI Franciscan proposes to establish a seven-station dialysis center in the Federal Way zip code of 98003. CHI Franciscan prepared its own numeric methodology for King County planning area #5 using the same historical data and steps identified in the methodology posted to the department’s website. CHI Franciscan’s methodology projected need for seven new stations in year 2019.

**Public Comments**

None

Rebuttal Comments

None

**Department Evaluation of the Numeric Methodology for the Applications**

Each applicant submitted a methodology for King County dialysis planning area #5 as part of their application and both projected a need for seven dialysis stations in King County planning area #5 in year 2019.

Based on the calculation of the annual growth rate in the planning area as described above, the department used linear regression to project the need for King County dialysis planning area #5. The department divided the projected number of patients by 4.8 to determine the number of stations needed as required under WAC 246-310-284(5). The department's methodology also showed a need for seven stations in the planning area by the end of year 2019.

Table 1 below is a summary of the projected net need provided by each applicant and the department for King County planning area #5. The department's methodology is included in this evaluation as Attachment A.

**Table 1  
King County Planning Area #5  
Numeric Methodology Summary**

	<b>4.8 in-center patients per station</b>		
	<b>2019 Projected # of stations</b>	<b>Minus Current # of stations</b>	<b>2019 Net Need or (Surplus)</b>
<b>NKC</b>	35	28	7
<b>CHI Franciscan</b>	35	28	7
<b>DOH</b>	35	28	7

Table 1 above shows that both applicants and the department projected a need for seven stations in the planning area. As a result, the net station need for King County planning area #5 is seven for year 2019.

The department concludes NKC and CHI Franciscan **meet this numeric methodology standard**. For this standard, each application is equivalent to the other.

In addition to the numeric need, the department must determine whether other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet the dialysis station need.<sup>7</sup> The department uses the standards in WAC 246-310-284(5) and WAC 246-310-284(6).

**WAC 246-310-284(5)**

*Before the department approves new in-center kidney dialysis stations, all certificate of need approved stations in the planning area must be operating at 4.8 in-center patients per station for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties. For these exception planning areas all certificate of need approved stations in the planning area must*

<sup>7</sup> WAC 246-310-210(1)(b).



*be operating at 3.2 in-center patients per station. Both resident and nonresident patients using the dialysis facility are included in this calculation. Data used to make this calculation must be from the most recent quarterly modality report or successor report from the Northwest Renal Network as of the first day of the application submission period.*

For King County planning area #5, all approved stations in the planning area must be operating at 4.8 in-center patients per station before new stations can be added. The 4.8 patients per station represents 80% of the maximum number of patients that can receive dialysis per station in a facility that operates three patient shifts. If existing providers are operating either at or above the 4.8 standard, then the department considers the providers are effectively and appropriately serving the population. The 4.8 standard also means that the existing providers are approaching an occupancy level where stations are not or will not be sufficiently available to meet future need. WAC 246-310-284(5) identifies the data to be used to evaluate this sub-criterion.

### **Northwest Kidney Centers**

NKC provided the following statements related to this standard.

*"As noted in response to earlier questions, NKC Federal Way West Campus would be a new entrant in the King 5 planning area. NKC Federal Way West Campus will improve access and choice for residents of King 5 by providing a new location and provider for dialysis services. The new facility will improve access to patients in the City of Federal Way as well as those within easy access to Interstate 5. Today, 49 patients of NKC live in the King 5 planning area and this proposed center will reduce travel time and make treatments more convenient. For patients who receive treatment from other providers and new patients needing support, this proposed location will provide options in this market. A failure to add stations in the planning area will result in a continuing lack of access to treatments and limited schedule options as a result of the current DaVita center being very full. The need model shows that the 7 stations are needed in this community.*

*NKC Federal Way West Campus (once approved) will be one of a total of three centers in King 5 (the other two being owned by DaVita). Per review of the CN office and the June 30, 2016 data published by the Northwest Renal Network, "DaVita Federal Way" is operating 28 stations at 4.82 patients per station (135 patients) as of June 30, 2016. DaVita's "DaVita North" center is not open at the time of the census but we understand they intend to transfer 12 stations once open.*

*In late July 2016, Health Facilities Planning and Development had a conversation with the CN office and confirmed that the DOH would accept the current provider in King 5 as having met the 4.8 patients per station threshold. As a result of this threshold having been met, NKC is submitting this application to meet the 7 station need in the King 5 community." [source: Application, p16 & p21]*

### **Public Comments**

CHI Franciscan provided comments on NKC's application and access to services by patients. .

*"NKC's application notes that 55 patients reside in the two zip codes comprising the King 5 dialysis planning area. Of this number, nearly half already dialyze at the NKC Auburn Kidney Center. NKC submitted a separate CN application that proposes to establish a new facility that it acknowledges will be located close to the King 5 planning area border. In*

*fact, this new facility, to be known as NKC Federal Way East Campus, will be only 1.6 miles away from the King 5 proposed location (Federal Way West Campus). As a result, NKC's application does not offer any material improvement in access.” [source: CHI Franciscan February 14, 2017, public comments, p2]*

**Rebuttal Comments**

*“Improvement in access—NKC now has a CON to allow expansion of 2 stations in King 11 the planning area adjacent to King 5 along with relocation of 12 stations. CHI notes this new capacity is near the King 5 border-however activity in adjacent planning areas is not relevant to a CON review. In any case, we note that both the King 5 and the King 11 planning areas show need models of 12 stations (adjusting for the 2 stations awarded in King 11), to the demand for service in this area is high. NKC is committed to meeting the need in the community.” [emphasis in original] [source: March 16, 2017, rebuttal comments, p1]*

The department’s evaluation of NKC’s existing facility utilization standard under WAC 246-310-284(5) will be discussed below, concurrently with the CHI Franciscan’s project.

**CHI Franciscan Health**

CHI Franciscan relied on the March 31, 2016, NRN quarterly modality report to demonstrate compliance with this standard. Table 2 below shows a summary of the utilization calculated by CHI Franciscan.

**Table 2  
CHI Franciscan Facility Utilization Calculations**

<b>Facility Name</b>	<b># of Stations</b>	<b># of Pts</b>	<b>Pts/Station</b>
DaVita HealthPartners, Inc. Federal Way Community Dialysis Center	28	136	4.86

CHI Franciscan concluded the existing facility was operating above the 4.8 standard. [source: Application, p18]

**Public Comments**

During the review of these projects, CHI Franciscan provided public comment on its own application under this criterion. The comments are viewed as an applicant supplementing its own application and will not be considered or addressed in this review.

**Rebuttal Comments**

None

**Department Evaluation of WAC 246-310-284(5) for both NKC and CHI Franciscan**

The department uses data ‘from the most recent quarterly modality report or successor report from the Northwest Renal Network as of the first day of the application submission period’ to evaluate this standard. For these two projects submitted on August 31, 2016, the most recent quarterly data is March 13, 2016, available as of July 6, 2016.

There are two dialysis centers located in King County planning area #5 and both are owned by DaVita HealthCare Partners, Inc. [DaVita]. Table 3 on the following page shows the operational status and a summary of the utilization of each center located in the planning area.

**Table 3**  
**Department's Facility Utilization Calculations**

Facility Name	# of Approved Stations	# of Operational Stations	# of Pts	# Pts/Station
Federal Way Community Dialysis Center	16	28	136	4.85
Redondo Heights Dialysis Center <sup>8</sup>	12	0	0	0.00

As noted in Table 3 above, the planning area has 28 dialysis stations. On May 19, 2014, CN #1528 was issued to DaVita approving the establishment of a new 12-station dialysis center in the planning area by relocating 12 stations from its Federal Way facility to a new facility. As of March 2016, the new dialysis center was not operational.<sup>9</sup>

Both NKC and CHI Franciscan acknowledged that the new dialysis center was not operational during the first quarter of year 2016. However, the March 2016 quarter data confirmed that DaVita was operating its Federal Way Community Dialysis Center above the 4.8 standard with 28 dialysis stations.

Table 3 above shows that the existing operational dialysis center, Federal Way Community Dialysis Center, satisfies this standard. Meeting this standard indicates that the existing facility is effectively and appropriately serving the population. Meeting this standard also indicates stations are not or will not be sufficiently available to meet future need. **This standard is met.**

Within their respective applications, both NKC and CHI Franciscan agree that the one operational facility is operating above the 4.8 standard based on the March 13, 2016, NRN quarterly modality report. NKC and CHI Franciscan disagree on who should receive the seven stations projected to be needed in the planning area.

CHI Franciscan asserts that the location of NKC's project would not improve access for the planning area patients because it is located too close to the planning area border. NKC received approval to establish a 14-station facility in King County planning area #11 which is adjacent to the eastern border of King County planning area #5.

The department reviewed the historical number of patients in each of the two zip codes that make up King County planning area #5. The data is shown in Table 4 on the following page. [source: CN Program historical numeric methodologies]

<sup>8</sup> Referenced in NKC's application as "DaVita North."

<sup>9</sup> DaVita submitted its application to relocate the 12 stations new a new site in Federal Way on November 27, 2013. Within the application, DaVita stated the new center would be operational by January 2015. Based on the CN quarterly progress reports submitted by DaVita, the opening of the dialysis center was delayed. Based on data obtained from the Department of Health's Investigation and Inspections Office, Redondo Heights Dialysis Center was surveyed on December 23, 2016. The project was deemed complete by CN staff on February 1, 2017.

**Table 4**  
**King County Planning Area #5**  
**Ten-Year Historical Number of Patients by Zip Code**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>98003</b>	67	58	65	66	64	61	79	80	87	91
<b>98023</b>	37	44	43	43	47	34	38	42	50	51
<b>Total</b>	104	102	108	109	111	95	117	122	137	142

As shown in Table 4 above, while the 98023 zip code has experienced consistent patient growth, 98003 has had the larger number of dialyzing residents. It is reasonable that the majority of stations in the planning area would be located in the 98003 zip code.

A zip code map of the King County planning area #5 is included as Appendix B to the evaluation. The zip code map confirms CHI Franciscan’s assertion that NKC’s proposed facility is near its recently approved Federal Way East facility located in King County planning area #11. While not ideal to locate two new facilities within a short distance of each other, NKC’s assertion that “*activity in adjacent planning areas is not relevant to a CON review*” is correct. In summary both NKC and CHI Franciscan propose to add dialysis stations in the zip code with the higher number of dialysis patients. This approach is reasonable.

The department concludes NKC and CHI Franciscan **meet the standard under WAC 246-310-284(5)**. For this standard, each application is equivalent to the other.

**WAC 246-310-284(6)**

WAC 246-310-284(6) requires new in-center dialysis stations be operating at a required number of in-center patients per approved station by the end of the third full year of operation. For King County, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)]

**Northwest Kidney Centers**

[source: Application, p22]

NKC proposes the new seven-station dialysis center in Federal Way will be operational by the end of February 2018. Since NKC operates on a July to June fiscal year, NKC provided its projected utilization for fiscal years ending 2018 through 2021. Fiscal year three—2021—is shown in Table 5 below.

**Table 5**  
**NKC Federal Way West**  
**Projected Utilization Calculations**

<b>Seven Station Center</b>	<b># of Pts</b>	<b>Pts/Station</b>
Year Three – FYE 2021	36	5.14

**Public Comments**

None

**Rebuttal Comments**

None

The department's evaluation of NKC's projected utilization standard under WAC 246-310-285(6) will be discussed below, concurrently with the CHI Franciscan's project.

**CHI Franciscan Health**

[source: Application, p19]

CHI Franciscan proposes Franciscan Federal Way would be operational by the end of June 2018. Table 6 below shows the projected utilization of the new center in the third full calendar year of operation.

