

Constantino, Mike

From: Harmon, Kathy [KHarmon@silvercross.org]
Sent: Friday, February 18, 2011 3:49 PM
To: 'dale.galassie@illinois.gov'; Avery, Courtney; Constantino, Mike
Subject: Supplemental Response to Fresenius Medical Care Joliet, Project No. 10-066
Attachments: Supplemental Response to Fresenius Project # 10-066.pdf

Please find attached our Supplemental Response to Fresenius Medical Care Joliet, Project No. 10-066.



1200 Maple Road • Joliet, IL 60432
(815) 740-1100 • www.silvercross.org

February 18, 2011

VIA FEDERAL EXPRESS

Mr. Dale Galassie
Chairman
Illinois Health Facilities Planning Board
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761-0001

Ms. Courtney R. Avery
Administrator
Illinois Health Facilities Planning Board
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761-0001

Re: Supplemental Response to Fresenius Medical Care Joliet. Project No. 10-066

Dear Mr. Galassie and Ms. Avery:

On behalf of Silver Cross Hospital and Medical Centers and Silver Cross Health System (collectively, "Silver Cross"), we would like to provide some additional commentary concerning the Application for Permit (the "Fresenius Application") filed by Fresenius Medical Care of Plainfield LLC d/b/a Fresenius Medical Care Joliet ("Fresenius") to establish a 16 station end stage renal dialysis ("ESRD") facility (the "Fresenius Joliet Facility") at 721-740 East Jackson Street, Joliet, Illinois, and identified as Project No. 10-066. Just as importantly, we would also like to provide an additional option to the Illinois Health Facilities & Services Review Board (the "Board") concerning the provision of dialysis services in Joliet—especially in light of the fact that there seems to be an emerging theme that the current ESRD providers in Planning Area 9 (which includes Joliet) are allegedly not serving the large minority population in Joliet.

Background Facts and Status Regarding Project No. 10-066 (Fresenius)

On or about September 21, 2010, Fresenius filed the Fresenius Application to establish the Fresenius Joliet Facility. The proposed Fresenius Joliet Facility is less than 1 mile away from Silver Cross' currently existing (but soon to be discontinued) 14 station ESRD facility located at Silver Cross' current hospital campus at 1200 Maple Road, Joliet ("Silver Cross' Existing Hospital Campus"). Fresenius originally listed a project completion date of May 31, 2013 and a cost of \$4,395,960 for the Fresenius Joliet Facility.

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On or about October 29, 2010, Silver Cross, and its affiliate Silver Cross Renal Center-West, filed an opposition letter to Project No. 10-066 and raised a number of issues concerning the historical patient data and projected referrals set forth in the Fresenius Application for Project No. 10-066. On or about November 1, 2010 Fresenius submitted a modification letter for Project No. 10-066, which attempted to address the issues raised by Silver Cross.

On or about November 23, 2010, Sun Health, Inc. ("Sun"), another licensed ESRD facility located at 2121 Oneida Street in Joliet, Illinois, filed an opposition letter to Project No. 10-066. Sun's opposition letter made a number of assertions against the main referring physician, Dr. Morufu Alausa ("Dr. Alausa") to the proposed Fresenius Joliet Facility; including a concern that the referring physician would only refer commercial and/or Medicare patients to the Fresenius Joliet Facility, based upon Dr. Alausa's past patterns and practices.

On December 14, 2010, Fresenius appeared before the Board and made several statements concerning the need for additional ESRD stations in Joliet, including:

- "This particular clinic in this region [Joliet] is going to be built in a very underprivileged area where a lot of African Americans and Latinos live. These patients are underinsured. This clinic is really to provide access." Transcript at p. 95.
- "I think Dr. Alausa probably explained better than me, but the patients that he would refer to the Joliet clinic that he is describing are not really patients that would avail themselves of [other facilities.] And we want to provide them access where they live [in Joliet]" Transcript at p. 99.
- "It's plain geographical location. It's just if you look at it on Map Quest, Mokena is 14 miles from Joliet. It's just not that easy. They have to travel to interstate/highway. . . . They're just not going to go there." Transcript at pp. 105-106..

After nearly thirty minutes of discussion, and what was clearly a difficult decision, the Board issued an intent to deny for Project No. 10-066 after six of the seven voting members of the Board voted against Project No. 10-066.

Almost immediately after the December 14, 2010 Board hearing, Fresenius notified the Board that Fresenius intended to appear at the Board's March 22, 2011 hearing to address the concerns raised by the Board. Fresenius has also submitted a number of support letters from Joliet area churches and agencies – all of which either implicitly or explicitly state that Joliet needs additional ESRD stations.

Time for An Additional Option

Even though the State Agency Report for Project No. 10-066 explicitly stated that there was no need for additional ESRD stations in Planning Area 9 (which includes Joliet), it is clear that one of the nation's largest providers of dialysis services honestly believes that Joliet needs additional ESRD stations to serve the disadvantaged populations in Joliet and that the current ESRD providers in the planning area (including Silver Cross) are not meeting the dialysis needs of the residents of Joliet. Without debating that point, and without attacking the recent efforts by Fresenius to offer ESRD services in Joliet, we think we have a much better option to address the alleged "Joliet Access" issue.

