

DAVITA INC
Form DEF 14A
April 13, 2005

SCHEDULE 14A

(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a)

of the Securities Exchange Act of 1934

(Amendment No.)

Filed by the registrant

Filed by a party other than the registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission

Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material pursuant to § 240.14a-12

DaVita Inc.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

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NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

May 13, 2005

To OUR STOCKHOLDERS:

We will hold our 2005 annual meeting of the stockholders of DaVita Inc., a Delaware corporation, on Friday, May 13, 2005 at 9:30 a.m., San Francisco time, at the Hyatt Regency San Francisco Airport, 1333 Old Bayshore Highway, Burlingame, California 94010, for the following purposes, which are further described in the accompanying Proxy Statement:

- (1) To elect eight directors to our Board of Directors to serve for a term of one year or until their successors are duly elected and qualified;
- (2) To amend and restate the DaVita Inc. Executive Incentive Plan;
- (3) To ratify the appointment of KPMG LLP as our independent registered public accounting firm for fiscal year 2005; and
- (4) To transact other business as may properly come before the annual meeting or any adjournment thereof.

Our Board of Directors has fixed the close of business on March 31, 2005 as the record date for the determination of stockholders entitled to vote at the meeting or any meetings held upon adjournment of the meeting. Only record holders of our common stock at the close of business on that day will be entitled to vote. A copy of our 2004 annual report to stockholders is enclosed with this notice.

We invite you to attend the meeting and vote in person. **If you cannot attend, to ensure that you are represented at the meeting, please sign and return the enclosed proxy card as promptly as possible in the enclosed postage prepaid envelope.** If you attend the meeting, you may vote in person, even if you previously returned a signed proxy.

By order of the Board of Directors,

Joseph Schohl

Vice President, General Counsel and

Secretary

El Segundo, California
April 11, 2005

PROXY STATEMENT

GENERAL INFORMATION

We are sending you this proxy statement on or about April 14, 2005 in connection with the solicitation of proxies by our Board of Directors, for use at our 2005 annual meeting of stockholders, which we will hold on Friday, May 13, 2005 at 9:30 a.m., San Francisco time, at the Hyatt Regency San Francisco Airport, 1333 Old Bayshore Highway, Burlingame, California 94010. The proxies will remain valid for use at any meetings held upon adjournment of that meeting. The record date for the meeting is the close of business on March 31, 2005. All holders of record of our common stock on the record date are entitled to notice of the meeting and to vote at the meeting and any meetings held upon adjournment of that meeting. Our principal executive offices are located at 601 Hawaii Street, El Segundo, California 90245, and our telephone number is (800) 310-4872.

Whether or not you plan to attend the meeting in person, please date, sign and return the enclosed proxy card as promptly as possible, in the postage prepaid envelope provided, to ensure that your shares will be voted at the meeting. You may revoke your proxy at any time prior to its use by filing with our secretary an instrument revoking it or a duly executed proxy bearing a later date or by attending the meeting and voting in person.

Unless you instruct otherwise in the proxy, any proxy that is not revoked will be voted at the meeting:

For each nominee to our Board of Directors;

For the amendment and restatement of the DaVita Inc. Executive Incentive Plan;

For the ratification of the appointment of KPMG LLP as our independent registered public accounting firm for fiscal year 2005;
and

As recommended by our Board of Directors, in its discretion, with regard to all other matters as may properly come before the annual meeting or any adjournment thereof.

Voting information

Our only voting securities are the outstanding shares of our common stock. At the record date, we had approximately 99,980,000 shares of common stock outstanding and approximately 2,920 stockholders of record. Each stockholder is entitled to one vote on each matter that we will consider at this meeting. Stockholders are not entitled to cumulate votes. Brokers holding shares of record for their customers generally are not

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entitled to vote on some matters unless their customers give them specific voting instructions. If the broker does not receive specific instructions, the broker will note this on the proxy form or otherwise advise us that it lacks voting authority. The votes that the brokers would have cast if their customers had given them specific instructions are commonly called broker non-votes. If the stockholders of record present in person or represented by their proxies at the meeting hold at least a majority of our shares of common stock outstanding as of the record date, a quorum will exist for the transaction of business at the meeting. Stockholders of record who abstain from voting and broker non-votes are counted as present for quorum purposes.

Votes required for proposals

Directors are elected by a plurality of the votes cast, which means that the eight nominees with the most votes will be elected. As a result, withholding authority to vote for a nominee and broker non-votes with respect to the election of directors will not affect the outcome of the election of directors.

Approval of the amendment and restatement of the DaVita Inc. Executive Incentive Plan and the ratification of the appointment of KPMG LLP as our independent registered public accounting firm for fiscal

year 2005 each requires the affirmative vote of a majority of the shares of common stock present at the annual meeting, in person or by proxy and entitled to vote thereon. Abstentions with respect to a proposal will be treated as votes against the proposal. Broker non-votes with respect to these proposals will not be considered as present and entitled to vote on these proposals, which will therefore reduce the number of affirmative votes needed to approve the proposal.

Adjustments for stock split

Except as otherwise specifically noted herein, all share numbers and per-share data contained in this proxy statement have been adjusted for all periods presented to retroactively reflect the effects of a three-for-two stock split of our common stock in the form of a stock dividend that was approved by our Board of Directors. Our common stock began trading on a post-split basis on June 16, 2004.