**Table 6  
Franciscan Federal Way  
Projected Utilization Calculations**

<b>Seven Station Center</b>	<b># of Pts</b>	<b>Pts/Station</b>
Year Three - 2021	35	5.00

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-284(6) for both NKC and CHI Franciscan**

Both applicants project to be operating above the 4.8 standard in their respective third year of operation. NKC's projection of 36 patients in year three rely, in part, on a number of King County planning area #5 patients already dialyzing in NKC's Auburn facility located in the adjacent planning area (King #11) that would have an option to transfer to the new facility.

CHI Franciscan's projections of 35 patients in year three rely, in part, on the numeric need projections. For this project, CHI Franciscan projects to meet this standard. Though the standard would be met under CHI ownership and control, information in the application led the department to conclude that CHI Franciscan's volume projections are not reliable. It is unclear whether the facility will remain under CHI Franciscan's ownership and control for the entire projection period. **This sub-criterion is not met.**

The department concludes NKC's application **meets this sub-criterion**. The department also concludes that CHI Franciscan's application does **not meet this sub-criterion**.

**WAC 246-310-287**

*The department shall not approve new stations in a planning area if the projections in WAC 246-310-284(4) show no net need, and shall not approve more than the number of stations projected as needed unless:*

- (1) All other applicable review criteria and standards have been met; and*
- (2) One or more of the following have been met:*
  - (a) The department finds the additional stations are needed to be located reasonably close to the people they serve; or*
  - (b) Existing dialysis stations in the dialysis facility are operating at six patients per station. Data used to make this calculation must be from the most recent quarterly modality*

- report or successor report from the Northwest Renal Network as of the first day of the application submission period; or*
- (c) The applicant can document a significant change in ESRD treatment practice has occurred, affecting dialysis station use in the planning area; and*
- (3) The department finds that exceptional circumstances exist within the planning area and explains the approval of additional stations in writing.*

### Department Evaluation

This sub-criterion is not applicable to either of the two applications under review.

- (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.*

To evaluate this sub-criterion, the department evaluates an applicant's admission policies, willingness to serve Medicare and Medicaid patients, and to serve patients that cannot afford to pay for services.

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 assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the planning area would have access to the proposed 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.

Medicare certification is a measure of an agency's willingness to serve the elderly. With limited exceptions, Medicare is coverage for individuals age 65 and over. It is also well recognized that women live longer than men and therefore more likely to be on Medicare longer. One of the exceptions is Medicare coverage for patients with permanent kidney failure. Patients of any age with permanent kidney failure are eligible for Medicare coverage.

Medicaid certification is a measure of an agency's willingness to serve low income persons and may include individuals with disabilities.

A facility's charity care policy should show a willingness of a provider to provide services to patients who have exhausted any third-party sources, including Medicare and Medicaid, and have an inability to pay for services. With the passage of the Affordable Care Act (ACA), the amount of charity care is expected to decrease, but not disappear. The policy should also include the process one must use to access charity care at the facility.

### Northwest Kidney Centers

NKC provided copies of the following policies used at all NKC dialysis centers. [source: Application, Exhibit 13 and November 29, 2016, screening responses, Attachment 6]

- New Patient Admission Policy for all NKC facilities
- Charity Care Policy for all NKC facilities
- Financial Services-Patient Accounts-Patient Compliancy Policy
- Financial Services-Patient Accounts-Charity Adjustments Policy
- Financial Services-Patient Accounts-Billing Patient Charges Policy
- Financial Services-Patient Accounts-Patient Funding Sources Policy
- Financial Services-Patient Accounts-Patient Financial Account Agreement

NKC also provided the following statements regarding admission for all NKC dialysis centers. [source: Application, p24]

*“NKC has a long established history of developing and providing services that meet the healthcare needs of the communities it serves. NKC Federal Way West Campus, as with all other NKC facilities, will provide services to all patients regardless of race, color, ethnic origin, religious belief, sex, age, or lack of ability to pay.”*

NKC provided its projected percentages of revenue and patient by source for NKC Federal Way West which is shown below in Table 7. [source: Application, p12]

**Table 7**  
**NKC Federal Way West**  
**Projected Revenue and Patient Sources**

<b>Source</b>	<b>Revenue</b>	<b>Patients</b>
Medicare	42.5%	68.7%
Medicaid	10.6%	18.2%
Commercial/Other	46.9%	13.1%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-210(2) for NKC**

The Admission Policy outlines the process/criteria that NKC uses to admit patients for treatment and ensures that patients will receive appropriate care at a dialysis center. The Admission Policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the facility without regard to race, color, religion, sex, national origin, or age.

All NKC dialysis centers are Medicare and Medicaid certified. Documentation provided in the application demonstrates that NKC-Federal Way West would also obtain both certifications. NKC projected the Medicare revenues for the new center to be 42.50% of total revenues. Pro forma financial data provided in the application shows Medicare revenues. [source: November 29, 2016, screening responses, Attachment 5]

NKC-Federal Way West’s Medicaid revenues are projected to be 10.6% of total revenues. Pro forma financial data provided in the application shows Medicaid revenues. [source: November 29, 2016, screening responses, Attachment 5]

NKC demonstrated its intent to continue to provide charity care to patients receiving treatment by submitting its current policies used for all dialysis centers owned, operated, or managed by NKC. The policies outline the process a patient would use to access services when they do not have the financial resources to pay for required treatments. NKC also include a ‘charity care’ line item as a deduction from revenue within the pro forma income statements for NKC-Federal Way West. [source: November 29, 2016, screening responses, Attachment 5]

In Washington State, most dialysis patients qualify for either Medicare or Medicaid services. Charity care is generally not used by dialysis providers. The department requires applicants to submit a copy of the charity care policy to demonstrate a willingness to provide charity care if necessary. The department concludes NKC’s project **meets this sub-criterion**.

**CHI Franciscan Health**

CHI Franciscan provided copies of the following policies used at all of its dialysis centers. [source: Application, Exhibit 9 and November 30, 2016, screening response, Attachment 4]

- Admission Policy
- Charity Care Policy

CHI Franciscan also provided the following statements regarding admission to its dialysis centers. [source: November 30, 2016, screening response, p6]

*“While there is no reimbursement enhancement, CHI Franciscan continues to operate all of its dialysis facilities as hospital outpatient departments under the St. Joseph Medical Center. As such, the above referenced policies apply to all of the outpatient dialysis facilities including the proposed Franciscan Federal Way, as a department of St. Joseph Medical Center.”*

CHI Franciscan provided the follow statements related to its charity care policy provided in the application. [source: November 30, 2016, screening responses, p6]

*“...all of the outpatient dialysis centers are operated under the St. Joseph Medical Center license, as a department of the hospital. Therefore, the outpatient dialysis services fall under the category of patients that are treated at any CHI Franciscan hospital. ... This is the charity care policy that is used for all outpatient dialysis patients and will also include all patients at the proposed Franciscan Federal Way facility.”*

CHI Franciscan provided its projected percentages of revenue and patient by source for Franciscan Federal Way which is shown in Table 8 below. [source: Application, p9, p28, and November 30, 2016, screening response, p1]

**Table 8  
Franciscan Federal Way  
Projected Revenue and Patient Sources**

<b>Source</b>	<b>Revenue</b>	<b>Patient</b>
Medicare	69.0%	79.0%
Medicaid	5.0%	11.0%
Insurance/HMO	26.0%	10.0%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>

Public Comments

None

Rebuttal Comments

None



### **Department Evaluation of WAC 246-310-210(2) for CHI Franciscan**

CHI Franciscan states that the Admission Policy covers all CHI Franciscan healthcare facilities and its dialysis centers are operated under an outpatient department of St. Joseph Hospital. For that reason, the Admission Policy does not specifically identify any of the dialysis centers within the document. CHI Franciscan has been providing dialysis services to the residents of Washington State for many years. The Admission Policy provides the assurance that Franciscan Federal Way would accept patients for treatment without regard to “*race, beliefs, age, ethnicity, religion, culture, language, physical or mental disability, socio-economic status, sex, sexual orientation, gender identity or expression or ability to pay for care...*”

All CHI Franciscan dialysis centers are Medicare and Medicaid certified. Documentation provided in the application demonstrates that Franciscan Federal Way would also obtain both certifications. CHI Franciscan projected the Medicare revenues for the new center to be 69.0% of total revenues. Pro forma financial data provided in the application shows Medicare revenues. [source: Application, p9, p28 and Exhibit 10]

CHI Franciscan’s Medicaid revenues for Franciscan Federal Way are projected to be 5.0% of total revenues. Pro forma financial data provided in the application shows Medicaid revenues. [source: Application, p9, p28 and Exhibit 10]

CHI Franciscan demonstrated its intent to continue to provide charity care to patients receiving treatment by submitting its current policies used for healthcare facilities owned or operated by CHI Franciscan. The policies outline the process a patient would use to access services when they do not have the financial resources to pay for required treatments. CHI Franciscan also included a ‘charity care’ line item as a deduction from revenue within the pro forma income statements for Franciscan Federal Way. [source: Application, Exhibit 10 and November 30, 2016, screening responses, p6]

As previously stated, in Washington State, most dialysis patients qualify for either Medicare or Medicaid services. Charity care is generally not used by dialysis providers. The department requires applicants to submit a copy of the charity care policy to demonstrate a willingness to provide charity care if necessary. The department concludes CHI Franciscan’s project **meets this sub-criterion**.

### **Department Superiority Review**

In conclusion, both NKC and CHI Franciscan **meet this sub-criterion**. Further, each application is equivalent to the other.

- (3) The applicant has substantiated any of the following special needs and circumstances the proposed project is to serve.
  - (a) The special needs and circumstances of entities such as medical and other health professions schools, multidisciplinary clinics and specialty centers providing a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas.

### **Department Evaluation**

This sub-criterion is not applicable to either of the two applications.

(b) The special needs and circumstances of biomedical and behavioral research projects designed to meet a national need and for which local conditions offer special advantages.

**Department Evaluation**

This sub-criterion is not applicable to either of the two applications.

(c) The special needs and circumstances of osteopathic hospitals and non-allopathic services.

**Department Evaluation**

This sub-criterion is not applicable to either of the two applications.

(4) The project will not have an adverse effect on health professional schools and training programs. The assessment of the conformance of a project with this criterion shall include consideration of:

(a) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

**Department Evaluation**

This sub-criterion is not applicable to either of the two applications.

(b) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools serving the area will have access to the services for training purposes.

**Department Evaluation**

This sub-criterion is not applicable to either of the two applications.

(5) The project is needed to meet the special needs and circumstances of enrolled members or reasonably anticipated new members of a health maintenance organization or proposed health maintenance organization and the services proposed are not available from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization.

**Department Evaluation**

This sub-criterion is not applicable to either of the two applications.

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

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Northwest Kidney Centers **met** the applicable financial feasibility criteria in WAC 246-310-220.

Based on the source information reviewed, the department determines that CHI Franciscan Health **does not meet** the applicable 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.

**Northwest Kidney Centers**

NKC anticipates the new dialysis center will be operational by the end of February 2018. Since NKC operates on a July to June fiscal year, NKC calculated its projected utilization for fiscal years ending 2018 through 2021. NKC provided the assumptions used to project in-center and home treatments and patients for the fiscal years shown. [source: November 29, 2016 screening responses, p10]

- In-Center dialysis patient growth was based on the growth rate experience at NKC’s Auburn Kidney Center located in an adjacent planning area.
- Home dialysis patient census estimates are based on current home dialysis patients and growth at Auburn Kidney Center.
- In-center dialysis treatments are based on NKC’s experience and assumed at approximately 150 treatments per patient per year for patient census.

