



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**  
Division of Health Service Regulation

ROY COOPER • Governor  
MANDY COHEN, MD, MPH • Secretary  
MARK PAYNE • Director

July 10, 2018

Jim Swann  
3390 Dunn Road  
Eastover, NC 28312

**No Review**

**Record #:** 2643  
**Facility Name:** INS Charlotte  
**FID #:** 070499  
**Business Name:** Fresenius Medical Care Holdings, Inc.  
**Business #:** 772  
**Project Description:** Relocate peritoneal dialysis-only facility to existing space within the FMC Regal Oaks dialysis facility  
**County:** Mecklenburg

Dear Mr. Swann:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letter of June 29, 2018 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

However, you need to contact the Agency's Acute and Home Care Licensure and Certification Section to determine if they have any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented in your correspondence. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by this office. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

**HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704  
[www.ncdhhs.gov/dhsr/](http://www.ncdhhs.gov/dhsr/) • TEL: 919-855-3873

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Please contact this office if you have any questions. Also, in all future correspondence you should reference the Facility ID # (FID) if the facility is licensed.

Sincerely,



Julie M. Faenza  
Project Analyst



Martha J. Frisone, Chief  
Healthcare Planning and Certificate of Need Section

cc: Acute and Home Care Licensure and Certification Section, DHSR  
Amy Craddock, Assistant Chief, Healthcare Planning, DHSR

## Faenza, Julie M

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**From:** Pittman, Lisa  
**Sent:** Friday, June 29, 2018 4:22 PM  
**To:** Faenza, Julie M  
**Subject:** FW: [External] Relocation of an Existing PD Only facility, within the same service area.  
**Attachments:** Notice to CON, INS Charlotte relocation.pdf; Notice to Agency, relocate INS Charlotte.pdf

I think this is you!

### **Lisa Pittman**

Assistant Chief

Division of Health Service Regulation, Healthcare Planning and CON Section  
NC Department of Health and Human Services

Office: 919 855 3989  
[Lisa.Pittman@dhhs.nc.gov](mailto:Lisa.Pittman@dhhs.nc.gov)

809 Ruggles Drive, Edgerton Building  
2704 Mail Service Center  
Raleigh, NC 27699-2704

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**From:** Jim Swann [<mailto:Jim.Swann@fmc-na.com>]  
**Sent:** Friday, June 29, 2018 4:20 PM  
**To:** Pittman, Lisa  
**Subject:** [External] Relocation of an Existing PD Only facility, within the same service area.

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Hey Lisa! I do hope all is well and that you're looking forward to a great 4th of July.

Lisa, last September, I communicated with Martha about moving one of our freestanding PD facilities. I'm sending you our email exchange, and a copy of the Notice to CON regarding that change of site.

In the letter from September, I indicated the facility would eventually land at 101 E WT Harris Blvd, Charlotte, 28262. Well, that didn't happen. Apparently that building did not pass the necessary life safety inspections, and would have required significant capital outlay to provide a water sprinkler fire suppression system. So, we've continued to evaluate options.

At this point, we're going to move the entire facility -- as a totally separate and distinct business operation -- into our FMC Regal Oaks location. FMC Regal Oaks was certified effective May 22, 2017. In a letter from the Agency dated June 22, 2017, the CON Agency deemed the project to be complete as of May 22, 2017.

You may note that the CON application for FMC Regal Oaks did include home therapies. The facility was certified to include home therapies. Unfortunately, after the certification, the referrals did not materialize as

expected. The facility was eventually operated as just an in-center program. However, the home training space was still there, just not utilized.

At this point, we have determined that it makes good business sense to move the INC Charlotte facility into the empty home training space at the FMC Regal Oaks location. BMA will lease space to the INS Charlotte facility. The lease rate will be at fair market value.

We will continue to evaluate options, but at this time intend to operate the INS Charlotte facility from space at: 6646 Regal Oaks Drive, Charlotte 28212. The effective date of the relocation will be July 9, 2018.

If you have any question, please let me know.



Jim Swann  
Director, Certificate of Need  
**Fresenius Kidney Care**  
3390 Dunn Road  
Eastover, NC 28312  
Office: 910-568-3041 Fax: 910-568-3609  
Mobile: 910-514-2439  
Email: [Jim.Swann@fmc-na.com](mailto:Jim.Swann@fmc-na.com)

*Thrive On*

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**From:** Frisone, Martha <[martha.frisone@dhhs.nc.gov](mailto:martha.frisone@dhhs.nc.gov)>

**Sent:** Friday, October 6, 2017 1:58 PM

**To:** Jim Swann

**Cc:** Pittman, Lisa; Wilson, Fatimah; Inman, Celia C; Halatek, Julie F; Hale, Gloria; Mckillip, Mike; rhoe-jones, jane e; Rupp, Tanya; Williams, Bernetta; Yakaboski, Greg

**Subject:** [EXTERNAL EMAIL] RE: A question re: relocation of an existing PD only dialysis facility

**NOT an FMCNA email - External email**

I know I've taken quite some time to respond to your question, but I needed to ponder it a bit. Since a PD only facility has no stations, relocation within the same service area would not require a CON if the capital cost is less than \$2 million. Since the service area for kidney disease treatment facilities is the county where the facility is located, relocation of a PD only facility to a different service area (i.e., a different county) would require a CON based on the definition of new institutional health service found in N.C. Gen. Stat. Section 131E-176(16)q.

