

**From:** [Bhuvan Chawla](#)  
**To:** [Constantino, Mike](#)  
**Cc:** [Hills, Bonnie](#)  
**Subject:** Opposition to Project 12-047 Fresenius Plainfield North  
**Date:** Wednesday, August 22, 2012 3:49:12 PM  
**Attachments:** [Opposition to Project 12-047 Fresenius Plainfield North.pdf](#)

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Mr. Constantino / Ms. Hills,

Please find attached a corrected Opposition letter to Fresenius Plainfield North (Project No. 12-047)  
Please confirm receipt.

Thank you,

Bhuvan Chawla, M.D.  
Sun Health, Inc.  
815 744 9300

# Sun Health

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Bhuvan Chawla, MD  
Medical Director

Beata Kisiel, MD

## Services

Hemodialysis  
LDL Apheresis  
Dietary Counseling  
Social Services

SunNephrology

## Services

Chronic Kidney Disease Clinic  
Clinical Laboratory  
IV Infusion Therapy  
Medical Nutrition Therapy  
ADA Recognized-  
Diabetes Education Program

## VIA EMAIL

August 22, 2012

Mr. Dale Galassie  
Chairman  
Illinois Health Facilities and Services Review Board  
525 West Jefferson, Second Floor  
Springfield, IL 62761

**Re: Opposition to Project No. 12-047: Fresenius Medical  
Care Plainfield North**

Dear Chairman Galassie:

On behalf of Sun Health, Inc. ("Sun Health"), I submit this letter of opposition to the Fresenius certificate of need ("CON") permit request and urge you and the other members of the Illinois Health Facilities and Services Review Board ("HFSRB") to reject Project Number 12-047.

### **HISTORICAL BACKGROUND:**

I am a board certified nephrologist, and have been practicing nephrology in Joliet since 1981, and as such am the senior-most nephrologist in the community. I am currently serving my 4<sup>th</sup> consecutive term as Secretary / Treasurer of the Medical Staff of Provena St. Joseph Medical Center (now part of Presence Health) in Joliet.

I formed Sun Health to deliver outpatient dialysis to the west side of Joliet, after Silver Cross chose not to do so. Sun Health submitted its CON application in October of 1989 (PN 89-116) and received Medicare certification on June 6, 1991 to become the first and thus oldest dialysis unit on the west side of Joliet. With the sale of Silver Cross Hospital's dialysis program to Davita, Sun Health is the **only community based dialysis program in Joliet**, and likely belongs to a very small group of such facilities in HAS 9.



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Silver Cross Hospital then submitted its own CON application (PM 90-018) on September 12, 1990 to develop Renal Center West 2.6 miles from Sun Health; Silver Cross failed to list Sun Health as an alternative to its project, and received an Intent to Deny. Inexplicably, this Intent to Deny was then reversed at the subsequent board meeting, without any discussion. Silver Cross Renal Center West received Medicare certification on October 1991, effectively stunting the growth of Sun Health.

History was repeated, when the Board issued an Intent to Deny to Project 10-066 (Fresenius Medical Care, Joliet) on December 14, 2010 by a near unanimous vote (by 6 out of 7 board members, with 1 member voting present). Fresenius proceeded to submit a number of boilerplate letters of support. For the record, State Senator Wilhellmi did talk to me and declined to write such a letter. The board then proceeded to reverse its position on March 12, 2011 with a unanimous vote by the 5 members in attendance, even though its own SAR stated that its initial findings remained unchanged, ie. that the project failed to meet the criteria of need and of conformance with the unnecessary duplication and maldistribution of service. The SAR reported a calculated excess of 51 ESRD stations in this planning area, and the Board voted to approve an additional 16 stations, resulting in an oversupply of 67 ESRD stations at the time.

### **CURRENT APPLICATION**

**Project # 12-047 Fresenius Medical Care Plainfield North now proposes to build a 12 station facility to be located only 5 miles from Fresenius Plainfield.**

#### **Preexisting Capacity can accommodate 293 New Patients**

The Applicant acknowledges that there is an excess of 46 stations in HSA 9 according to the April 2012 inventory. The Applicant identifies 14 facilities within 30 minutes travel time, and acknowledges that three of these facilities with 45 stations are not even operational, but attempts to dismiss them arbitrarily by claiming that they will not serve the patients referenced in this application. These 45 new stations will however be able to serve 216 new patients before reaching 80% occupancy.

The Applicant then states that one of the remaining 4 facilities under 80% utilization is 30 minutes away, and chooses to ignore the fact that actually 5 facilities within 30 minutes are operating at under 80% utilization; these facilities currently serve 263 patients, and can accommodate another 77 patients before they reach 80% utilization.

Thus, a total of 293 new patients can be accommodated before current capacity will reach 80% utilization.