Using the assumptions stated above, NKC’s projected number of in-center / home patients and dialyses for the seven-station facility shown in Table 9 below. [source: November 29, 2016, screening responses, p10 and Attachment 5]

**Table 9  
NKC Federal Way West  
Projected Patients and Dialyses for FYE 2018-2021**

	<b>Partial Year FYE 2018</b>	<b>Full Year 1 FYE 2019</b>	<b>Full Year 2 FYE 2020</b>	<b>Full Year 3 FYE 2021</b>
# of Stations	7	7	7	7
Incenter Treatments	947	3,552	4,196	5,284
Incenter Patients	19	24	28	36
Home Treatments	98	444	576	720
Home Patients	2	3	4	5
Total Treatments	1,045	3,996	4,772	6,004
Total Patients	21	27	32	40

The assumptions NKC used to project revenue, expenses, and net income for its Federal Way center for FYE 2018 through 2021 are summarized below. [source: November 29, 2016, screening responses, p10]

- Payer mix is based on current actuals at NKC Auburn Kidney Center located in the adjacent planning area of King County planning area #11. Payer mix is shown below.

<b>Source</b>	<b>Percentage</b>
Medicare	42.5%
Medicaid	10.6%
Commercial	46.9%
<b>Total</b>	<b>100.0%</b>

- Patient revenue is based on the actual revenue per treatment for Auburn Kidney Center.
- No payment increases or decreases have been reflected.
- Operating costs are based on the actual costs per treatment of a similar sized unit. No assumptions for inflation or cost escalation have been reflected.
- Rent costs based on lease agreement.
- Medical director fees are based on medical director agreement for the new facility and assumed at \$60,000 annual.
- Expenses include annual allocated costs under the line item of ‘overhead.’

Using the assumptions above, NKC projected the revenue, expenses, and net income for NKC-Federal Way West with seven dialysis stations and its home dialysis treatment program. A summary of the projections is in Table 10 below. [source: November 29, 2016, screening responses, Attachment 5]

**Table 10**  
**NKC Federal Way West**  
**Revenue and Expense Statement for Projected FYE 2018 through 2021**

	<b>Partial Year FYE 2018</b>	<b>Full Year 1 FYE 2019</b>	<b>Full Year 2 FYE 2020</b>	<b>Full Year 3 FYE 2021</b>
Net Revenue	\$ 406,693	\$ 1,525,099	\$ 1,801,524	\$ 2,268,586
Total Expenses	\$ 501,852	\$ 1,582,278	\$ 1,797,923	\$ 2,163,954
<b>Net Profit / (Loss)</b>	<b>(\$ 95,159)</b>	<b>(\$ 57,179)</b>	\$ 3,601	\$ 104,632

The ‘Net Revenue’ line item is gross in-center and home dialysis revenue, minus deductions for bad debt and charity care. The ‘Total Expenses’ line item includes all expenses related to the operation of the new dialysis center, including allocated costs. The line item also includes medical director costs consistent with the executed medical director agreement provided in the application. [source: Application, Exhibit 6]

NKC provided a copy of the executed Lease Agreement for the site at 501 South 336<sup>th</sup> Street, #110 in Federal Way. [source: December 5, 2016, screening responses]

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-220(1) for NKC**

The assumptions used by NKC to determine the number of patients and treatments at its new seven-station facility are reasonable. The assumptions used by NKC to project revenues, expenses, and net income for the new facility are also reasonable.

The department concludes NKC’s project **meets this sub-criterion.**

**CHI Franciscan Health**

CHI Franciscan anticipates the proposed seven-station dialysis center will be operational by the end of June 2018. Based on this timeline, CHI Franciscan determined calendar year 2019 would be the

facility's first full year of operation and 2021 is year three. [source: Application, p10 and November 30, 2016, screening response, p1]

CHI Franciscan provided the assumptions used to project in-center and home treatments and patients for calendar years 2018 through 2020. Below is a summary of the assumptions. [source: Application, p18]

- Patient volume is based on a 4-year projection of the King County ESRD planning area #5 patients using a regression of five years historical data.
- In-Center treatments are based on an assumption of 148 treatments per patient annually.

Using the assumptions stated above, CHI Franciscan's projected the number of in-center and training dialyses and patients for the Federal Way facility with seven stations. The projections are shown in Table 11 below. [source: Application, p8 and Exhibit 10]

**Table 11  
Franciscan Federal Way  
Projected Patients and Dialyses for Years 2018-2021**

	<b>Partial Year FYE 2018</b>	<b>Full Year 1 FYE 2019</b>	<b>Full Year 2 FYE 2020</b>	<b>Full Year 3 FYE 2021</b>
# of Stations	7	7	7	7
Incenter Treatments	1,110	3,256	4,292	5,180
Incenter Patients	15	22	29	35
Home Treatments	148	592	740	888
Home Patients <sup>10</sup>	1	4	5	6
Total Treatments	1,258	3,848	5,032	6,068
Total Patients	16	26	34	41

The assumptions CHI Franciscan used to project revenue, expenses, and net income for Franciscan Federal Way for years 2018 through 2020 are restated below. [source: November 30, 2016, screening responses, p7]

- *Charity Care is estimated at 0.5% of gross revenue*
- *Bad debt is estimated at 1.0% of gross revenue*
- *All direct expenses are based on current experience for outpatient dialysis at St. Joseph Medical Center.*
- *Depreciation expenses are based on the following:*
  - *Leasehold improvements are straight line depreciation with 10 year life.*
  - *Dialysis machines are straight line depreciation with 5 year life.*
  - *Other equipment is straight line depreciation with 7 year life.*
- *Lease expenses and other operating expenses are based on the lease.*
- *Cost allocation is based on cost report and is allocated based on number of treatments.*
- *Salaries, wages and benefits are based on staffing in Table 11[of the application] and CHI Franciscan current wages with benefits at 28.6%.*
- *Medical Professional Fees are based on medical director agreement.*

<sup>10</sup> The number of home patients was calculated by dividing the number of dialyses by 148.

Using the assumptions above, CHI Franciscan projected the revenue, expenses, and net income for Franciscan Federal Way with seven in-center dialysis stations and its home dialysis treatment program. A summary of the projections is in Table 12 below. [source: Application, Exhibit 10]

**Table 12**  
**Franciscan Federal Way**  
**Revenue and Expense Statement for Projected Years 2017 through 2020**

	<b>CY 2018</b>	<b>CY 2019</b>	<b>CY 2020</b>	<b>CY 2021</b>
Net Revenue	\$ 480,555	\$ 1,469,936	\$ 1,922,224	\$ 2,317,976
Total Expenses	\$ 800,423	\$ 1,485,476	\$ 1,818,190	\$ 2,141,306
<b>Net Profit / (Loss)</b>	<b>(\$ 319,868)</b>	<b>(\$ 15,540)</b>	\$ 104,034	\$ 176,670

The ‘Net Revenue’ line item is gross in-center and training revenue, minus deductions for bad debt and charity care. The ‘Total Expenses’ line item includes all expenses related to the operation of Franciscan Federal Way, including allocated costs. The line item also includes medical director costs consistent with the draft Medical Director Agreement provided in the application.

Also included in the expense category is the lease cost for the new facility. CHI Franciscan provided a draft lease agreement between Franciscan Health System and Hillside Plaza Associates, LLC, the building owner. [source: Application, Exhibit 8]

Public Comments

NKC provided comments on site control and the lease information for CHI Franciscan’s application.

*“Lease: It would be helpful to confirm that CHI has actually secured the lease for the space they are proposing in this application. We have market intelligence from this week that this space is still available. See attached documents that show Suite 2154 at So 315<sup>th</sup> Street, Federal Way is still available to lease. Any prospective tenant via their real-estate agent could lease this space as it is fully ‘on the market.’”*

[source: NKC February 10, 2017, public comment, p2 and attachments]

Rebuttal Comments

*“Consistent with certificate of need (CN) requirements, CHI Franciscan provided a draft lease agreement for our selected site that outlined all of the terms and conditions. A draft lease, as long as it requires all terms and conditions, meets the Program’s requirement for site control. In fact, CHI Franciscan is in the final negotiations with the landlord for the selected site. Included in Attachment 2 is an email from the landlord confirming this fact.*

*In conclusion, the evidence and data in the record demonstrates that the CHI Franciscan application meets or exceeds all applicable CN review criteria. As outlined in our public comment, CHI Franciscan is the superior applicant for several reasons, including historical commitment to the Service Area. In addition, and should the Program move the applications to tiebreakers, CHI Franciscan prevails because we have lower capital costs per station.”*

The following page shows the message within the e-mail referenced above. [redaction added]

**From:** Grant Rubenstein [mailto:grant@[REDACTED]@com]  
**Sent:** Thursday, March 16, 2017 3:46 PM  
**To:** Bruce Valentine  
**Cc:** Denise Davis  
**Subject:** CHI Franciscan Health  
Bruce and Denise  
Franciscan Health System dba CHI Franciscan Health and Hillside Plaza Associates, LLC are in final lease negotiations for the premises identified in the DOH application for a dialysis facility in Federal Way.  
Thank you,  
Grant Rubenstein  
Rosen~Harbottle Commercial Real Estate

[source: CHI Franciscan rebuttal comment, p2 and Attachment 2]

**Department Evaluation of WAC 246-310-220(1) for CHI Franciscan**

NKC asserts that CHI Franciscan does not have site control. To substantiate this claim, NKC provided a copy of the ‘space availability’ documentation listed on the real estate agent’s website. The documentation shows that the agent, Rosen Harbottle<sup>11</sup>, continues to list the specific site and suite identified in CHI Franciscan’s application as ‘available for lease.’ To evaluate this assertion, the department also conducted an internet search of the specific address and suite. The search was completed on each of the following dates: March 1, 2017, and April 6, 2017. Both searches substantiated NKC’s claim that the specific site and suite number is still available for lease. Included in Appendix C attached to this evaluation is a copy of the document demonstrating that the site continues to be available as of the writing of this evaluation.

If the site control issue was the only issue in CHI Franciscan’s application, the department would pursue the issue to determine if the space was truly available or Rosen Harbottle simply failed to remove the site from its website. However, coupled with the change of ownership issues below, the department concludes that the documentation provided in the CHI Franciscan application does not demonstrate appropriate site control.

While the assumptions and information provided by CHI Franciscan could be reasonable under their own ownership and control, the department received no assurance that this facility would remain under CHI Franciscan ownership and control for the entire projection period. Information provided in the application led the department to conclude that CHI Franciscan’s volume projections are not reliable. The department cannot reasonably conclude that the project’s volumes, revenue, and expenses would not change as a result of the transaction. The department concludes CHI Franciscan’s project **does not meet this sub-criterion.**

**Superiority Review**

The department concludes NKC’s application **meets this sub-criterion.** The department also concludes that CHI Franciscan’s application does **not meet this sub-criterion.**

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<sup>11</sup> Rosen Harbottle is a commercial real estate brokerage company located in Bellevue that focuses on acquiring real estate investment properties for property entities; representing clients in the leasing and selling of industrial, office, high-tech and retail properties; and repositioning properties in order to realize maximum value. [source: Rosen Harbottle website]

- (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 WAC 246-310-220(2) 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 an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the department compared the proposed project's costs with those previously considered by the department.