As the Board is aware, on September July 27, 2010, the Board unanimously approved Silver Cross' certificate of need application (the "Silver Cross Renal Center Application") to establish a nineteen (19) station ESRD facility at Silver Cross' new hospital campus at 1890 Silver Cross Boulevard in New Lenox, Illinois ("Silver Cross' Replacement Hospital Campus"). The Silver Cross Renal Center Application, which was assigned Project No. 10-020, also authorized Silver Cross to discontinue its 14 station ESRD facility located at Silver Cross' Existing Hospital Campus in Joliet. And therein lies the solution. In order to address the "Joliet Access" issues cited by Fresenius, we are prepared to keep our 14 station Joliet ESRD in a fully operational state to serve any ESRD patients of Joliet who will be inconvenienced by the short five minute trip from our Existing Hospital Campus to our Replacement Hospital Campus in New Lenox.

Indeed, and this cannot be emphasized enough, Silver Cross has an absolute commitment to the residents of Joliet and we are deeply disturbed that this commitment is now being questioned. Our dialysis unit was the first unit approved for Joliet and Will County more than 30 years ago. Our growing dialysis program has continued to provide the highest quality of care to the residents of Joliet. And we were recently successful in our efforts to bring a second federally-qualified health center to our Existing Hospital Campus – furthering our commitment to the residents of Joliet.

Quite frankly, Silver Cross only decided to discontinue its ESRD facility in Joliet because Silver Cross interpreted the Board's rules on planning area need as requiring Silver Cross to discontinue its Joliet ESRD facility in order to establish its new ESRD facility in New Lenox. If the rules allow applicants (such as Fresenius) to focus on the needs of a specific community (in this case, Joliet) versus an entire planning area, Silver Cross is in the best position to meet the needs of the Joliet residents. In other words, Silver Cross can immediately and without any cost address the "Joliet Access" concerns raised in the Fresenius Application. Unlike the ESRD facility proposed by Fresenius, Silver Cross' ESRD facility in Joliet is currently operational and, if it remains operational, will lead to no service disruptions to the patients referenced in the

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Fresenius Application. Indeed, the Fresenius Application lists a proposed completion date of May, 2013, nearly twenty seven (27) months from today, and a project cost of more than \$4,300,000. It is also important to note that Dr. Alausa is currently credentialed and seeing patients at Silver Cross' ESRD facility on its Existing Hospital Campus in Joliet.

ESRD Needs Are Being Met in Joliet and Will County

Of course, it must be noted that the healthcare providers in Will County (and Planning Area 9) are meeting the dialysis needs of the residents of Joliet. Over the past two years, Silver Cross and the other health care providers in Will County have worked closely with the Will County Health Department to complete a community-based needs assessment and strategic plan (the "Will County IPLAN"). The Will County IPLAN was just completed in January of 2011 and identified the health care needs for the residents of Will County (which includes Joliet) over the next 5 years. Critically, the Will County IPLAN did NOT mention any need for increased dialysis services in Will County.

Indeed, when Fresenius submitted its impact letter response to Silver Cross' Renal Center Application, on February 22, 2010, a copy of which is attached as Exhibit 2, Fresenius never mentioned that there was a need for ESRD stations in Joliet. Instead, Fresenius specifically stated that the discontinuation of Silver Cross' currently existing 14 station ESRD facility located at Silver Cross' Existing Hospital Campus in Joliet would have NO impact on the residents of Joliet.

"We do not feel that the discontinuation of the 14-station facility in Joliet along with the establishment of a 19-station facility in New Lenox will have any adverse impact on access to care in the area or to any of the Fresenius Medical Care facilities within 45-minutes."

Finally, at the December 14, 2010 Board meeting, Fresenius stated that disadvantaged patients would be served by the Fresenius Joliet Facility. Fresenius also implied that those disadvantaged patients were not being served (and would not be served in the future) by the healthcare providers in Planning Area 9. But contrary to those statements and implications, the race and ethnic breakdown of current Silver Cross' dialysis patients is absolutely no different than that discussed by Fresenius. Nearly 60% of the dialysis patients seen at Silver Cross' ESRD facility on our Existing Hospital Campus in Joliet are non-white or of Hispanic ethnicity. And at our Silver Cross Renal Center-West ESRD Facility, nearly 43% are non-white or of Hispanic ethnicity. Additionally, *more than 90%* of Silver Cross' dialysis patients are covered by government-sponsored plans – such as Medicare and Medicaid. Thus, to be clear, Silver Cross' dialysis patients are as racially diverse and require similar financial assistance as the patients to be treated at the proposed Fresenius Joliet Facility. Fresenius' project is not serving a unique or exclusively distressed population.

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Conclusion

That all said, we want to thank the Board for its obvious commitment to the residents of our planning area. It is clear that the Board does not want to negatively impact the residents of Planning Area 9 – and the residents of Joliet in particular. Nor do we. As the only disproportionate share hospital in Planning Area 9, and having served literally hundreds of thousands of Medicaid and uninsured patients over our long history, we only want the best for our patients. In our opinion, the best solution to any alleged “Joliet Access” problem will involve Silver Cross keeping its 14 station ESRD Facility on our Existing Hospital Campus in Joliet in a fully operational state to serve any dialysis patients of Joliet who are in need of dialysis services who cannot drive the 3.5 miles to our Replacement Hospital Campus in New Lenox

If you have any questions or concerns, please feel free to contact me.

Sincerely,



Ruth Colby
Senior Vice President Business Development
and Chief Strategy Officer