Proxy solicitation costs

We will pay for the cost of preparing, assembling, printing and mailing these proxy materials to our stockholders, as well as the cost of soliciting proxies relating to the meeting. We may request banks and brokers to solicit their customers who beneficially own our common stock listed of record in names of nominees. We will reimburse these banks and brokers for their reasonable out-of-pocket expenses regarding these solicitations. We have also retained Georgeson Shareholder Communications Inc., or Georgeson, to assist in the distribution and solicitation of proxies and to verify records related to the solicitation at a fee of \$9,500 plus reimbursement for out-of-pocket expenses. Georgeson and our officers, directors and employees may supplement the original solicitation by mail of proxies by telephone, facsimile, e-mail and personal solicitation. We will pay no additional compensation to our officers, directors and employees for these activities. We will indemnify Georgeson against liabilities and expenses arising in connection with the proxy solicitation unless caused by Georgeson's gross negligence or intentional misconduct.

PROPOSAL NO. 1**ELECTION OF DIRECTORS**

At the meeting, you will elect eight directors to serve until the 2006 annual meeting of stockholders or until their respective successors are elected and qualified. Seven of the eight directors have been determined to be independent under the listing standards of the New York Stock Exchange (the NYSE). Please see the section titled *Director independence* below for more information. The Nominating and Governance Committee of our Board of Directors has recommended, and our Board of Directors has nominated, Nancy-Ann DeParle, Richard B. Fontaine, Peter T. Grauer, Michele J. Hooper, C. Raymond Larkin, Jr., John M. Nehra, William L. Roper, M.D. and Kent J. Thiry for election as directors. All of these individuals are currently members of our Board of Directors. Each nominee has consented to being named in this proxy statement as a nominee and has agreed to serve as a director if elected.

Unless the proxy indicates otherwise, the persons named as proxies in the accompanying proxy have advised us that at the meeting they intend to vote the shares covered by the proxies for the election of the nominees named above. If one or more of the nominees are unable or not willing to serve, the persons named as proxies may vote for the election of the substitute nominees that our Board of Directors may propose. The accompanying proxy contains a discretionary grant of authority with respect to this matter. The persons named as proxies may not vote for a greater number of persons than the number of nominees named above.

No arrangement or understanding exists between any nominee and any other person or persons pursuant to which any nominee was or is to be selected as a director or nominee. None of the nominees has any family relationship with any other nominee or with any of our executive officers.

The Board of Directors recommends a vote FOR the election of each of the named nominees as directors.

Information concerning members of our Board of Directors

Name	Age	Position
Nancy-Ann DeParle	48	Director
Richard B. Fontaine	61	Director
Peter T. Grauer	59	Director
Michele J. Hooper	53	Director
C. Raymond Larkin, Jr.	56	Director
John M. Nehra	56	Director
William L. Roper, M.D.	56	Director
Kent J. Thiry	49	Chairman of the Board and Chief Executive Officer

Nancy-Ann DeParle has been one of our directors since May 2001. Ms. DeParle served as the Administrator of the Health Care Financing Administration, or HCFA, from November 1997 until October 2000. From 1993 until joining HCFA, Ms. DeParle was Associate Director for Health and Personnel at the White House Office of Management and Budget. Since February 2001, Ms. DeParle has been a senior advisor to JPMorgan Partners, LLC, a private equity firm, and since June 2001 an adjunct professor at the Wharton School of the University of Pennsylvania. She is a member of the Medicare Payment Advisory Commission (MedPAC), which advises Congress on Medicare payment and policy issues and is a trustee of the Robert Wood Johnson Foundation. Ms. DeParle is also a director of Accredo Health, Inc., Cerner Corporation, Guidant Corporation, and Triad Hospitals, Inc.

Richard B. Fontaine has been one of our directors since November 1999. Mr. Fontaine has been an independent health care consultant since 1992. Mr. Fontaine has also been an adjunct instructor at Westminster College since 1992. From June 1995 to September 1995, he served as interim chief executive officer of Health Advantage, Inc., a subsidiary of Vivra Specialty Partners, Inc. In 1993, he served as interim chief executive officer of Vivocell Therapy, Inc. From 1988 to 1992, he was senior vice president of CR&R Incorporated. From 1984 to 1988, he was vice president, business development, of Caremark, Inc.

Peter T. Grauer has been one of our directors since August 1994. Mr. Grauer has been chairman of the board of Bloomberg, Inc. since April 2001, and its president and treasurer since March 2002. From November 2000 until March 2002, Mr. Grauer was a managing director of Credit Suisse First Boston. From September 1992 until November 2000, upon the merger of Donaldson, Lufkin & Jenrette, or DLJ, into Credit Suisse First Boston, Mr. Grauer was a managing director and founding partner of DLJ Merchant Banking.

Michele J. Hooper has been one of our directors since July 2003. Ms. Hooper has been the managing partner of The Directors Council, a partnership that focuses on corporate board search and advisory services since February 2001. Ms. Hooper has also been president of MJH Consulting, LLC, which provides strategic and operations consulting, since January 2001. From August 1999 until June 2000, Ms. Hooper was president and chief executive officer of Voyager Expanded Learning. From July 1998 until the company's acquisition in July 1999, she was president and chief executive officer of Stadlander Drug Company, Inc. From 1992 until July 1998, Ms. Hooper served in a number of senior management positions for Caremark International Inc., including corporate vice president and president, International Business Group. From 1976 until 1993, Ms. Hooper worked for Baxter International Inc., including as president of the Alternate Site Division and president of Baxter Corporation, Canada. Ms. Hooper is also a director of AstraZeneca PLC, PPG Industries, Inc. and Target Corporation.