### **Northwest Kidney Centers**

NKC provided the following statements related to this sub-criterion. [source: Application, pp31-32]

*“Northwest Kidney Centers has extensive experience in the design, construction and equipping of dialysis facilities. Northwest Kidney Center has based the construction costs on its experience on its recent projects when creating smaller centers like the Enumclaw Kidney Center as well as larger ones like Kirkland Kidney Center. Northwest Kidney Centers proposes to design this seven station unit to maximize cost effective options for resource utilization. We will not build a water treatment room. Instead our plan is to use state of the art equipment that has water sterilization built into the equipment or is readily available via a Reverse Osmosis (RO) unit that uses heat sterilization.*

*The majority of reimbursements for dialysis services flow from Medicare and Medicaid, which are not subject to contract negotiations based on capital improvements and expenditures by providers. As NKC has noted in other CN applications, its charge structure is not based on the capital costs of its projects but is separately set and is based on its contracts with payers.”*

The actual cost for the establishment of a seven-station center is \$1,666,653. NKC is responsible for approximately 86% of the costs—or \$1,427,793. Under the lease agreement, the landlord has a tenant improvement [TI] allowance of \$238,680. The costs include construction, fixed and movable equipment, and associated fees and taxes. [source: Application, p30 and December 5, 2016, screening response]

NKC also identified allocation of historical construction costs that were expended when the building that will house NKC-Federal Way West was first built in 1998. NKC also provided the following statements related to this construction cost allocation. [source: November 29, 2016, screening responses, pp3-4]

*“The landlord will not be doing any construction within this leased space. NKC will be contracting with our general contractor to make the improvements and prepare this center for patients. Any reference to ‘landlord costs’ on the table on page 30 is specific to the TI allowance that has been provided within the terms of the lease and is being accounted for within our project costs. The building was constructed in the 1990’s.*

*NKC interprets that the DOH is asking for the cost of constructing the building to exclude the land. In the table below, we took the building appraised value at the time it was constructed in 1998 per King County records of \$1,608,800 and multiplied this times the percent of the building we propose occupying (19.56%) to arrive at the ‘total value allocated to lease space’ of \$314,681.28. NKC’s portion of the overall allocated costs are \$314,681.28.”*



<i>Item</i>	<i>Costs</i>
<i>Appraised Value of Building</i>	<i>\$ 1,608,800.00</i>
<i>Area to be leased by NKC for this project</i>	<i>5,616</i>
<i>% of Total Area to be lease by NKC</i>	<i>19.56%</i>
<i>Total Value Allocated to Lease Space</i>	<i>\$ 314,681.28</i>

The capital cost breakdown is shown in Table 13 below. [source: Application, p30 and November 29, 2016, screening responses, pp3-4]

**Table 13  
NKC-Federal Way Estimated Capital Costs with Allocated Costs**

<b>Item</b>	<b>NKC Costs</b>	<b>TI Allowance</b>	<b>Allocated Costs</b>
Building Construction	\$ 692,694	\$ 196,560	-----
Fixed Equipment	\$ 51,200	-----	-----
Moveable Equipment	\$ 429,440	-----	-----
Architect/Engineering Fees	\$ 93,024	-----	-----
Sales Tax	\$ 112,514	-----	-----
Miscellaneous Costs	\$ 49,101	-----	-----
Real Estate Costs	-----	\$ 42,120	-----
Allocated Construction Costs	-----	-----	\$ 314,681*
Total Estimated Capital Costs	\$ 1,427,973	\$ 238,680	\$ 314,681*

\* amount rounded from \$314,681.28

Shown in the table above, NKC would be responsible for \$1,427,793 and the landlord has a TI allowance of \$238,680, for a total of \$1,666,653. The amount that would be used to compare the application with CHI Franciscan under tie-breaker criteria is \$1,981,334, which includes \$314,681 in allocated costs. [source: Application, p30 and November 29, 2016, screening responses, pp3-4]

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-220(2) for NKC**

NKC's actual estimated costs of \$1,427,793 appear to be reasonable for building out a dialysis center in an existing building. Additionally, NKC's description of its cost allocation formula to be used under the tie-breaker criteria is also reasonable. No concerns with NKC's costs were identified.

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 payers will also vary. Even if two different dialysis providers billed the same commercial payer the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payer from each individual provider. The department does not have an adopted standard on what constitutes an unreasonable impact on charges for health services. Based on department's understanding of how dialysis patients may qualify for Medicare payments, the department concludes that the information presented by NKC about its revenue indicates this project

may not have an unreasonable impact on charges for Medicare and Medicaid, since that revenue is dependent upon cost based reimbursement. The remaining 46.9% of NKC's Federal Way West's revenue will be derived through a variety of reimbursement sources such as private insurance.

Based on the information, the actual costs for the project are reasonable. If this evaluation includes a 'tie breaker' review under WAC 246-310-288, the actual costs plus allocated costs for this project would be used in the review. That amount is \$1,981,334, which includes \$314,681 in allocated costs. The department concludes NKC's project **meets this sub-criterion**.

### **CHI Franciscan Health**

CHI Franciscan provided the following statements related to this sub-criterion. [source: November 30, 2016, screening responses, p27]

*“CHI Franciscan’s charges for dialysis services are not impacted by, nor established based on, a facility’s specific capital cost. In fact, we negotiate a global rate charge with insurers, which does not single out specific services, such as dialysis, or specific facilities such as Franciscan Federal Way. Thus, the costs and charges for dialysis paid by commercial insurers, as well as Medicare/Medicaid, would remain the same regardless of whether CHI Franciscan did nothing or undertakes the project described in this application. That said, CHI Franciscan is well aware of the CN Program’s position that the potential overbuilding of facilities (proposing to build a new facility with more stations than the need methodology projects) may impact the charges of health care services. While CHI Franciscan respectfully disagrees, we have developed the project contained in this application, with only 8 stations (one more than the methodology identifies as needed and consistent with CN Program policy that suggests up to two additional stations is acceptable).”*

The actual cost for the establishment of the seven-station dialysis center in Federal Way is \$1,628,654. CHI Franciscan is responsible for approximately 92% of the costs—or \$1,503,349. The lease agreement includes a landlord TI allowance of \$125,305. The capital costs include construction, fixed and moveable equipment, and associated fees and taxes. [source: Application, p26]

CHI Franciscan also identified allocation of historical construction costs that were expended when the building that will house Franciscan Federal Way was first built in 1988. CHI Franciscan provided the following statements related to this construction cost allocation. [source: November 30, 2016, screening responses, pp3-4]

*“CHI Franciscan understands that the CN Program is asking for the historic construction costs that were incurred when the building, in which the proposed Franciscan Federal Way will be located, was originally constructed. As the CN Program is aware, this is not information that CHI Franciscan has readily available as it did not construct the building and only intends to rent the space from the building’s current owner who was not the owner at the time the building was constructed. ... Based on information from the King County Assessor’s office, the building CHI Franciscan is proposing to lease was built in 1988. No assessed value was assigned to the improvements in 1988. In 1989, according to the Assessor’s Office, the improvements had an assessed value of \$4,282,900. The square footage of the entire building is listed as 113,925 by the Assessor’s Office. A copy of this information is included in Attachment 1 [of the responses].”*

*Based on the assessed value of the improvements and the total square footage, the allocated cost/square foot assigned to this project is \$37.59 (\$4,282,900/113,925 or \$37.59/square foot). CN Program staff specifically stated that the assessed value of the land were to be excluded. Therefore, CHI Franciscan has, consistent with CN Program guidance, used an allocation of the 1989 assessed valuation of the portion of the building to be used for this project as a proxy for historical building costs in response to this question. CHI Franciscan understands that the sole purpose of gathering this information is in the event that the CN tiebreakers are applied in this concurrent review process. The specific calculation is as follows for purposes of tiebreakers.”*

*“\$37.59/SF x 5,436 SF (space to be leased) = \$204,339”*

The capital cost breakdown is shown in Table 14 below. [source: Application, p26 and November 30, 2016, screening responses, pp2-3]

**Table 14**  
**Franciscan Federal Way Estimated Capital Costs**  
**CHI Franciscan-Federal Way Estimated Capital Costs with Allocated Costs**

<b>Item</b>	<b>CHI Costs</b>	<b>TI Allowance</b>	<b>Allocated Costs</b>
Building Construction	\$ 733,860	\$ 81,540	-----
Fixed Equipment	\$ 215,200	-----	-----
Moveable Equipment	\$ 289,954	-----	-----
Architect/Engineering Fees	\$ 103,000	-----	-----
Sales Tax	\$ 115,193	-----	-----
Miscellaneous Costs	\$ 46,142	-----	-----
Real Estate Costs	-----	\$ 43,765	-----
Allocated Construction Costs	-----	-----	\$ 204,339*
<b>Total Estimated Capital Costs</b>	<b>\$ 1,503,349</b>	<b>\$ 125,305</b>	<b>\$ 204,339*</b>

\* amount rounded from \$204,339.24

Shown in Table 14 above, CHI Franciscan would be responsible for \$1,503,349 and the landlord has a TI allowance of \$125,305, for a total of \$1,628,654. The amount that would be used to compare the application with NKC under tie-breaker criteria is \$1,832,993, which includes \$204,339 in allocated costs. [source: Application, p26 & November 30, 2016, screening response, pp2-3]

Public Comments

NKC provided comments related to the capital costs provided in CHI Franciscan’s application.

*“Revised application - lowered costs once our competing application was reviewed: It is not clear why CHI filed a revised application within two weeks of initial submission. Interestingly, this action came quickly after review of the NKC competing application. It is clear that they moved to a different part of the storefront complex into a space that was 571 feet larger (total of 5,436), but it is not clear why the cost dropped a dramatic 22%, which is \$462,842. This place their application \$37,999 less than our NKC application. This appears to be an adjustment to undercut our costs after seeing our submitted application. We did not continue the game by submitted [sic] a revised application that is even lower than their costs. A variance of over 12% difference from the Letter of Intent is a significant variation and should warrant an intense level of scrutiny in any case, but especially their revised application reduced costs after seeing our competing application.”*

[source: NKC February 10, 2017, public comment, pp1-2]

### Rebuttal Comments

*“NKC suggests that CHI Franciscan’s amendment application was filed to reduce our capital costs below theirs. This is not accurate. CHI Franciscan submitted the amendment because of a change in site, which was requested by the landlord. This change in site provided CHI Franciscan with the opportunity to revisit the capital expenditure and further refine costs.*

*An amendment is allowed under WAC and the amendment process, in and of itself, allows any applicant to change any element of its application. In this case, CHI Franciscan had additional time to review its initial costs. With this additional review and based on its previous experience constructing a dialysis center in a similar type building CHI Franciscan amended its capital costs. The amendment process also allows competing applications to amend their application in light of the first amendment. NKC did not amend its application.”*

### Department Evaluation of WAC 246-310-220(2) for CHI Franciscan

CHI Franciscan submitted its letter of intent and its application consistent with the timeline identified in WAC 246-310-282(1) for cycle 3. The letter of intent identified a total cost of \$2,100,000; the application identified a total cost of \$2,091,496. As allowed under WAC 246-310-100(6), CHI Franciscan submitted its amendment application on September 30, 2016. The total cost in the amendment application is \$1,628,654. NKC’s assertion that CHI Franciscan’s amendment application was submitted simply to ensure it had the lowest cost project cannot be substantiated. [source: Application, cover sheet]

For clarification purposes, in its comments above, CHI Franciscan states: *“...the amendment process, in and of itself, allows any applicant to change any element of its application.”* This statement is a mischaracterization of the rule. WAC 246-310-100(1) lists the changes that can be considered an amendment of an application.

- (a) The addition of a new service or elimination of a service included in the original application.*
- (b) The expansion or reduction of a service included in the original application.*
- (c) An increase in the bed capacity.*
- (d) A change in the capital cost of the project or the method of financing the project.*
- (e) A significant change in the rationale used to justify the project.*
- (f) A change in the applicant.*

Any changes that do not fit with (a) – (f) above, could be considered a new application. CHI Franciscan’s application changed the capital costs and qualifies as an amendment.

Based on the definition of “capital expenditure,” under WAC 246-310-280(2) CHI Franciscan identified both its direct costs and costs covered by the landlord. CHI also provided its formula for determining its allocation of historical building costs for this project. [source: Application, p26 and screening response pp2-3]

Documentation provided in the application shows that Franciscan Federal Way’s Medicare and Medicaid reimbursements are projected to equal 74% of the revenue at the dialysis center. The department notes that Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. CMS implemented an ESRD Prospective Payment System

(PPS). Under the new ESRD PPS, Medicare pays dialysis facilities a bundled rate per treatment. The 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 payers will also vary. Even if two different dialysis providers billed the same commercial payer the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payer from each individual provider. The department does not have an adopted standard on what constitutes an unreasonable impact on charges for health services. Based on department's understanding of how dialysis patients may qualify for Medicare payments, the department concludes that the information presented by CHI Franciscan about its revenue indicates this project may not have an unreasonable impact on charges for Medicare and Medicaid, since that revenue is dependent upon cost based reimbursement. The remaining 26% of Franciscan Federal Way's revenue will be derived through a variety of reimbursement sources such as private insurance.

