



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

May 1, 2012

VIA FACSIMILE ONLY

Sally F. Herlihy
Vice President, Planning
Western Connecticut Health Network
24 Hospital Avenue
Danbury, CT 06810

RE: Certificate of Need Determination; Report Number 12-31757-DTR
Contractual Arrangement between The Danbury Hospital and
DVA Renal Healthcare, Inc. for Inpatient Dialysis Service Provision

Dear Ms. Herlihy:

On March 28, 2012, the Office of Health Care Access ("OHCA"), a division within the Department of Public Health, received your response to OHCA's March 21, 2012 inquiry into the nature of the contractual relationship between The Danbury Hospital ("Hospital") and DVA Renal Healthcare, Inc. ("DVA"), a subsidiary of DaVita Dialysis, for the provision of inpatient dialysis services. On April 27, 2012, OHCA received your further letter providing a copy of the Acute Services Agreement which the two parties will enter into (redacted for certain information).

OHCA's determination issued herein is based on the following information:

1. On January 27, 2012, OHCA issued a Certificate of Need ("CON") Determination under Report Number 11-31739-DTR related to the divestiture of the Hospital's outpatient renal dialysis services to DaVita Dialysis. OHCA determined that the Hospital's proposal does not involve a transfer of ownership or a termination of service under General Statutes §19a-638(b)(9). In accordance with General Statutes §19a-638(b)(9), a CON is not required for outpatient chronic dialysis services. On February 17, 2012, OHCA issued a letter to a third party to clarify that the January 27, 2012 CON determination was "*rendered solely related to Danbury Hospital's request to divest its Outpatient Renal Dialysis services to DaVita Dialysis.*"
2. The following information and/or clarification was provided by the Hospital in its March 28, 2012 submission to OHCA:

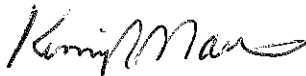
An Equal Opportunity Employer
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308
Telephone: (860) 418-7001 Toll-Free: 1-800-797-9688
Fax: (860) 418-7053

- a. The inpatient dialysis services will continue to be provided under the Hospital's license.
 - b. The Hospital will be fully and legally responsible for the clinical and non-clinical decision making for the inpatient dialysis services.
 - c. The Hospital will negotiate and enter into contractual payer arrangements for the inpatient dialysis services.
 - d. The Hospital will bill for the inpatient dialysis services under its provider ID number.
 - e. The Hospital will record inpatient dialysis volume, revenue and expenses on its books.
 - f. The arrangement will not impact the Hospital's charity care or bad debt policies related to the provision of inpatient dialysis services.
 - g. The arrangement will not impact the Hospital's by-laws, articles of incorporation or board membership or the Hospital's policies and procedures.
3. The following are terms of the Acute Services Agreement between the Hospital and DVA submitted by the Hospital to OHCA on April 27, 2012 pertinent to OHCA's determination herein:
- a. In the Acute Services Agreement, the Hospital requests DVA to provide the Hospital with non-physician professional personnel to perform inpatient dialysis services to adult patients and to provide related supplies and equipment and general administrative services. The services shall not include physician or acute medical director oversight services.
 - b. All staff shall comply with the Hospital's ethical and administrative rules, regulations, policies and procedures that relate to the provision of the services.
 - c. At all times, the Hospital and the patient's physician shall retain ultimate authority over and responsibility for each patient's care and treatment.
 - d. The Hospital and DVA shall establish a Joint Dialysis Oversight Committee which shall be responsible for the operational, clinical quality, and performance improvement components of the agreement and the chairperson of the committee shall be a Hospital nursing executive.

- e. DVA shall provide services only upon receipt of an order of a nephrologist or physician who has been authorized by the Hospital to make such requests.
- f. DVA shall prepare and file with the Hospital's medical records administrator, reports of all services rendered by DVA. The Hospital shall maintain an accurate and complete file of all such records and reports. The ownership and right of control of all reports, records, and supporting documents prepared at the request of the Hospital in connection with the services shall rest exclusively in the Hospital.
- g. The Hospital and DVA agree to jointly establish medical care policies and procedures governing the provision of the inpatient dialysis services, to include clinical procedures, administration of medication, medical record documentation, and responsibilities for patient care in emergency situations.
- h. The Hospital will pay DVA a fee for the services rendered by DVA and DVA will bill the Hospital for such services on a fee-for-service basis. DVA shall not bill or collect from any patient or third-party payor any fee or charge for the services. The Hospital will seek and retain payment from any available source for the services.

Based upon a review of the matter outlined above, OHCA determines that neither Danbury Hospital nor DVA Renal Healthcare, Inc., a subsidiary of DaVita, Inc., is required to seek Certificate of Need authorization regarding the provision of the Hospital's inpatient dialysis services as it does not involve the establishment of a new health care facility, a transfer of ownership of a health care facility, the termination of inpatient or outpatient services offered by a hospital or any provision of General Statutes §19a-638(a)(1) through (14).

Sincerely,



Kimberly R. Martone
Director of Operations, OHCA

C: Rose McLellan, License and Applications Supervisor, DPH, DHSR