C. Raymond Larkin, Jr. has been one of our directors since December 1999. Mr. Larkin has been chairman of the board and chief executive officer of Eunoe Inc. since August 2002. Mr. Larkin has been managing director of Group Outcome LLC since June 1998. From 1983 to March 1998, he held various executive positions with Nellcor Incorporated, a medical products company, for which he served as president and chief executive officer from 1989 until August 1995, when he became president and chief executive officer of Nellcor Puritan Bennett Incorporated upon the merger of Nellcor Incorporated with Puritan-Bennett Corporation. Mr. Larkin is also a director of Align Technology, Inc. and Hangar Inc.

John M. Nehra has been one of our directors since November 2000. Mr. Nehra has been affiliated with New Enterprise Associates, a venture capital firm, since 1989, including, since 1993, as general partner of several of its affiliated venture capital limited partnerships. Mr. Nehra has also been managing general partner of Catalyst Ventures, a venture capital firm, since 1989. Mr. Nehra is also a director of Aradigm Corporation.

William L. Roper, M.D. has been one of our directors since May 2001. In March 2004, Dr. Roper became chief executive officer of the University of North Carolina Health Care System, Dean of the UNC School of Medicine and Vice Chancellor for Medical Affairs of UNC. Dr. Roper also continues to serve as a professor of health policy and administration in the UNC School of Public Health and a professor of pediatrics in the UNC School of Medicine. From 1997 until March 2004, he was dean of the UNC School of Public Health. Before joining UNC in 1997, Dr. Roper served as senior vice president of Prudential Health Care. He also served as Director of the Centers for Disease Control and Prevention from 1990 to 1993, on the senior White House staff in 1989 and 1990 and as the administrator of HCFA from 1986 to 1989. Dr. Roper is also a director of Delhaize Group and a trustee of the Robert Wood Johnson Foundation.

Kent J. Thiry became our chairman of the board and chief executive officer in October 1999. From June 1997 until he joined us, Mr. Thiry was chairman of the board and chief executive officer of Vivra Holdings, Inc., which was formed to operate the non-dialysis business of Vivra Incorporated, or Vivra, after Gambro AB acquired the dialysis services business of Vivra in June 1997. From September 1992 to June 1997, Mr. Thiry was the president and chief executive officer of Vivra, a provider of renal dialysis and other healthcare services. From

April 1992 to August 1992, Mr. Thiry was president and co-chief executive officer of Vivra, and from September 1991 to March 1992, he was president and chief operating officer of Vivra. From 1983 to 1991, Mr. Thiry was associated with Bain & Company, first as a consultant, and then as vice president.

Director independence

Under the listing standards of the NYSE, a majority of the members of our Board of Directors must satisfy the NYSE criteria for independence. No director qualifies under the NYSE listing standards unless the Board of Directors affirmatively determines that the director has no material relationship with us (either directly or as a partner, stockholder or officer of an organization that has a relationship with us). The Board of Directors has determined that all of the members of the Board of Directors, other than Mr. Thiry, are independent under the NYSE listing standards. Each member of the committees of the Board of Directors meets the independence requirements applicable to those committees. In making such determinations the Board of Directors considered the following relationships: Ms. DeParle and Dr. Roper both serve on the board of the Robert Wood Johnson Foundation, Mr. Fontaine made a charitable contribution to the KT Family Foundation, a 501(c)(3) tax exempt private foundation funded in part by Mr. Thiry which provides educational grants to children and grandchildren of our teammates, and Ms. DeParle is a senior advisor to an affiliate of JP Morgan Securities Inc. and JPMorgan Chase Bank, N.A. as described under Certain Relationships and Related Transactions.

Meetings of non-management directors

Non-management directors meet regularly in executive sessions without management. Executive sessions are held in conjunction with each regularly scheduled meeting of the Board of Directors. Mr. Grauer is the presiding director over all executive sessions of the Board of Directors.

Communications with the Board of Directors

Any stockholder who desires to contact the non-management lead director, Mr. Grauer, may do so by sending an email to leaddirector.grauer@davita.com. In addition, any stockholder who desires to contact the Board of Directors or any member of the Board of Directors may do so by writing to: Board of Directors, c/o Secretary, DaVita Inc., 601 Hawaii Street, El Segundo, California 90245. Copies of written communications received by the Secretary will be provided to the full Board of Directors or the appropriate member depending on the facts and circumstances described in the communication unless they are considered, in the reasonable judgment of the Secretary, to be improper for submission to the intended recipient(s).

Meetings

We do not have a policy requiring that directors attend the annual meeting of stockholders. At the last annual meeting, only our chairman, Mr. Thiry, attended the meeting.

Information regarding our Board of Directors and its committees

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Our Board of Directors met nine times during 2004. Each of our directors attended at least 75% of the total number of meetings of the Board of Directors and of the committees of the Board of Directors on which he or she served during 2004. Our Board of Directors has adopted a set of corporate governance guidelines established to assist the Board of Directors and its committees in performing their duties and serving the best interests of the company and our stockholders. Our Board of Directors has established the following committees: the Audit Committee, the Compensation Committee, the Nominating and Governance Committee, the Compliance Committee, the Public Policy Committee and the Clinical Performance Committee.