Based on the information, the actual costs for the project are reasonable. If this evaluation includes a 'tie breaker' review under WAC 246-310-288, the actual costs plus allocated costs for this project would be used in the review. That amount is \$1,628,654 for the 7-station center.

While the assumptions and information provided by CHI Franciscan could be reasonable under their own ownership and control, the department received no assurance that this facility would remain under CHI Franciscan ownership and control for the entire projection period. Information provided by CHI Franciscan led the department to conclude that the facility would ultimately be sold. CHI Franciscan did not provide any assurance through the review that this subsequent transaction would not have an effect on costs and charges for healthcare services. The department cannot reasonably conclude that the project would not have an unreasonable impact on costs and charges for healthcare services in King County planning area #5. The department concludes CHI Franciscan's project **does not meet this sub-criterion.**

### **Superiority Review**

The department concludes NKC's application **meets this sub-criterion.** The department also concludes that CHI Franciscan's application does **not meet this sub-criterion.**

### **(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.

### **Northwest Kidney Centers**

NKC's cost for the new facility is \$1,427,973. NKC intends to fund the project using NKC corporate cash reserves. NKC provided a letter from the NKC Board of Trustees stating a financial commitment to the project. [source: Application, p32 and Exhibit 14]

NKC provided a copy of its audited financial statements for years 2014 and 2015 to demonstrate sufficient reserves to finance the project. [source: Application, Appendix 1]

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-220(3) for NKC**

Actual NKC cost for the seven station dialysis center is \$1,427,793. NKC intends to finance the project with reserves and demonstrated costs can be financed. If this project is approved, the department would attach a condition requiring NKC to finance the project consistent with the financing description in the application.

With a financing condition, the department concludes NKC's project **meets this sub-criterion.**

**CHI Franciscan Health**

CHI Franciscan's cost for the new facility is \$1,503,349 and the project is to be funded using CHI Franciscan corporate cash reserves. CHI Franciscan provided a letter from the chief financial officer of CHI Franciscan stating a financial commitment to the project. [source: Application, p28 and November 30, 2016, screening responses, Attachment 2]

CHI Franciscan provided a copy of its audited financial statements for years 2013, 2014, and 2015 to demonstrate sufficient reserves to finance the project. [source: Application, Appendix 1]

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-220(3) for CHI Franciscan**

CHI Franciscan's costs to establish a seven-station dialysis center is \$1,503,349. CHI Franciscan intends to finance the project with reserves and demonstrated the costs can be financed. If this project is approved, the department would attach a condition requiring CHI Franciscan to finance the project consistent with the financing description in the application.

With a financing condition, the department concludes CHI Franciscan's **project meets this sub-criterion.**

**Department Superiority Review**

The department concludes both NKC and CHI Franciscan **meet this sub-criterion with a financing condition.** Further, each application is equivalent to the other.

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

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Northwest Kidney Centers **met** the applicable structure and process of care criteria in WAC 246-310-230.

Based on the source information reviewed, the department determines that CHI Franciscan Health does **not meet** the applicable structure and process 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 that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

**Northwest Kidney Centers**

NKC proposes a new seven-station facility in Federal Way. If this project is approved, the center would become operational by the end of February 2018. Table 15 below provides a breakdown of projected FTEs [full time equivalents] for the new center. Since NKC operates on a July to June fiscal year, 2018 is a partial year and years 2019 through 2021 are three full years of operation. [source: Application, p22 and p34]

**Table 15  
NKC-Federal Way Proposed FTEs for Fiscal Years 2018-2021**

<b>FTE by Type</b>	<b>FYE 2018</b>	<b>FYE 2019 Increase</b>	<b>FYE 2020 Increase</b>	<b>FYE 2021 Increase</b>	<b>Total FTEs</b>
HD Tech	1.78	1.55	0.60	10.2	<b>4.95</b>
RN	0.96	0.83	0.33	0.55	<b>2.67</b>
RN Home Training	0.50	0.00	0.00	0.00	<b>0.50</b>
RN Manager	1.00	0.00	0.00	0.00	<b>1.00</b>
Facility System Specialist	0.50	0.00	0.00	0.00	<b>0.50</b>
Medical Social Worker	0.17	0.05	0.04	0.06	<b>0.32</b>
Dietician	0.16	0.04	0.04	0.06	<b>0.30</b>
Receptionist	1.00	0.00	0.00	0.00	<b>1.00</b>
<b>Total FTEs</b>	<b>6.07</b>	<b>2.47</b>	<b>1.01</b>	<b>1.69</b>	<b>11.24</b>

NKC also clarified that all NKC medical directors are under contract and not included in the table above. For this project, NKC submitted an executed medical director agreement with Bonnie Sue Collins, MD. [source: Application, Exhibit 6]

NKC provided the following statements regarding the recruitment and retention of staff for the new dialysis center. [source: Application, p35]

*“Like all providers of medical care services, NKC operates in a highly competitive nursing market. In the last several years, NKC has worked hard with our local nephrologist community to emphasize the quality and availability of our home hemodialysis and peritoneal dialysis offering. Our work has paid off, and in the last two years we have*

*experienced 25% growth in our peritoneal dialysis program system wide. In 2016, in the context of this growth, NKC experienced the loss of some members of our clinical team - a rarity at our organization. In response to these unplanned losses, NKC made the recruitment of experienced PD nurses a top priority. While we worked on hiring replacements, we also used agency staff and moved people from other areas of our clinical operations team. As of today, NKC has hired five new members to our PD team since June, bringing our department total to 22 employees. At this time all new PD patients' needs are being met, and we continue to recruit for PD nurses to accommodate our expected future PD program growth.”*

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-230(1) for NKC**

Information provided in the application demonstrates that NKC is a well-established provider of dialysis services in King County. Specific to this project, NKC does not currently operate a dialysis center in King County planning area #5, but has been operating dialysis centers in adjacent planning areas for many years. Based on the above information, the department concludes that NKC has the ability, expertise, and experience to recruit and retain a sufficient supply of qualified staff for this project.

The department concludes NKC’s project **meets this sub-criterion**.

**CHI Franciscan Health**

Franciscan Federal Way would be a new seven-station facility in the planning area. Table 16 below provides a breakdown of projected FTEs for calendar years 2018 through 2021. [source: Application, p29]

**Table 16  
Franciscan Federal Way Proposed FTEs for Years 2016-2020**

<b>FTE by Type</b>	<b>CY 2018 Current</b>	<b>CY 2019 Increase</b>	<b>CY 2020 Increase</b>	<b>CY 2021 Increase</b>	<b>Total FTEs</b>
HD Tech	0.92	0.58	0.90	1.40	<b>3.80</b>
RN	0.90	0.10	0.20	0.00	<b>1.20</b>
Clinical Nurse Manager	1.00	0.00	0.00	0.00	<b>1.00</b>
Unit Secretary	0.00	0.00	0.00	0.50	<b>0.50</b>
Medical Social Worker	0.20	0.00	0.10	0.00	<b>0.30</b>
Dietician	0.20	0.00	0.10	0.00	<b>0.30</b>
<b>Total FTEs</b>	<b>3.22</b>	<b>0.68</b>	<b>1.30</b>	<b>1.90</b>	<b>7.10</b>

Since CHI Franciscan’s medical directors are under contract, they are not included in the FTE table above. CHI Franciscan provided a copy of the draft medical director agreement between Franciscan Health System and Franciscan Medical Group. The agreement specifically references Melissa Kaptik, MD as the medical director for the new dialysis center in Federal Way. Additional nephrologists are affiliated with Franciscan Medical Group, though not referenced by name in the medical director agreement. These nephrologists may provide back-up medical director services, if necessary. CHI



Franciscan provided specific information for these three additional nephrologists: Aman Gill, MD; Charles Minn, MD, and Partha Raguram, MD. [source: Application, Exhibit 3 and November 30, 2016, screening responses, p4]

CHI Franciscan provided the following statements related to recruitment and retention of staff for Franciscan Federal Way. [source: Application, pp30-31]

*“For an organization the size of CHI Franciscan, the staffing needs noted in Table 11 [in the application] are not significant. In an effort to assure that we always have the staff needed to support our existing and proposed new programs, CHI Franciscan offers a competitive wage and benefit package as well as numerous other recruitment and retention strategies. Specific strategies for clinical, ancillary and support staff include:*

- *CHI Franciscan offers, and will continue to offer, a generous benefit package for both full and part time employees that includes: Medical, Dental, Paid Time Off/Extended Illness/Injury Time, Employee Assistance Plans, and a Tuition Reimbursement Program, among other benefits.*
- *CHI Franciscan posts all of its openings on our website via our online applicant tracking system. In addition to our own website, CHI Franciscan has contracts with several job boards serving the greater South Sound area to post all of our openings on the online postings sites; nwjobs.com site operated by the Seattle Times, and southsoundjobs.com operated by The News Tribune of Tacoma.*
- *CHI Franciscan currently has contracts with more than 40 technical colleges, community colleges, and four year universities throughout the United States that enable us to offer either training and/or job opportunities. In addition, CHI Franciscan Education Services staff serves on healthcare program advisory boards and as clinical or affiliate faculty at a number of local institutions. CHI Franciscan constantly monitors the “wage” market, making adjustments as necessary to ensure that our hospitals’ wage structures remains competitive.*
- *CHI Franciscan provides a career counselor who is available to all staff to encourage development and growth within the healthcare industry. This is further supported through a tuition reimbursement program and referrals to state and federal funds for continuing education. In addition, the Franciscan Foundation has annual scholarships available for current employees to advance their education.*
- *CHI Franciscan’s various facilities serve as clinical training sites for healthcare specialties such as nursing, diagnostic imaging, physical/occupational therapy, and pharmacy (to name a few).*
- *CHI Franciscan also offers various other recruitment strategies (i.e., nursing new grad events, nursing school class visits, job fairs, career days, direct e- mail campaigns, etc.) as other ways to bring new healthcare workers to the CHI Franciscan organization.*
- *CHI Franciscan works closely with agency personnel, not only to negotiate rates but to also ensure that agency staff is able to provide the same high quality skill level that CHI Franciscan requires of our own employees.*
- *CHI Franciscan recruiters regularly attend local job fairs that reach targeted applicants within the greater Puget Sound area. These efforts have been extremely effective due, in large part, to the outstanding reputation CHI Franciscan has garnered as being an employer of choice due to our “Best Place to Work” initiatives.*

*Given the above, CHI Franciscan does not anticipate any difficulty in securing the quality staff needed for the proposed Franciscan Federal Way.”*

Public Comments

None

Public Comments

None

**Department Evaluation of WAC 246-310-230(1) for CHI Franciscan**

CHI Franciscan is proposing to establish a new facility in the planning area. Information provided in the application demonstrates that CHI Franciscan is a well-established healthcare provider in King and Pierce counties. Specific to dialysis services, CHI Franciscan has been providing services in Pierce County since at least 1989.<sup>12</sup> Based on the above information, the department concludes that CHI Franciscan has the ability, expertise, and experience to recruit and retain a sufficient supply of qualified staff for this project.

The department concludes CHI Franciscan's project **meets this sub-criterion**.

**Department Superiority Review**

The department concludes both NKC and CHI Franciscan **meet this sub-criterion**. Further, each application is equivalent to the other.

- (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) 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 ability to establish and maintain appropriate relationships and ancillary/support services.

**Northwest Kidney Centers**

NKC provided the following statements regarding this sub-criterion. [source: Application, p36]

*“Although NKC Federal Way West Campus will be a new facility, NKC Auburn has operated in the adjacent planning area (King 11) since 1997 and is in proximity to our other centers at SeaTac (King 4), Renton (King 9) and Kent (King 10). The new facility will assure that our commitment to the community continues, and NKC will continue to maintain all existing working relationships with physicians in the community.”*

NKC also provided a listing of typical ancillary and support services necessary for a dialysis center and specific facilities where NKC currently has working relationships. [source: Application, p35 and November 29, 2016, 1<sup>st</sup> screening responses, pp4-6]

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<sup>12</sup> The department's historical files do not identify the date of establishment for St. Joseph Dialysis Center in Tacoma. However on March 15, 1989, CN #974 was issued to CHI Franciscan approving the addition of 12 stations to the 20-station dialysis center.

