OFFICE OF THE ATTORNEY GENERAL
STATE OF GEORGIA

IN THE MATTER OF THE AFFILIATION AND MERGER OF GWINNETT MEDICAL CENTER-LAWRENCEVILLE AND GWINNETT MEDICAL CENTER-DULUTH WITH NORTHSIDE HOSPITAL, INC.	* * * * * * *	NO. AG 2017-03

REPORT OF FINDINGS

I.

BACKGROUND

Gwinnett Hospital System, Inc., a Georgia nonprofit corporation (the "Hospital System"), owns, operates and/or controls (a) Gwinnett Medical Center-Lawrenceville located at 1000 Medical Center Boulevard, Lawrenceville, Georgia 30046 ("GMC-L"), (b) Gwinnett Medical Center-Duluth located at 3620 Howell Ferry Road, Duluth, Georgia 30096 ("GMC-D", and together with GMC-L, the "Gwinnett Hospitals"), and (c) other related entities and healthcare or ancillary medical facilities and services in and around Gwinnett County, Georgia. Gwinnett Health System, Inc. (the "Health System") is the sole member of the Hospital System. The Hospital System leases the Gwinnett Hospitals and other related assets from the Hospital Authority of Gwinnett County (the "Authority") pursuant to the Amended and Restated Lease and Transfer Agreement dated December 1, 1992 (the "Lease").

The Hospital System is a large community-based hospital system that provides a wide range of inpatient and outpatient healthcare services. The Gwinnett Hospitals' primary service area includes residents of Lawrenceville and Duluth, Georgia in Gwinnett County, and their neighboring towns and counties. The primary service area of the Gwinnett Hospitals also includes portions of Barrow, Walton and Fulton counties.

THE DISPOSITION PROCESS

Like many other healthcare facilities across the United States, the Health System has experienced an increase in the proportion of its revenue coming from the Medicare program; reimbursement rates provided by government programs are typically below those of private sector and third-party payers. In addition, the Health System has experienced growing expenses that have outpaced its revenue growth.

In January 2014, the Health System Board discussed the need to examine its position as a provider of healthcare to its community. As such, Kaufman Hall ("KH") was asked to submit a proposal to the Health System Board to perform a strategic evaluation of the healthcare environment and the potential impact of that environment on the provision of care provided by the Health System. In March 2014, KH presented a strategic planning engagement proposal, including a series of educational sessions, market assessments, stakeholder assessments, and strategic planning sessions that KH would undertake with the Health System Board. In April 2014, the Health System Board approved the proposal and formally engaged KH as the Health System's advisor to assist with evaluating its strategic alternatives.

In May 2014, following the strategic engagement, KH met with the Health System Board to develop a fact base for its work, which centered on identifying the strategic imperatives for the Health System, assessing gaps in the Health System's then-current strategy and operations, and reviewing preliminary strategic alternatives and the implications of those alternatives. Moreover, the initial board meetings were used to: (i) refine the Health System Board's view of its strategic position; (ii) develop a strategy with baseline projections around that strategy; (iii) analyze the range of partnership options available; (iv) articulate guiding principles and selection criteria for a potential affiliate; and (v) review a profile development of potential partners.

In July 2014, KH attended a meeting of the Health System Board and focused on the then-current healthcare market and addressed the Health System's strategic options, including the feasibility of the Health System's stand-alone strategy, strategic options for the Health System, and the effects of each strategic option. In addition, KH indicated that the Health System would need to make significant strategic investments above the current plan and achieve performance levels above historical performance to successfully execute the stand-alone strategy. After concluding that the Health System would need a partner, KH presented the Health System Board with a number of strategic paths.

At an August 2014 meeting between the Hospital System Board and KH, the Board prioritized their partnership goals and identified financial stability, capital access, physician alignment, and physician recruitment as their main goals. At this meeting, KH also presented the Health System Board with an overview of potential partners. By September 2014, the Health System Board determined that a stand-alone strategy was not an option and determined that it must seek a partnership.

The Health System Board voted unanimously to develop a new system through alignment with another regional system or merge the Hospital System's vision into an established, larger not-for-profit regional system or out-of-market provider. The Hospital System Board voted unanimously to conduct a controlled bidding process, and in December 2014, KH was engaged to implement the bidding process. In January 2015, the Health System Board formed a strategic partnership committee ("SPC") for the purpose of overseeing the partner selection process and providing recommendations to the Health System Board for review and consideration. Twelve (12) potential partners were considered in the first set of screenings. This set, in consultation with KH, was narrowed to seven (7) organizational profiles likely interested in discussing partnership arrangements with the Health System. KH and the Health System Board submitted six (6) requests for proposal to: (1) Emory Healthcare, (2) Northside Hospital, Inc. ("Northside"), (3) Piedmont Healthcare, (4) WellStar Health System, (5) Northeast Georgia Health System, and (6) Novant. All six (6) remaining parties submitted comprehensive proposals.