Audit Committee

In 2004, our Audit Committee consisted of Mr. Larkin, Ms. DeParle and Mr. Nehra. Mr. Larkin is the chair of the Audit Committee. Our Board of Directors has determined that Mr. Larkin qualifies as an audit

committee financial expert within the meaning of the rules of the Securities and Exchange Commission and that each of the members of our Audit Committee is independent and financially literate under the listing standards of the NYSE. Our Board of Directors has adopted a written charter for our Audit Committee. The charter can be obtained without charge by contacting us at 601 Hawaii Street, El Segundo, California 90245, (800) 310-4872 or through our website, located at <http://www.davita.com>, and is included with this proxy statement as Appendix A. Our Audit Committee (a) monitors the integrity of our period-end financial reporting processes and system of internal controls over financial reporting, disclosure controls and legal compliance, (b) appoints our independent registered public accounting firm, (c) monitors the independence and performance of our independent registered public accounting firm and internal auditing department, and (d) provides an avenue of communication among the independent registered public accounting firm, management, the internal auditing department and our Board of Directors. The Audit Committee must also pre-approve audit and all other services performed by the independent registered public accounting firm. Our pre-approval policy is available on our website located at <http://www.davita.com>. The Audit Committee met eight times during 2004, including meetings held with the independent registered public accounting firm and management each quarter prior to the release of the company's financial statements. The Audit Committee met with the independent registered public accounting firm without management present on four occasions in 2004.

Compensation Committee

In 2004, our Compensation Committee consisted of Mr. Fontaine, Mr. Nehra and Mr. Grauer, with Mr. Fontaine serving as the chair of the Compensation Committee. On March 30, 2005, Mr. Nehra was appointed as the new chair of the Compensation Committee. Each of the members of our Compensation Committee is independent in accordance with the listing standards of the NYSE. Each of the members of this committee is also a nonemployee director as that term is defined under Rule 16b-3 of the Securities and Exchange Act of 1934 and an outside director as that term is defined in Internal Revenue Service Regulations. Our Compensation Committee reviews the performance of our chief executive officer and other executives and makes specific recommendations and decisions regarding their compensation to the Board of Directors, or in the case of the chief executive officer, the independent directors acting as a committee of the Board, with the goal of ensuring that our compensation system for our executives, as well as our philosophy for compensation for all employees, is aligned with the long term interests of our stockholders. The Compensation Committee also establishes policies relating to the compensation of our executive officers and other key employees that further this goal. The Compensation Committee met five times during 2004. The charter of the Compensation Committee can be obtained without charge by contacting us at 601 Hawaii Street, El Segundo, California 90245, (800) 310-4872 or through our website, located at <http://www.davita.com>.

Nominating and Governance Committee

Generally, our Nominating and Governance Committee consists of all of our independent directors. In 2004, our Nominating and Governance Committee consisted of Mr. Larkin, Ms. DeParle, Mr. Fontaine, Mr. Grauer, Mr. Nehra and Dr. Roper. Our lead independent director is the chair of the Nominating and Governance Committee. Mr. Grauer serves as our lead independent director. The charter of the Nominating and Governance Committee and our corporate governance guidelines can be obtained without charge by contacting us at 601 Hawaii Street, El Segundo, California 90245, (800) 310-4872 or through our website, located at <http://www.davita.com>.

Our Nominating and Governance Committee reviews and makes recommendations to the Board of Directors about the company's governance processes, assists in identifying and recruiting candidates for the Board of Directors, reviews the performance of the individual members of the Board of Directors, proposes a slate of nominees for election at the annual meeting of stockholders and makes recommendations to the Board of Directors regarding the membership and chairs of the committees of the Board of Directors. The Nominating and Governance Committee does not have a specific set of minimum criteria for membership on the Board of Directors. In making its recommendations, however, it considers the mix of characteristics, experience, diverse

perspectives and skills that is most beneficial to our company. The committee also considers continuing director tenure and takes steps as may be appropriate to ensure that the Board of Directors maintains an openness to new ideas and a willingness to re-examine the status quo. The Nominating and Governance Committee will consider nominees for directors recommended by stockholders upon submission in writing to our Secretary of the names and qualifications of such nominees at the following address: DaVita Inc., 601 Hawaii Street, El Segundo, California 90245. The committee does not intend to alter the manner in which it evaluates candidates based on whether the candidate was recommended by a stockholder or not. The Nominating and Governance Committee met three times during 2004. The committee met in March 2005 to review and nominate the candidates standing for election at the 2005 annual meeting of stockholders.

Compliance Committee

In 2004, our Compliance Committee consisted of Dr. Roper and Mr. Larkin, with Dr. Roper serving as chair. Each of the members of our Compliance Committee is independent in accordance with the listing standards of the NYSE. Our Compliance Committee oversees and monitors the effectiveness of our corporate compliance program, reviews significant compliance risk areas, other than those areas addressed by the Audit Committee, and the steps management is taking to monitor, control and report risk exposures. The Compliance Committee meets regularly with our chief compliance officer. The Compliance Committee met six times during 2004. At least one member of our Audit Committee also serves on our Compliance Committee. The charter of the Compliance Committee can be obtained without charge by contacting us at 601 Hawaii Street, El Segundo, California 90245, (800) 310-4872 or through our website, located at <http://www.davita.com>.