Specifically related to medical director services, NKC provided a copy of the executed medical director agreement to be used for this new dialysis center. A summary of the contract is below. [source: Application, Exhibit 6 and November 29, 2016, screening responses, p7]

- The agreement is between NKC and Bonnie Sue Collins, MD. This agreement was executed on August 23, 2016. The term is for one year with automatic annual renewals with no end date.<sup>13</sup> The agreement identifies roles and responsibilities for both NKC and Dr. Collins.

NKC provided a copy of its existing transfer agreement Swedish Health Services. The agreement was executed in October 2013. It does not specifically reference any of NKC's dialysis centers. The agreement includes language to ensure timely transfer of patients when necessary and acceptance of patients by Swedish Health Services regardless of age, race, sex, national origin, or ability to pay. [source: Application, Exhibit 6]

NKC also provided the following information related to its transfer agreement. [source: November 29, 2016, screening responses, pp10-11]

*“Patient care is our priority and in ALL cases when a patient needs to be transferred to a hospital for emergency care, we will follow the first responder’s suggestions—in many cases this is the closest hospital. For Federal Way West Kidney Center, this may be CHI/St. Francis, or Auburn, or Valley Medical Center. As an organization, NKC wants an agreement with a hospital system that can handle complex ESRD patients who need emergency care. At the time that we signed the current transfer agreement [with Swedish], Swedish had 5 hospitals in different communities that had the level of care that we required, with a focus on transplants (specialty nephrologists available) and in hospital dialysis capabilities. ...”*

#### Public Comments

None

#### Rebuttal Comments

None

#### **Department Evaluation for WAC 246-310-230(2) for NKC**

NKC states it has been providing dialysis services in King and Clallam counties for many years. This project proposes the establishment of a new center in King County planning area #5. Since NKC does not currently operate in this planning area, some new relationships must be established.

Based on the information reviewed in the application, the department concludes that there is reasonable assurance that NKC will continue to maintain the necessary relationships with ancillary and support services to provide dialysis services in its operational facilities. Specific to this project, NKC provided documentation to demonstrate it already has some ancillary and support services in place and would establish new relationships as needed.

In the case of a new facility, the department's long-standing approach has been to require an applicant to provide at least draft agreements for the new facility. If the project is approved, the department

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<sup>13</sup> Commonly known as an ‘evergreen clause.’ [source:financial-dictionary.com]

attaches a condition requiring the applicant to provide executed contracts that are consistent with those provided with the application. As a long-time provider of dialysis services in King County, NKC has already established relationships for ancillary services and other providers. For this project, NKC provided executed contracts for the new facility in King County planning area #5. As a result, if this project is approved, conditions under this sub-criterion are not needed.

The department concludes NKC **meets this sub-criterion**.

### **CHI Franciscan Health**

CHI Franciscan provided the following statements regarding this sub-criterion. [source: Application, p31]

*“Medicare requirements for dialysis certification require that social and dietary support services be included within the program. As with all of our existing facilities CHI Franciscan will provide regular social services and dietary support for all patients. In addition, the common ancillary and support services utilized by a dialysis program including pharmacy, laboratory, and blood administration will be available from CHI Franciscan.”*

CHI Franciscan provided a listing of ancillary and support services to be provided on-site and off-site. On-site services include pharmacy access, laboratory, blood administration, including blood transfusions, social services, financial counseling, nutrition services, patient education, biomedical services, janitorial services, and staff education. Off-site services include financial counseling, nutrition services, nutrition services, and staff education. CHI Franciscan clarified that the services offered off-site are duplicative of the on-site services allowing greater access to the services for both patients and staff. For the services to be provided off-site, CHI Franciscan identified two CHI Franciscan hospitals that would provide the services: St. Francis Hospital in Federal Way or St. Joseph Hospital in Tacoma. [source: November 30, 2016, screening responses, pp3-4]

CHI Franciscan provided a draft Medical Director Services Agreement between Franciscan Health System and Franciscan Medical Group. The draft agreement is initially for three years, with annual automatic renewals. The draft agreement identifies roles and responsibilities for CHI Franciscan, Franciscan Medical Group, and Melissa Kaptik, MD, the physician specifically identified to provide medical director services. [source: Application, Exhibit 3]

CHI Franciscan also provided a draft Patient Transfer Agreement between Franciscan Federal Way Dialysis Center and St. Francis Hospital located in Federal Way. The agreement outlines roles and responsibilities of both the dialysis center and the hospital. The agreement has an initial term of one year and includes annual automatic renewals, with no end date (evergreen clause). There are no costs associated with the agreement. [source: Application, Exhibit 11]

### **Public Comments**

None

### **Rebuttal Comments**

None

### **Department Evaluation for WAC 246-310-230(2) for CHI Franciscan**

CHI Franciscan would be a new provider in the service area, but not a new provider of dialysis services. As a new dialysis center, Franciscan Federal Way would require its own ancillary and support services and relationships. CHI Franciscan provided information and draft documents to ensure appropriate services and relationships would be established at the new center.

In the case of a new facility, the department's long-standing approach has been to require an applicant to provide draft agreements for the new facility. If the project is approved, the department attaches a condition requiring the applicant to provide executed contracts that are consistent with those provided with the application.

CHI Franciscan provided draft documentation that it would establish the required relationships under this sub-criterion. While the draft agreements provided by CHI Franciscan could be reasonable under their own ownership and control, during this review the department received no assurance that this facility would remain under CHI Franciscan ownership and control for the entire projection period. Information submitted in the application led the department to conclude that the facility would ultimately be sold. CHI did not provide any assurance throughout the review process that this subsequent transaction would not have an effect on the viability of the draft medical director agreement or draft transfer agreement. The department cannot reasonably conclude that the proposed facility would have or maintain the required relationships and agreements outside of CHI Franciscan ownership and control. The department concludes CHI Franciscan's project **does not meet this sub-criterion**.

### **Department Superiority Review**

NKC **meets this sub-criterion** with no specific conditions. The department also concludes that CHI Franciscan **does not meet** this sub-criterion

- (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.

The department reviews two different areas when evaluating this sub-criterion. One is the conformance with Medicare and Medicaid standards and the other is conformance with state standards. To accomplish this task for these two projects, the department first reviewed the quality of care compliance history for all healthcare facilities operated outside of Washington State using the 'star rating' assigned by Centers for Medicare & Medicaid Services (CMS). Then the department focused on the CMS 'star ratings' for Washington State facilities. Finally, the department focused on its own state survey data performed by the Department of Health's Investigations and Inspections Office. Below is an overview of the CMS star rating review. The department's Washington State survey data is included in each applicant's separate review under this sub-criterion.

### Centers for Medicare & Medicaid Services (CMS) Star Ratings

On January 22, 2015, the Centers for Medicare & Medicaid Services (CMS) released a media statement with the following information related to its dialysis facility compare website.

*“Today, the Centers for Medicare & Medicaid Services (CMS) added star ratings to the Dialysis Facility Compare (DFC) website. These ratings summarize performance data, making it easier for consumers to use the information on the website. These ratings also spotlight excellence in health care quality. In addition to posting the star ratings, CMS updated data on individual DFC quality measures to reflect the most recent data for the existing measures.*

*“Star ratings are simple to understand and are an excellent resource for patients, their families, and caregivers to use when talking to doctors about health care choices,” said CMS Administrator Marilyn Tavenner. “CMS has taken another step in its continuous commitment to improve quality measures and transparency.”*

*DFC joined Nursing Home Compare and Physician Compare in expanding the use of star ratings on CMS websites. The DFC rating gives a one to five-star rating based on information about the quality of care and services that a dialysis facility provides. Currently, nine DFC quality measures are being used collectively to comprise the DFC star ratings. In the future, CMS will add more measures.*

*In related news, CMS plans to add the Standardized Readmission Ratio (SRR) for dialysis facilities to the publicly reported quality outcome measures available on the Compare website. SRR is a measure of care coordination. SRR is not included in DFC’s star rating at this time.*

*DFC quality measure data is either updated quarterly or annually. CMS plans to update the DFC’s star rating on an annual basis beginning in October 2015.”*

CMS provided the following overview regarding its star rating for dialysis centers. [source: CMS website]

*“The star ratings are part of Medicare’s efforts to make data on dialysis centers easier to understand and use. The star ratings show whether your dialysis center provides quality dialysis care - that is, care known to get the best results for most dialysis patients. The rating ranges from 1 to 5 stars. A facility with a 5-star rating has quality of care that is considered ‘much above average’ compared to other dialysis facilities. A 1- or 2- star rating does not mean that you will receive poor care from a facility. It only indicates that measured outcomes were below average compared to those for other facilities. Star ratings on Dialysis Facility Compare are updated annually to align with the annual updates of the standardized measures.”*

CMS assigns a one to five ‘star rating’ in two separate categories: best treatment practices and 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-morbidities.

The Dialysis Facility Compare website currently reports on 9 measures of quality of care for facilities. These measures are used to develop the star rating. 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, 2012 through December 31, 2015.<sup>14</sup>

The measures used in the star rating are grouped into three domains by using a statistical method known as Factor Analysis. Each domain contains measures that are most correlated. This allows CMS to weight the domains rather than individual measures in the final score, limiting the possibility of overweighting quality measures that assess similar qualities of facility care. The three domains are as follows:

- "Standardized Outcomes (SHR, SMR, and STrR)" – This first domain combines the three outcome measures for hospitalization, mortality and transfusions (SHR, SMR, and STrR).
- "Other Outcomes 1 (AV fistula, tunneled catheter)" – The arteriovenous fistula and catheter measures forms the second domain.
- "Other Outcomes 2 (Kt/V, hypercalcemia)" – The All Kt/V and hypercalcemia measures forms the third domain.

Facilities are rated as long as they have at least one measure in each of the three domains. Because the vascular access measures in the "Other Outcomes 1 (AV fistula, tunneled catheter)" domain do not apply to peritoneal dialysis patients, peritoneal dialysis-only facilities are rated based on the other two domains. They receive ratings as long as they have scores for at least one of the two domains not related to vascular access. Neither NKC nor CHI Franciscan operate a peritoneal only facility.

### Northwest Kidney Centers

NKC does not own or operate any out-of-state healthcare facilities and only provides dialysis services in Clallam and King counties within Washington State. [source: Application, pp2-3 and Exhibits 1 & 4] NKC provided the following statement related to this sub-criterion. [source: Application, p9 & p36]

*"(a) The applicant or licensee has no history, in this state or elsewhere, of a criminal conviction which is reasonably related to the applicant's competency to exercise responsibility for the ownership or operation of a health care facility, a denial or revocation of a license to operate a health care facility, a revocation of a license to practice a health profession, or a decertification as a provider of services in the Medicare or Medicaid program because of failure to comply with applicable federal conditions of participation;..."*

### Public Comments

None

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<sup>14</sup> The information or data on Dialysis Facility Compare comes from two key sources: 1) CMS Statistical Analytical Files (Medicare Claims); and 2) **Consolidated Renal Operations in a Web-enabled Network (CROWN)**. **Some ratios are calculated annually** based on the information that facilities send Medicare each month; other ratios are calculated quarterly.

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-230(3) for NKC**

The department completed a review of NKC’s quality and compliance with state and federal requirements, below.

CMS Star Rating for Out-of-State Centers

NKC does not own or operate any dialysis centers outside of Washington State.

CMS Star Rating for Washington State Centers

The department reviewed the star rating for the following 15 operational dialysis centers owned and operated by NKC. The recently approved Federal Way East Kidney Center is not yet operational.