Additional patients can be served with home dialysis and nursing home dialysis. These modalities are not accounted for in the State Inventory.

### **Preexisting Access to Care Meets State Standards**

The Applicant attempts to flaunt the State's 30 minute rule by discussing access in the context of the village of Plainfield and its population growth.

**The expected incidence of ESRD in Plainfield may be below average.** The population of Plainfield has grown to almost 40,000, but the expected incidence of ESRD and thus the need for new stations may well be less than the average because of its demographic profile, which has a lower percentage of people at high risk for ESRD, as listed below and could be as few as 12-16 new patients /year (USRDS data):

The median age is young, at 34 years as compared to 42 years for the state.  
The African American population is 5.6% compared to a state average of 14.5%.  
The Hispanic population is 10.7% compared to a state rate of 15.8%.

**Fresenius Plainfield does not justify Fresenius Plainfield North.** The Applicant presents the growth of Fresenius Plainfield as justification for additional station need in Plainfield. However, an analysis of the zip codes of origin of patients currently receiving dialysis at Fresenius Plainfield suggests that factors other than distance seem to be at play. For example, several patients from zip code 60432 are listed. One can only conjecture as to the reason why these patients are not dialyzing at a closer facility; were these patients even presented the option of dialysis at a closer non-Fresenius facility and can they be expected to transfer to Fresenius Joliet after it opens, thus reducing utilization at Fresenius Plainfield?

At the same time, the Applicant has apparently obtained letters of support from a number of patients currently receiving treatment at Fresenius Plainfield who would transfer to Fresenius Plainfield North because of a shorter commute. This per se does not justify need for additional stations and does not constitute grounds for the Board to ignore and override its own 30 minute standard. Furthermore, these letters suggest that approval of Fresenius Plainfield North would serve to reduce utilization at Fresenius Plainfield below 80%.

### **Proposed Referrals can be served by other facilities**

On page 60, the Applicant lists the Zip Code of origin of the patients identified for Plainfield North, who could easily be served at existing facilities, for example:

Crest Hill (60403): 14 patients, who would be better served at Sun Health and Fresenius Joliet, and even the Davita (Silver Cross Facilities), which might be expected to see a drop in utilization with the opening of Fresenius Joliet this year.

Oswego (60543): 8 patients, who might be better served at Fresenius Oswego, which is operating at 62%.

Romeoville (60446): 13 patients, who might be better served at US Renal, Bolingbrook which is apparently under development.

Bolingbrook (60490): 8 patients, who might be better served at US Renal, Bolingbrook.

Plainfield (multiple Zip codes) 33 patients and Naperville (60564) could well be treated at various existing facilities.

**Approval of this project will have an adverse impact on existing facilities**, as it seems to be based on diverting new patients away from existing facilities, leaving the existing facilities to deal with a 15-20% annual attrition rate of preexisting patients, due to patient relocation, renal recovery, renal transplant, or death.

**Alternatives: The best alternative would be to utilize area providers and cancel Fresenius Plainfield North. This would have no cost.**

Fresenius attempts to use transportation issues to justify its project, while the zip codes of origin of its proposed patients suggest otherwise, as discussed above.

Proposed increase in scheduling slots need to be viewed in the context of utilization rates at existing facilities, and fail to create an exemption to the issue of Need per CON guidelines.

The issue of continuity of care is essentially moot in this situation. Dr. Alausa's group apparently practices at most of the facilities in the area.

**In Conclusion: There is simply no need for the proposed Fresenius Plainfield North Facility**

Sun Health has consistently voiced its opposition to various CON applications for dialysis that have failed to meet the state's own need criteria. According to a legal newsletter, **2010 was reportedly a "year to remember for ESRD companies that applied for a CON permit or exemption"**. The Board approved 100% of the 35 applications it considered in 2010.

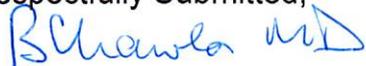
Since then, the Board has however demonstrated its willingness to reject unnecessary projects, such as Fresenius Lockport and Aurora, Davita Crest Hill.

Fresenius in turn has demonstrated its willingness to keep reapplying until it gets its way, as evidenced by its third application for a facility in Lockport, less than 12 minutes from Davita Silver Cross New Lenox.

The Board can take a firm stand, and can help **prevent unnecessary duplication and maldistribution** by not approving new facilities and stations when current providers have existing station capacity to meet the needs of new dialysis patients.

Sun Health would therefore urge the Board to reject this CON permit application. Sun Health welcomes the opportunity to discuss this letter further, and I can be reached at (815) 744 9300.

Respectfully Submitted,



Bhuvan Chawla, M.D.  
Sun Health, Inc.

cc: State Senator Pat McGuire  
State Representative Jack McGuire