Public Policy Committee

In March 2004, the Board of Directors established the Public Policy Committee. In 2004, our Public Policy Committee consisted of Ms. DeParle and Dr. Roper, with Ms. DeParle serving as the chair. Each of the members of our Public Policy Committee is independent in accordance with the listing standards of the NYSE. Our Public Policy Committee advises the Board of Directors on public policy and makes recommendations to the Board of Directors as to policies and procedures relating to issues of public policy and government relations. The Public Policy Committee met three times during 2004. The charter of the Public Policy Committee can be obtained without charge by contacting us at 601 Hawaii Street, El Segundo, California 90245, (800) 310-4872 or through our website, located at <http://www.davita.com>.

Clinical Performance Committee

In March 2004, the Board of Directors established the Clinical Performance Committee. In 2004, our Clinical Performance Committee consisted of Ms. Hooper, Mr. Fontaine, Mr. Nehra and Dr. Roper, with Dr. Roper serving as the chair. Each of the members of our Clinical Performance Committee is independent in accordance with the listing standards of the NYSE. Our Clinical Performance Committee advises the Board of Directors on clinical performance issues facing the company and makes recommendations to management and to the Board of Directors as to policies and procedures relating to issues of clinical performance. The Clinical Performance Committee met three times during 2004. The charter of the Clinical Performance Committee can be obtained without charge by contacting us at 601 Hawaii Street, El Segundo, California 90245, (800) 310-4872 or through our website, located at <http://www.davita.com>.

Compensation of directors

Directors who are our employees or officers do not receive compensation for service on our Board of Directors or any committee of the Board of Directors. Each of our directors who is not one of our officers or employees is entitled to receive a retainer of \$24,000 per year, paid quarterly in arrears (half in cash and half in deferred stock units that vest after one year), and additional compensation of \$4,000 for each Board of Directors

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meeting attended in person and \$2,000 for each meeting held via telephone conference that lasts more than one

and one half hours. For committee meetings, additional compensation of \$2,000 per meeting is paid for each meeting attended in person and for each meeting held via telephone that lasts more than one hour, except that the meeting fee is \$1,500 for members of the Public Policy and Clinical Performance Committees and \$2,500 for the chairs of these two committees. For the Compensation and Nominating and Governance Committees, no committee meeting fees were paid for committee meetings held on regular Board of Directors meeting dates. For the Audit, Compliance, Public Policy and Clinical Performance Committees, separate committee meeting fees were paid for committee meetings held on regular Board of Directors meeting dates. Effective March 30, 2005, committee meeting fees are paid for all committee meetings, except that no fees are paid for Nominating and Governance Committee meetings held on regular Board of Directors meeting dates.

The chairs of the Audit, Compensation and Compliance Committees and the lead independent director also receive an additional retainer of \$20,000 per year, paid quarterly in arrears (half in cash and half in deferred stock units that vest after one year). If the lead independent director also serves as a chair of the Audit, Compensation or Compliance Committee, he or she will only receive a total additional retainer of \$20,000 (not \$40,000) per year. We also reimburse our directors for their reasonable out-of-pocket expenses in connection with their travel to and attendance at meetings of the Board of Directors and other company business.

In addition, each director who is not one of our officers or employees is entitled to receive options to purchase 8,000 shares of our common stock each time he or she is elected to serve on our Board of Directors by our stockholders. These options are granted on the date of our annual meeting of stockholders, have a per share exercise price equal to the fair market value of a share of our common stock on the date of grant, vest over two years at an annual rate of 50% beginning on the first anniversary of the date of grant, with acceleration of vesting upon a change in control, and expire five years after the date of grant. Effective on the date of our 2005 annual meeting of stockholders, the number of options granted annually to our non-management directors will increase from 8,000 to 12,000 to reflect the stock split and will be granted on the same terms as prior grants except that the options will vest in full on the date of the following annual meeting of stockholders.

The chairs of the Audit, Compensation and Compliance Committees and the lead independent director also receive additional options to purchase 4,000 shares of our common stock for each year of service in these roles. These options are granted on the date of our annual meeting of stockholders, have a per share exercise price equal to the fair market value of a share of our common stock on the date of grant, vest over three years at an annual rate of one-third beginning on the first anniversary of the date of grant, with acceleration of vesting upon a change in control, and expire after five years. Effective on the date of our 2005 annual meeting of stockholders, the number of options granted annually to the chairs of the Audit, Compensation and Compliance Committees and the lead independent director will increase from 4,000 to 6,000 to reflect the stock split and will be granted on the same terms as prior grants except that the options will vest in full on the date of the following annual meeting of stockholders. Vesting of these options continues so long as the director continues to serve on our Board of Directors even if he or she is no longer a committee chair or lead independent director. In addition to these options, each of the chairs of the Audit, Compensation and Compliance Committees and the lead independent director receives additional deferred stock units for 1,500 shares that are granted on the date of our annual meeting of stockholders and that vest one year after the date of grant. If the lead independent director also serves as a committee chair, he or she will not receive an additional option grant or grant of deferred stock units.

Each new member of our Board of Directors who is not one of our employees or officers receives a one-time grant of an option to purchase 15,000 shares of our common stock that is granted upon initial appointment to our Board of Directors, with a per share price equal to the fair market value of a share of our common stock on the date of grant, that vests over four years at an annual rate of 25% beginning on the first anniversary of the date of grant, with acceleration of vesting upon a change of control and that expires five years after the date of grant.