**Table 17**  
**Northwest Kidney Centers Dialysis Facilities CMS Star Rating**

<b>Facility Name</b>	<b>CMS Certification Number</b>	<b>CMS Star Rating</b>
NKC Auburn Center	502520	4
NKC Broadway Kidney Center	502556	5
NKC Elliot Bay Kidney Center	502511	4
NKC Enumclaw Kidney Center	502570	5
NKC Kent Kidney Center	502553	4
NKC Kirkland Kidney Center	502516	4
NKC Lake City Kidney Center	502536	4
NKC Lake Washington Kidney Center	502505	4
NKC Port Angeles Kidney Center	502510	5
NKC Renton Kidney Center	502508	4
NKC Scribner Kidney Center	502507	5
NKC SeaTac Kidney Center	502509	5
NKC Seattle Kidney Center	502500	4
NKC Snoqualmie Kidney Center	502540	4
NKC West Seattle Kidney Center	202523	3

[source: Dialysis Facility Compare Dataset]

As shown above, all but one of NKC’s dialysis facilities show a four or better star rating.

Washington State Survey Data

The department reviewed the compliance history for all 15 centers above. In the most recent two years, the department has conducted and completed at least eleven surveys. All surveys resulted in no significant non-compliance issues. [source: DOH IIO survey data]

In addition to the facilities owned and operated by NKC, the department also reviewed the compliance history for the medical director identified for NKC’s proposed facility in Federal Way—Bonnie Sue Collins, MD. Using data from the Medical Quality Assurance Commission, the department found that Dr. Collins has no enforcement actions on her license. She is expected to continue employment if this project is approved.



In review of this sub-criterion, the department considered the total compliance history of the dialysis facilities owned and operated by NKC. The department also considered the compliance history of the medical director associated with the proposed facility. There is reasonable assurance that the new Federal Way center would be operated and managed in conformance with applicable state and federal licensing and certification requirements. The department concludes that NKC’s project **meets this sub-criterion.**

**CHI Franciscan Health**

CHI Franciscan provided the following statements in response to this sub-criterion. [source: Application, p6 and p32]

*“Neither CHI Franciscan nor any of its entities have any history with respect to the actions described in Certificate of Need (CN) criterion WAC 2448-19-390(4)(a), now codified at WAC 246-310-230(5)(a)”*

**Public Comments**

None

**Rebuttal Comments**

None

**Department Evaluation of WAC 246-310-230(3) for CHI Franciscan**

The department completed a review of CHI Franciscan’s quality and compliance with state and federal requirements below.

**CMS Star Rating for Out-of-State Centers**

CHI Franciscan does not own or operate any dialysis centers outside of Washington State.

**CMS Star Rating for Washington State Centers**

The department reviewed the star rating for the following five operational dialysis centers owned and operated by CHI Franciscan.

**Table 18  
CHI Franciscan Dialysis Facilities**

<b>Facility Name</b>	<b>CMS Certification Number</b>	<b>CMS Star Rating</b>
St Joseph Medical Center Nephrology Services	500108	2
Greater Puyallup Dialysis Center	503507	5
St Joseph Dialysis Center Gig Harbor	503510	5
Franciscan Dialysis Center Eastside	503511	5
St Joseph Medical Center South Dialysis	503512	4

[source: Dialysis Facility Compare Dataset]

As shown above, all but one of CHI Franciscan’s dialysis facilities show a three or better star rating.

**Washington State Survey Data**

The department reviewed the compliance history for all five centers above. In the most recent two years, the department has conducted and completed at least five surveys. All surveys resulted in no significant non-compliance issues. [source: DOH IIO survey data]

All CHI Franciscan dialysis centers are also licensed under the St Joseph Medical Center hospital license. Therefore, the department also completed a review of CHI Franciscan's hospitals in Washington State. The eight hospitals owned or operated by CHI Franciscan in Washington State include Harrison Medical Center in Bremerton and Silverdale, Highline Medical Center in Burien, Regional Hospital located in Burien, St Anthony Hospital located in Gig Harbor, St Clare Hospital located in Lakewood, St Elizabeth Hospital located in Enumclaw, St Francis Community Hospital located in Federal Way, and St Joseph Medical Center located in Tacoma.

Seven of the eight hospitals are accredited by the Joint Commission.<sup>15</sup>

Using the department's internal database, the department reviewed survey data for each of the CHI Franciscan hospitals. In the last two years, a total of nine surveys have been conducted and completed by Washington State surveyors of these facilities. All nine surveys resulted in no significant non-compliance issues. [source: ILRS, DOH IIO survey data]

For this application, CHI Franciscan submitted a draft medical director agreement between Franciscan Health System and Franciscan Medical Group. The draft agreement identifies Melissa Yeh Kaptik, MD as the primary medical director for the new dialysis center. Using data from the Medical Quality Assurance Commission, the department found that Dr. Kaptik has no enforcement actions on her license. She is expected to continue employment if this project is approved.

In review of this sub-criterion, the department considered the total compliance history of the dialysis facilities owned and operated by CHI. The department also considered the compliance history of the medical director associated with the proposed facility. If the new facility would continue to be owned and operated by CHI Franciscan after its initial opening, the department concludes that there is reasonable assurance that the new Federal Way dialysis facility would be operated and managed in conformance with applicable state and federal licensing and certification requirements. This conclusion is solely based on the compliance history of CHI Franciscan. The department concludes that CHI Franciscan's project **meets this sub-criterion.**

#### **Department Superiority Review**

The department concludes that both NKC **meets this sub-criterion** with no specific conditions. The department concludes that CHI Franciscan **meets this sub-criterion.** Each application is equivalent to the other.

- (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.

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<sup>15</sup> St Elizabeth Hospital does not hold Joint Commission accreditation.

### **Northwest Kidney Centers**

NKC provided the following statements in response to this sub-criterion. [source: Application, p36]

*“Although NKC Federal Way West Campus will be a new facility, NKC Auburn has operated in the adjacent planning area (King 11) since 1997 and is in proximity to our other centers at SeaTac (King 4), Renton (King 9), and Kent (King 10). The new facility will assure that our commitment to the community continues, and NKC will continue to maintain all existing working relationships with physicians in the community.”*

NKC also provided a listing of the hospitals, local clinics, nephrologists, and other partners that it has working relationships with related to dialysis services. [source: November 29, 2016, screening responses, pp5-6]

### **Public Comment**

None

### **Rebuttal Comment**

None

### **Department Evaluation of WAC 246-310-230(4) for NKC**

Given that NKC has been providing dialysis services in King and Clallam counties for many years, NKC is already part of the health care infrastructure. Specific to King County planning area #5, the addition of an NKC dialysis facility could continue to promote continuity in the provision of healthcare services.

NKC provided documentation in the application to demonstrate that the project would work toward promotion of continuity in the provision of health care services in the community and not result in unwarranted fragmentation.

The department concludes NKC’s project **meets this sub-criterion**.

### **CHI Franciscan Health**

CHI Franciscan provided the following statements in response to this sub-criterion. [source: Application, p32 and Exhibit 11]

*“CHI Franciscan has organized its nephrology program such that all services are contained in a single service line. This organizational structure integrates inpatient, outpatient and home services within a single continuum. This continuum is supported by an electronic medical record which provides appropriate patient and clinical data to care providers throughout the system. CHI Franciscan’s nephrology program also maintains well established working relationships with area nursing home and provides in-service and training opportunities for nursing home staff and residents. Specific arrangements are made on a resident by resident basis; therefore, the listing of nursing homes that CHI Franciscan works with varies. While we do not maintain formal working agreements with any party related specifically to dialysis, we have long-standing relationships in place with many south King County providers. In addition, CHI Franciscan has informal relationships with area colleges and universities. Included in Exhibit 11 is a draft transfer agreement between the St. Francis Hospital and Franciscan Federal Way.”*

CHI Franciscan provided a listing of entities where it currently has working relationships. The listing, identified by CHI Franciscan, is not intended to be exhaustive; CHI Franciscan clarified that it would establish any additional relationships as needed. [source: November 30, 2016, screening response, p4]

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-230(4) for CHI Franciscan**

CHI Franciscan has been providing dialysis services for many years and provides numerous healthcare services not limited to dialysis throughout Pierce, King, and Kitsap counties. CHI Franciscan has demonstrated their ability to promote continuity in healthcare systems. Specific to this proposed new dialysis facility, CHI stated that they would create appropriate relationships with other healthcare facilities in the planning area, including hospitals and nursing homes. The addition of dialysis stations would continue to promote continuity in the provision of healthcare services in King County planning area #5.

Under WAC 246-310-230(2), the department requires a signed transfer agreement that is consistent with the draft that was provided with this application.

While the draft agreements provided by CHI Franciscan could be reasonable under their own ownership and control, the department received no assurance that this facility would remain under CHI Franciscan ownership and control for the entire projection period. Information found in the application led the department to conclude that the facility would ultimately be sold. CHI did not provide any assurance throughout the review process that this subsequent transaction would not have an effect on the viability of the draft medical director agreement or draft transfer agreement. The department cannot reasonably conclude that the proposed facility would have or maintain the required relationships and agreements outside of CHI Franciscan ownership and control. The department concludes CHI Franciscan's project **does not meet this sub-criterion.**

**Department Superiority Review**

The department concludes NKC **meets this sub-criterion** with no conditions. The department also concludes that CHI Franciscan **does not meet this sub-criterion.**

- (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.*

**Northwest Kidney Centers**

This sub-criterion is addressed in sub-section (3) above and **is met.**

**CHI Franciscan Health**

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 agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Northwest Kidney Centers **met** the applicable cost containment criteria in WAC 246-310-240.

Based on the source information reviewed, the department determines that CHI Franciscan Health System's project **does not meet** the applicable 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 the project has failed to meet one or more of these criteria, then the project cannot be considered to be the best alternative in terms of cost, efficiency, or effectiveness. As a result, the application would fail this sub-criterion.

If the project has met the applicable criteria in WAC 246-310-210 through 230 criteria, the department then assesses the other options considered by the applicant. If the department determines the proposed project is better or equal to other options considered by the applicant and the department has not identified any other better options, this criterion is determined to be met unless there are multiple applications.

If there are multiple applications, the department's assessment is to apply any service or facility superiority criteria contained throughout WAC 246-310 related to the specific project type. The adopted superiority criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility type superiority criteria as directed by WAC 246-310-200(2) (a)(i), then the department would use 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**

##### **Northwest Kidney Centers**

For this project, NKC met the applicable review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two for this project.

##### **CHI Franciscan Health**

For this project, CHI Franciscan did not meet the applicable review criteria under WAC 246-310-210, 220, and 230. Therefore, CHI Franciscan project will not be evaluated further under Step Two or Three.

#### **Step Two**

For this sub-criterion, NKC provided discussion related to the following three options. [source: Application, pp37-38]

- Do Nothing  
*This was not an option that made any sense given the 49 NKC patients currently living in the King 5 planning area and the projected need that is anticipated.*
- Establish a new seven-station center within the planning area based on traditional water room and standard operation  
*This option of creating a traditional 7 station center was evaluated but ruled out because of space requirements and cost of the project. We also considered this [project] a great opportunity to move NKC towards a better level of care (a focus of our strategic plan) for a smaller unit by changing to a new system. The traditional based model is more expensive for smaller units.*
- Submit an application requesting for a facility larger than 7 stations  
*This option was rejected as not appropriate based on the CN rules and process.*

Public Comments

None

Rebuttal Comments

None

**Step Three**

This step is applicable only when there are two or more approvable projects. Since NKC’s application is the only application that met all previous applicable review criteria, this step does not apply.

**Department Evaluation of Steps One and Two for NKC**

Information provided in the application demonstrates that superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable for the patients in King County planning area #5. An additional seven stations in Federal Way could result in patients having more flexibility scheduling for dialysis.

NKC identified a total cost of \$1,666,653 to be expended to establish the new center. Of that amount, NKC is responsible for \$1,427,973 and the remaining \$238,680 is the responsibility of the landlord.