**Martha J. Frisone**  
Chief, Healthcare Planning and Certificate of Need

Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section  
North Carolina Department of Health and Human Services

919-855-3873 office  
[Martha.Frisone@dhhs.nc.gov](mailto:Martha.Frisone@dhhs.nc.gov)

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2704 Mail Service Center  
Raleigh, NC 27699-2704



Nothing Compares

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**From:** Jim Swann [<mailto:Jim.Swann@fmc-na.com>]  
**Sent:** Tuesday, September 19, 2017 2:23 PM  
**To:** Frisone, Martha  
**Subject:** A question re: relocation of an existing PD only dialysis facility

Good afternoon Martha. Several weeks ago you and I discussed the relocation of a PD only dialysis facility. One of our INS facilities lease was expiring and we discussed whether a CON application was necessary. I believe you responded that because these facilities are PD (peritoneal dialysis) only, and do not have dialysis stations, that the relocation of such a facility would not require a Certificate of Need. My understanding was that we should notify the Agency of the relocation, in advance, but a CON application was not necessary.

In discussion with my Fresenius leadership, a new question, relate to the same proposition arises: What happens if the relocation takes the facility across county lines? As you know, there are only a few of these facilities operating. While we do have a CON for development of the FMC Hickory facility, and FMC Bladen County Home Dialysis facility, you will recall that the INS facilities were developed by way of a settlement agreement between the Agency, INS, and several other dialysis providers. Fresenius has since acquired the INS facilities.

So, can we relocate an INS facility, offering only peritoneal dialysis home training and support services, across a county line without a CON? The facility would retain the same provider number, the same legal identity and continue to provide the same services, albeit from a new address in a different (contiguous) county.



Jim Swann  
Director, Certificate of Need  
**Fresenius Kidney Care**  
3390 Dunn Road  
Eastover, NC 28312  
Office: 910-568-3041 Fax: 910-568-3609  
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September 25, 2017

Ms. Martha Frisone, Chief  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
809 Ruggles Drive  
Raleigh, North Carolina 27603

Re: INS Charlotte, Provider Number 34-2655

Dear Ms. Frisone:

We spoke on July 10 about relocation of the INS Charlotte end stage renal disease treatment facility. INS Charlotte is a facility focused entirely on providing home training and support for peritoneal dialysis patients. At that time you advised that because the relocation does not involve dialysis stations, or any other services regulated by the CON Agency, that the facility could relocate without a Certificate of Need.

Please accept this letter as notice that Fresenius Medical Care Holdings, Inc., parent to INS Charlotte is relocating the INS Charlotte end stage renal disease treatment facility. This relocation will be a two-step process.

First, the facility is temporarily relocating to 8220 University Executive Park Drive, Suite 125, Charlotte, NC 28262. The facility will operate from this temporary location until early 2018.

Secondly, at this time, Fresenius Medical Care, parent to INS Charlotte, has entered into a lease for space at 101 E WT Harris Blvd., Charlotte, NC 28262. The new space is being up-fitted so that it can appropriately operate as an end stage renal disease treatment facility, focused entirely on providing home training and support for peritoneal dialysis patients of the facility.

This relocation is necessary due to the loss of lease for the existing facility space. Fresenius has spent the time between our conversation in July, and today, finding an appropriate site (reasonably close to the existing location), and negotiating the lease. We will be moving the location to the temporary site, pending final acceptance of the permanent site on WT Harris Blvd.

The facility will commence operations in the temporary location on Monday, October 2., 2017.

If you have any questions please contact me at 910-568-3041, or email [jim.swann@fmc-na.com](mailto:jim.swann@fmc-na.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Swann", with a long horizontal flourish extending to the right.

Jim Swann  
Director of Operations, Certificate of Need

Cc: Azzie Conley, Chief, Licensure and Certification  
Strait Gaston, RN, RVP  
Trina Deaton, RN, Director of Operations Home Therapies





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June 29, 2018

Ms. Lisa Pittman, Assistant Chief  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
809 Ruggles Drive  
Raleigh, North Carolina 27603

Re: INS Charlotte, Provider Number 34-2655

Dear Ms. Pittman:

I spoke with Ms. Frisone in July 2017 about relocation of the INS Charlotte end stage renal disease treatment facility. INS Charlotte is a facility focused entirely on providing home training and support for peritoneal dialysis patients. At that time Ms. Frisone advised that because the relocation did not involve dialysis stations, or any other services regulated by the CON Agency, that the facility could relocate without a Certificate of Need. Subsequent to that discussion, we did proceed with a relocation in September 2017.

Please accept this letter as notice that Fresenius Medical Care Holdings, Inc., parent to INS Charlotte is again relocating the INS Charlotte end stage renal disease treatment facility. The facility is relocating to 6646 Regal Oaks Drive, Charlotte, NC 28212. The facility will lease existing space within the FMC Regal Oaks dialysis facility, also operated at this location.

This relocation is necessary due to the limited space available at the current location.

The facility will commence operations in the new location on Monday, July 9, 2018.

If you have any questions please contact me at 910-568-3041, or email [jim.swann@fmc-na.com](mailto:jim.swann@fmc-na.com).

Sincerely,

Jim Swann  
Director of Operations, Certificate of Need

Cc: Azzie Conley, Chief, Licensure and Certification  
Strait Gaston, RN, RVP  
Robin Surane, RN, Director of Operations Home Therapies