In accordance with the foregoing, in 2004 Mr. Fontaine, Mr. Grauer, Mr. Larkin and Dr. Roper each received options to purchase 18,000 shares, and Ms. DeParle, Ms. Hooper and Mr. Nehra each received options to purchase 12,000 shares (in each case, as adjusted for the stock split). In addition, each of Ms. DeParle, Mr. Fontaine, Mr. Grauer, Mr. Larkin and Dr. Roper received 2,250 deferred stock units (as adjusted for the stock split).

Board of Directors share ownership policy

We have a share ownership policy which applies to all non-management members of our Board of Directors. The purpose of the policy is to encourage our Board of Directors to have an ownership stake in the company by retaining a specified number of shares of our common stock.

Both shares owned directly and shares underlying vested, unexercised stock options and vested deferred stock units are counted in determining compliance with the policy. The shares retained must have a current market value of not less than the lower of:

25% of the total equity award value realized by the Board of Directors member in excess of \$100,000; or

three times the annual Board of Directors retainer of \$24,000, or \$72,000.

Effective March 30, 2005, this share ownership policy was revised to increase the target ownership from three times the annual Board of Directors retainer to five times such retainer, or \$120,000. Each of the members of the Board of Directors standing for re-election meets the 2004 and the revised share ownership guidelines. Mr. Thiry, as chief executive officer, is subject to the management share ownership policy described in the executive compensation section of this proxy statement and meets the guidelines set forth in that policy.

PROPOSAL NO. 2

AMENDMENT AND RESTATEMENT OF DAVITA INC. EXECUTIVE INCENTIVE PLAN

Our stockholders approved the DaVita Inc. Executive Incentive Plan at the annual meeting of stockholders held on June 5, 2001. Our Board of Directors has approved a number of amendments to that plan, subject to approval by our stockholders. The most significant amendment is to increase the maximum amount that can be paid under the plan to any participant for any calendar year from \$5 million to \$10 million. We are seeking stockholder approval of the plan, as amended and restated. The plan, both as originally adopted, and as amended and restated, is intended to ensure that annual incentive awards paid to senior executives can be fully tax deductible as performance-based compensation, within the meaning of Section 162(m) of the Internal Revenue Code and the rules and regulations thereunder (Section 162(m)).

Under Section 162(m), the amount that we may deduct for federal income tax purposes for compensation paid to our chief executive officer and any of our four other highest paid executive officers in any tax year is generally limited to \$1 million per individual, unless the payments are made based upon the attainment of pre-established performance goals that are approved by our stockholders.

If the proposal to approve the plan, as amended and restated, is not passed at this meeting, the various amendments to the plan approved by our Board of Directors will not take effect and the plan will remain as originally approved by our stockholders in 2001. A summary of the features of the plan, as amended and restated, is provided below. The full text of the plan, as amended and restated, is set forth as Appendix B to this proxy statement. Except where otherwise noted, the references to the plan in the summary description are to the plan, as amended and restated.

Summary description of the plan

Our chief executive officer and each other executive officer whose annual compensation for a taxable year is determined by the Compensation Committee to be likely not to be deductible, in whole or in part, unless the compensation qualifies as performance-based under Section 162(m) are eligible to participate in the plan. Mr. Thiry, Mr. Mello and Mr. Kelly will be the only executive officers eligible to participate in the plan for 2005. The Compensation Committee has determined that the performance goals established under the plan for 2004 were exceeded. For 2004, Mr. Thiry, Mr. Mello and Mr. Kelly participated in the plan and received cash awards thereunder as follows: \$1,975,000 for Mr. Thiry, \$400,000 for Mr. Mello, and \$111,120 for Mr. Kelly. Mr. Kelly's employment with the company commenced in June 2004 and his bonus represents a prorated amount for the portion of the year that he was employed with the company. In addition, each of Mr. Thiry, Mr. Mello and Mr. Kelly are expected to receive an equity-based award under the plan for 2004 which has not yet been determined. The Compensation Committee has approved, subject to the approval of the amended and restated plan by our stockholders at the 2005 annual meeting of stockholders, the payment of an award to Mr. Thiry for 2004 in an amount of up to \$7 million. If the amended and restated plan is not approved by our stockholders at the 2005 annual meeting of stockholders, Mr. Thiry's award for 2004 will be limited to the \$5 million maximum award permitted under the terms of the plan as originally approved by our stockholders.

Our Compensation Committee, consisting solely of outside directors, as that term is defined by Section 162(m), administers the plan, including, among other things, determining the performance goals for plan participants and the amount of awards payable to them upon the attainment, in whole or in part, of their performance goals. The Compensation Committee also certifies whether or not each participant has met, in whole or in part, his or her performance goals.

No later than 90 days after the commencement of a calendar year, the Compensation Committee is required to designate participants for that year and establish, in writing, the performance goals for each participant and the method of calculating the award that will be payable to each if his or her performance goals are attained, in whole or in part.

The performance goals established by the Compensation Committee for participants are to be based on one or more of the following business criteria: cash generation targets, profit and revenue targets on an absolute or per share basis (including but not limited to EBIT, EBITDA, operating income and EPS), market share targets, acquisition targets, profitability targets (as measured through return ratios or stockholder returns), treatment growth, clinical outcomes, physician relations, employee turnover and employee relations. The performance goals established by the Compensation Committee may apply the criteria to the company as a whole or to any of its subsidiaries or business units.