Given that the only other option to this project is to do nothing and taking into account the projected need for additional stations in the planning area, the department concludes that the project submitted by NKC is the best available alternative for the community. **This sub-criterion is met.**

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

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

**Northwest Kidney Centers**

NKC provided the following statements related to this sub-criterion. [source: Application, p38]

*“The new facility will be designed and built to meet or exceed all applicable state and local codes and CMS conditions of coverage. This location has been carefully reviewed by our architectural firm, contractors and our clinical staff, Chief Medical Officer and Director of Facilities to create a center that will meet our patient and staff needs.”*

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-240(2)(a) for NKC**

NKC proposes to lease space in an existing building. These costs were evaluated in the financial feasibility section of this analysis. There is no information within the application that would cause the department to conclude that the costs of the project are unreasonable. 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.*

**Northwest Kidney Centers**

NKC provided the following statements related to this sub-criterion. [source: Application, p38]

*“The new facility will be designed and built to meet or exceed all applicable state and local codes and CMS conditions of coverage. This location has been carefully reviewed by our architectural firm, contractors and our clinical staff, Chief Medical Officer and Director of Facilities to create a center that will meet our patient and staff needs.”*

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-240(2)(b) for NKC**

NKC’s project involves construction. With the need for additional stations in King County planning area #5 and the assumptions related to the costs and charges discussed under the Financial Feasibility section of this evaluation, the department does not anticipate an unreasonable impact on the costs and charges to the public as a result of establishing a new dialysis center in the planning area. The department also concludes that NKC **meets this sub-criterion.**

*(3) The project will involve appropriate improvements or innovations in the financing and delivery of health services which foster cost containment and which promote quality assurance and cost effectiveness.*

**Northwest Kidney Centers**

NKC provided the following statements related to this project. [source: Application, p38]

*“NKC will use its existing organizational structure and duplication of systems will be minimized. Economies of scale will also be realized with the sharing of administrative and support staff. Having a new center will allow staff the chance for advancement and enable many of them to work closer to where they live. The new facility will comply with the State Energy Code, latest edition.*

*NKC provides some services locally within the center while others are shared between many different centers. Plant operations for example is a department dedicated to the entire NKC*

*system in the support they provide (facility maintenance). Our ability to provide support in a consistent way—with different levels of expertise in repairs is driven by a diverse team with a long history of quality work. The same is true for administrative functions like those who focus specifically on training of new staff (called the “Dialysis Academy”) that are done offsite to prepare all staff with the same level of high quality of training before they are responsible for a group of patients. We can scale up for times when more support is needed and less when the need diminishes.”*

Public Comments

None

Rebuttal Comments

None

**Department Evaluation of WAC 246-310-240(3) for NKC**

NKC’s project has the potential to improve delivery of dialysis services to the residents of King County planning area #5 with the addition of seven stations. The department is satisfied NKC’s project is appropriate and needed. The department concludes NKC **meets this sub-criterion**.



# APPENDIX A



**2016**  
**King County 5 - CORRECTED**  
**ESRD Need Projection Methodology**

Planning Area		6 Year Utilization Data - Resident Incenter Patients					
King Five (5)		2010	2011	2012	2013	2014	2015
	98003	66	64	61	79	80	87
	98023	43	47	34	38	42	50
	<b>TOTALS</b>	<b>109</b>	<b>111</b>	<b>95</b>	<b>117</b>	<b>122</b>	<b>137</b>
<b>246-310-284(4)(a)</b>	Rate of Change		1.83%	-14.41%	23.16%	4.27%	12.30%
	6% Growth or Greater?		FALSE	FALSE	TRUE	FALSE	TRUE
	Regression Method:	Linear					
<b>246-310-284(4)(c)</b>				Year 1	Year 2	Year 3	Year 4
				2016	2017	2018	2019
Projected Resident Incenter Patients	from 246-310-284(4)(b)			140.10	148.00	155.90	<b>163.80</b>
Station Need for Patients	Divide Resident Incenter Patients by 4.8			29.1875	30.8333	32.4792	<b>34.1250</b>
	Rounded to next whole number			<b>30</b>	<b>31</b>	<b>33</b>	<b>35</b>
<b>246-310-284(4)(d)</b>	subtract (4)(c) from approved stations						
Existing CN Approved Stations				28	28	28	<b>28</b>
Results of (4)(c) above				- 30	31	33	<b>35</b>
Net Station Need				-2	-3	-5	<b>-7</b>
Negative number indicates need for stations							
<b>Planning Area Facilities</b>							
Name of Center	# of Stations						
DaVita Fed Way Comm	16						
DaVita North Fed Way	12						
<b>Total</b>	<b>28</b>						
Source: Northwest Renal Network data 2010-2015							
Most recent year-end data: 2015 posted 02/05/2016							

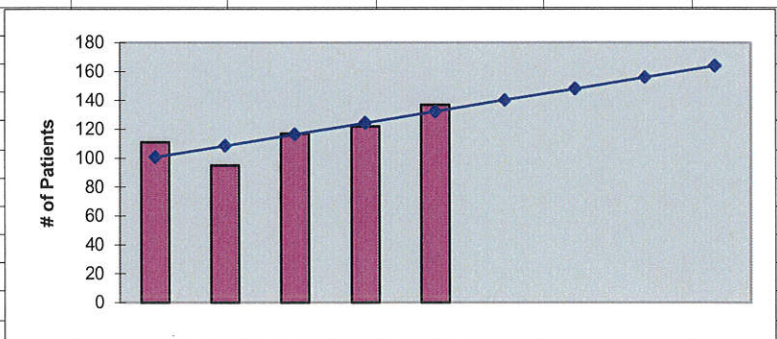


**2016**  
**King County 5 - CORRECTED**  
**ESRD Need Projection Methodology**

x	y	Linear
2011	111	101
2012	95	109
2013	117	116
2014	122	124
2015	137	132
2016		140.10
2017		148.00
2018		155.90
2019		163.80

**SUMMARY OUTPUT**

<i>Regression Statistics</i>	
Multiple R	0.813439383
R Square	0.66168363
Adjusted R Square	0.548911507
Standard Error	10.31342168
Observations	5



**ANOVA**

	df	SS	MS	F	Significance F
Regression	1	624.1	624.1	5.867439674	0.093976859
Residual	3	319.1	106.3666667		
Total	4	943.2			

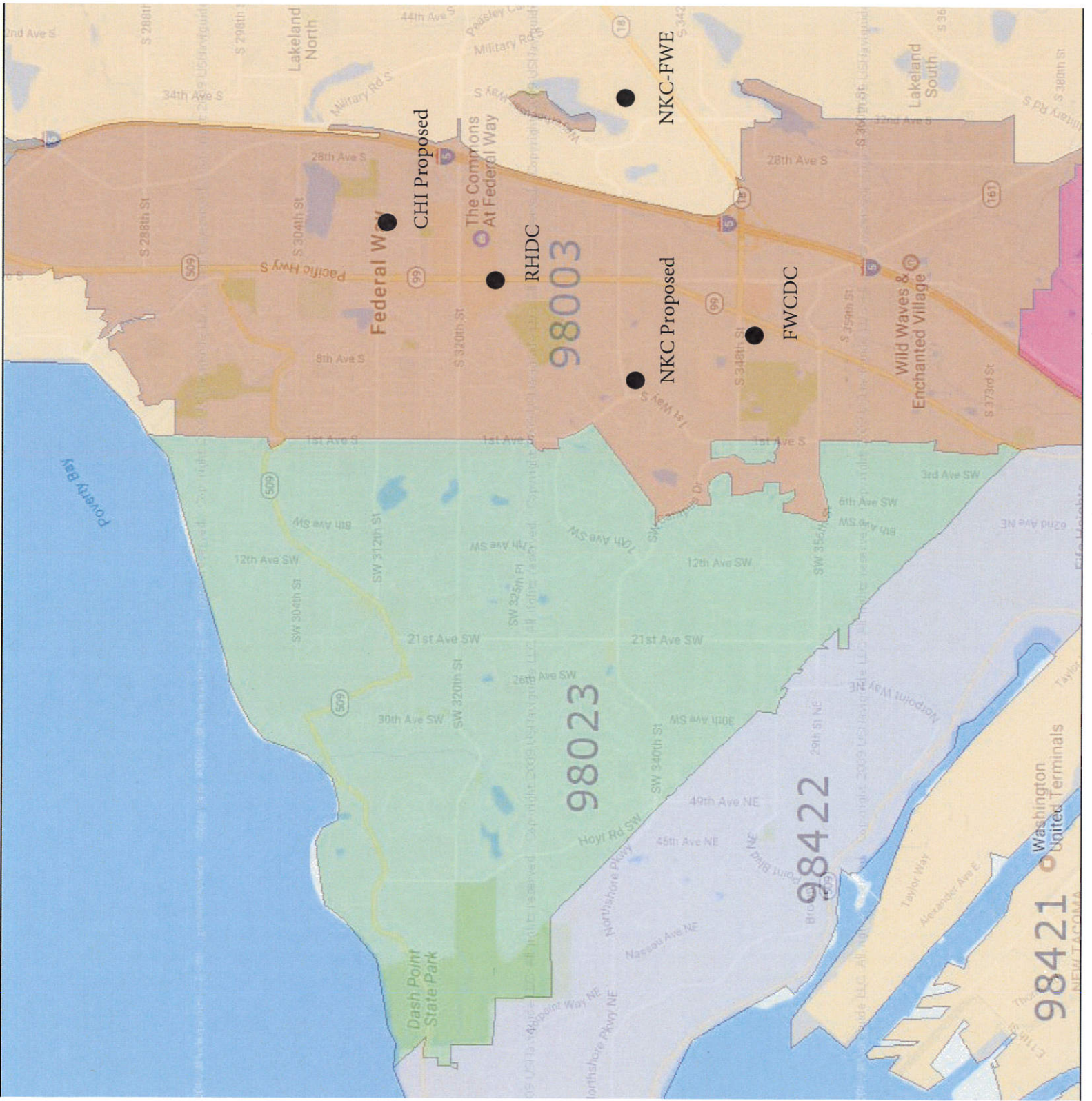
	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95.0%	Upper 95.0%
Intercept	-15786.3	6565.180287	-2.404549351	0.095483235	-36679.63375	5107.033748	-36679.63375	5107.033748
X Variable 1	7.9	3.261390297	2.42227985	0.093976859	-2.479199499	18.2791995	-2.479199499	18.2791995

**RESIDUAL OUTPUT**

Observation	Predicted Y	Residuals
1	107.2	0.8
2	107.6	1.4
3	108	3
4	108.4	-13.4
5	108.8	8.2

# APPENDIX B





Federal Way

CHI Proposed

The Commons At Federal Way

RHDC

98003

NKC Proposed

NKC-FWE

FWDC

Wild Waves & Enchanted Village

Dash Point State Park

98023

98422

98421

Washington United Terminals

# APPENDIX C

**Hillside Plaza Shopping Center**

**Marketing Flyer**

2000 S 314th Street, Federal Way, WA 98003

Contact:

**Grant Rubenstein**

Phone: (425) 289-2220

Suite	Total SF	Rate	NNNs
2106	1,495 - 8,249	\$16.50/SF	\$4.96/SF
2108	1,498 - 8,249	\$16.50/SF	\$4.96/SF
2104	2,256 - 8,249	\$16.50/SF	\$4.72/SF
2110	3,000 - 8,249	\$16.50/SF	\$4.96/SF
2004	4,865	\$16.50/SF	\$4.96/SF
2150	2,245	\$16.50/SF	\$4.96/SF
2014	1,623	\$16.50/SF	\$4.96/SF
2130	9,000 - 18,780	\$14.50/SF	\$4.96/SF
<b>2154</b>	<b>1,500</b>	<b>\$16.50/SF</b>	<b>\$4.96/SF</b>
2160	920	\$16.50/SF	\$4.96/SF