The maximum amount that may be paid under the plan to any participant for any year is \$10 million. Awards can be paid in cash, shares of our common stock or units representing the right to receive shares of our common stock. The Compensation Committee can add restrictions to shares of our common stock or stock units paid under the plan. For the purpose of determining compliance with the annual \$10 million payment limit, shares of our common stock or stock units will be valued based on the last reported sale price of our common stock on the payment date, without reduction for any restrictions that the Compensation Committee may have applied. If the payment of an award in shares of our common stock or stock units would require approval under the rules of the principal stock exchange on which our common stock is traded, then that payment must be made under the terms of another of our benefit plans for which additional stockholder approval would not be required.

Awards under the plan can only be paid upon attainment of the performance goals established by the Compensation Committee. Unless otherwise provided in a participant's employment agreement or otherwise determined by the Compensation Committee, a participant will not be entitled to receive payments under the plan if he or she is not employed by us when the award is paid. The Compensation Committee can decrease, but not increase, the amount that can be paid upon the attainment of the applicable performance goals for a participant, if the Compensation Committee determines that to do so is in our best interests and the best interests of our stockholders.

The Compensation Committee may withhold from any award any amount that a participant owes us.

The Compensation Committee may amend the plan at any time, provided that stockholder approval of any such amendment will be required to the extent necessary under Section 162(m).

The following table sets forth the target awards that each of the following executives is eligible to receive under the plan for fiscal 2005. Our non-executive directors are not eligible to receive awards under the plan and no employees who are not executive officers are eligible to receive awards under the plan. The only executive officers that are eligible to receive awards under the plan for fiscal 2005 are those listed below.

Name and Position	Target Dollar Value (\$)
Kent J. Thiry	\$ 8,500,000
Chairman of the Board and Chief Executive Officer Joseph C. Mello	\$ 4,000,000
Chief Operating Officer Thomas L. Kelly	\$ 4,000,000
Executive Vice President All eligible Executive Officers as a Group (3 persons)	\$ 16,500,000

The Board of Directors recommends a vote FOR the amendment and restatement of the DaVita Inc. Executive Incentive Plan.

PROPOSAL NO. 3

RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Independent registered public accounting firm

The Audit Committee has appointed KPMG as our independent registered public accounting firm for the fiscal year ending December 31, 2005. Representatives of KPMG are not expected to attend the annual meeting in person, but will be available by teleconference to respond to appropriate questions and to make a statement if they so desire. If KPMG should decline to act or otherwise become incapable of acting, or if KPMG's engagement is discontinued for any reason, the Audit Committee will appoint another independent registered public accounting firm to serve as our independent registered public accounting firm for 2005. Although we are not required to seek stockholder approval of this appointment, the Board of Directors believes that it is a good corporate governance practice to follow. If the appointment is not ratified, the Audit Committee will explore the reasons for stockholder rejection and will reconsider the appointment.

Audit fees

KPMG's aggregate fees billed for the audit of our annual consolidated financial statements and the three quarterly reviews on our Form 10-Q were \$505,000 for the year 2003 and \$1,150,000 for the year 2004. The 2004 audit fee includes KPMG's services in connection with the attestation report on management's assessment of the effectiveness of our internal control over financial reporting as required by Section 404 of the Sarbanes-Oxley Act.

Audit-related fees

KPMG's aggregate fees billed for assurance and related services that are reasonably related to the performance of the audit or review of our financial statements and are not reported as Audit fees, including fees for assurance services related to other SEC filings and audits of employee benefit plans, were \$75,000 for the year 2003 and \$148,600 for the year 2004.

Tax fees

KPMG's aggregate fees billed for professional services rendered for tax advice and tax planning were \$65,000 for the year 2003 and \$44,300 for the year 2004. None of these fees were for tax compliance or tax preparation services.

All other fees

KPMG's aggregate fees billed for products and services other than those described above were \$189,000 in the year 2003, and \$23,900 in the year 2004, principally related to benefit plan testing.

Pre-approval policies and procedures

The Audit Committee of our Board of Directors is required to pre-approve the audit, audit-related, tax and all other services in order to assure that the provision of such services does not impair the auditor's independence. The Audit Committee's pre-approval policy provides for pre-approval of all audit, audit-related, tax and all other services provided by KPMG and is available on our website located at <http://www.davita.com>. The Audit Committee pre-approved all such services in 2004 and concluded that such services by KPMG were compatible with the maintenance of that firm's independence in the conduct of its auditing functions.

The Board of Directors recommends a vote FOR the ratification of the appointment of KPMG LLP as our independent registered public accounting firm for fiscal year 2005.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the ownership of our common stock as of February 28, 2005 by (a) all those persons known by us to own beneficially more than 5% of our common stock, (b) each of our directors and executive officers, and (c) all directors and executive officers as a group. We know of no agreements among our stockholders which relate to voting or investment power over our common stock or any arrangement the operation of which may at a subsequent date result in a change of control of us.

Name and address of beneficial owner (1)	Number of shares beneficially owned	Percentage of shares beneficially owned
FMR Corp. (2) 82 Devonshire Street Boston, Massachusetts 02109	8,399,259	8.4%
Peninsula Investment Partners, L.P. and Peninsula Capital Advisors, LLC (3) 404 B East Main Street Charlottesville, Virginia 22902	6,000,000	6.0%
T. Rowe Price Associates, Inc. (4) 100 E. Pratt Street Baltimore, Maryland 21202	4,991,548	5.0%
Times Square Capital Management, Inc. (5) Four Times Square, 25th Floor New York, New York 10036; and CIGNA Corporation One Liberty Place Philadelphia, Pennsylvania 19103	5,233,190	5.2%
Kent J. Thiry (6)	1,581,254	1.6%
Gary W. Beil (7)	37,800	*
Denise K. Fletcher		*
Thomas L. Kelly		*
Charles J. McAllister (8)	43,499	*
Joseph C. Mello (9)	269,686	*
Lori S. Richardson-Pelliccioni (10)	26,250	*
Joseph Schohl		*
Thomas O. Usilton, Jr.		*
Nancy-Ann DeParle (11)	19,920	*
Richard B. Fontaine (12)	45,704	*
Peter T. Grauer (13)	30,963	*
Michele J. Hooper (14)	6,233	*
C. Raymond Larkin Jr. (15)	71,536	*
John M. Nehra (16)	67,339	*

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William L. Roper (17)	21,672	*
All directors and executive officers as a group (16 persons) (18)	2,221,856	2.2%

* Amount represents less than 1% of our common stock.

- (1) Unless otherwise set forth in the following table, the address of each beneficial owner is 601 Hawaii Street, El Segundo, California 90245.
- (2) Based upon information contained in a Schedule 13G/A filed with the SEC on February 14, 2005. FMR Corp. is the beneficial owner of these shares through its control of the following entities: Fidelity Management & Research Company, beneficial owner of 7,081,571 shares; Fidelity Management Trust Company, beneficial owner of 1,263,644 shares; and Fidelity International Limited, beneficial owner of 54,044 shares. Mr. Edward C. Johnson 3rd is the chairman of FMR Corp. By virtue of his position as chairman of FMR Corp. and his and Abigail Johnson's ownership of FMR Corp., they may be deemed to have the sole power to dispose of the 7,081,571 shares owned by Fidelity Management & Research Company. They may be deemed to have the sole power to dispose of 1,263,644 shares and the sole power

- to vote 1,209,105 shares owned by Fidelity Management Trust Company. By virtue of Mr. Johnson's position as chairman of Fidelity International Limited, he may be deemed to have the sole power to dispose of and vote the 54,044 shares owned by Fidelity International Limited.
- (3) Based upon information contained in a Schedule 13G/A filed with the SEC on February 14, 2005. Peninsula Investment Partners, L.P. and Peninsula Capital Advisors, LLC are the beneficial owners of 6,000,000 shares with the shared power to vote and dispose of the shares.
 - (4) Based upon information contained in a Schedule 13G/A filed with the SEC on February 10, 2005. These shares are owned by various individual and institutional investors for which T. Rowe Price Associates, Inc. serves as investment adviser with power to direct investments and/or sole power to vote the securities. T. Rowe Price Associates, Inc. has the sole power to vote 947,450 of the shares and sole power to dispose of 4,991,548 of the shares.
 - (5) Based upon information contained in a Schedule 13G/A filed with the SEC on February 11, 2005. These shares are owned by investment advisory clients for which Times Square Capital Management, Inc. serves as investment advisor with power to direct investments and/or sole power to vote the shares. Times Square Capital Management, Inc. has the sole power to vote 4,157,683 of the shares and the sole power to dispose of 5,233,190 of the shares. CIGNA Corporation is the beneficial owner of these shares through its control of Times Square Capital Management, Inc.
 - (6) Includes 22,743 shares held in a family trust and 1,439,944 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 14,463 vested but unissued restricted stock units.
 - (7) Includes 23,125 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005.
 - (8) Includes 42,500 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005.
 - (9) Includes 229,687 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 39,999 vested but unissued restricted stock units.
 - (10) All of which are issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005.
 - (11) Includes 17,625 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 363 vested deferred stock units issuable one year from the date of grant.
 - (12) Includes 37,999 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 3,217 vested deferred stock units issuable one year from the date of grant.
 - (13) Includes 16,999 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 2,916 vested deferred stock units issuable one year from the date of grant.
 - (14) Includes 5,625 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 363 vested deferred stock units issuable one year from the date of grant.
 - (15) Includes 64,999 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 2,916 vested deferred stock units issuable one year from the date of grant.
 - (16) Includes 29,375 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 363 vested deferred stock units issuable one year from the date of grant.
 - (17) Includes 16,000 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 2,916 vested deferred stock units issuable one year from the date of grant.
 - (18) All directors and executive officers in office on February 28, 2005. Includes 1,950,128 shares issuable upon the exercise of options which are exercisable as of, or will become exercisable within 60 days after, February 28, 2005 and 67,516 vested but unissued restricted stock units.

Information concerning our executive officers

Name	Age	Position
Kent J. Thiry	49	Chairman of the Board and Chief Executive Officer
Gary W. Beil	53	Vice President and Controller
Denise K. Fletcher	56	Chief Financial Officer
Thomas L. Kelly	53	Executive Vice President
Charles J. McAllister, M.D.	57	Chief Medical Officer
Joseph C. Mello	46	Chief Operating Officer
Lori S. Richardson-Pelliccioni		