The initial phase of evaluating the proposals considered eleven (11) factors: (1) infrastructure provided by the potential partner, (2) structure of the proposed affiliation, (3) post-governance structure, (4) physician infrastructure, (5) the potential partner's history, (6) cost-savings, (7) the value-based and population health experience and offerings, (8) alignment of mission, vision, and values, (9) strategy, (10) integration process, and (11) the ability to execute. The evaluation of the potential partners was further guided by summing up the eleven (11) factors into three (3) main goals: (1) organizational fit, (2) operational capabilities, and (3) financial fit.

Following onsite interviews by the Heath System and potential partner management teams, the Health System Board narrowed the list of potential partners to three (3). All three (3) potential partners presented their final presentations to the Hospital System Board. Ultimately, the Hospital System board selected Northside as the preferred partner and later executed a letter of intent which was signed on August 31, 2015.

Michael Levengood, Chairman of the Health System and Hospital System, testified that Northside was selected because of its cultural fit, stable leadership, shared strategic vision, strong financial position, its historical success with strategic partnerships, and Northside's commitment to local control and its willingness to financially support the services that benefit the Health System's community.

THE PROPOSED TRANSACTION

The Health System proposes to enter into an Affiliation and Merger Agreement (the "Agreement") with Northside pursuant to which the Health System, Hospital System, and certain of their affiliates will affiliate with and/or merge into Northside and Northside Health Services, Inc. ("NHS") subject to the terms and conditions contained in the Agreement (collectively, the "Proposed Transaction").[1] Northside and NHS, both of which are Georgia nonprofit corporations, will be the surviving entities in connection with the Proposed Transaction. Concurrent with the Proposed Transaction, the Lease will be amended and restated in the form of the Second Amended and Restated Lease and Transfer Agreement ("Amended Lease") to, *inter alia*, include Northside as the sole lease holder and sole operator of the Gwinnett Hospitals and related assets for a term of forty (40) years (subject to extension).

Under the terms of the proposed Agreement between Northside and the Health System, the parties will create a fully integrated healthcare system. The Health System will merge into NHS and the Hospital System will merge into Northside. Northside and NHI will be the surviving entities. Simultaneously with the closing, Northside will defease all of the Health System's outstanding short-term and long-term debt set forth on the balance sheet of the Health System as of the closing date (approximately $277.6 million) subject to the terms and conditions of the governing bond documents.

Northside has committed to spending $500 million in capital expenditures in the Health System within ten (10) years following the closing date. Northside has agreed to

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[1] The Health System and Northside are the only parties to the Agreement.

allocate $75 million per year over the first four (4) years following the closing, and a dollar amount of no less than the remaining $200 million of capital commitment over the last (6) six years. The capital commitments shall be designated for programs and service improvements and to increase the Health System's capabilities across its service areas.

Pursuant to the Lease between the Authority and Northside, Northside will lease all medical facilities of the Health System for forty (40) years. The Lease includes all real and personal property of the Gwinnett Hospitals, and all licenses, permits, approvals, and certificates of need in connection with the operations of the Health System. Under the proposed Lease Agreement, Northside will pay $750,000 to the Authority on the commencement date, and these funds will be deposited in a reserve fund. Additionally, during the term of the Lease, Northside will pay $100,000 annually to the Authority. Any excess rent payments will also be deposited into the reserve fund. Upon expiration or early termination of the Lease (subject to the terms of the Lease Agreement), all properties of Northside and its affiliates in Gwinnett County shall revert back to the Authority (unless the Lease Agreement is further amended to extend its term).

Northside will continue to operate the Gwinnett Hospitals as a hospital system. All healthcare services currently provided by the merging entities and their affiliates will continue to be furnished after the affiliation and merger is consummated. According to the Agreement, Northside plans to expand inpatient services, emergency services, and women's services, as well as others.

VALUATION ANALYSIS

Stroudwater Associates, Inc. ("Stroudwater") was retained by the Health System to assist it with the Attorney General's review of the Proposed Transaction pursuant to the Hospital Acquisition Act. The scope of Stroudwater's engagement included a calculation of value for the Health System and an independent assessment of the estimated community benefit to be derived from the Proposed Transaction between the Health System and Northside. In its report, Stroudwater valued the Health System at a value range of $316.2 to $349.5 million. Stroudwater also concluded that the Proposed Transaction would yield $757.6 million in community benefits based on its analysis of the capital commitments and debt defeasance from the Proposed Transaction and an additional $632.8 million in community benefits associated with charity care, existing community programs, and clinical research. Mr. David Whelan of Stroudwater testified at the public hearing held on October 17, 2017.

In its calculation of value for the Health System, Stroudwater calculated the value of the Hospital assets. There are typically three traditional approaches considered to determine value. The three approaches are (1) the Income Approach, (2) the Market Approach, and (3) the Cost Approach (Net Asset Value). The Income Approach is based on the concept that the value of a business is the present worth of the expected future economic benefits to be derived by the owners of the business. Under the Market Approach, value is derived through a comparison of the transaction prices of similar assets trading in the marketplace. In the Cost (Net Asset Value) Approach, value is estimated based on the value of all of the subject business's underlying assets, both tangible and intangible, net of liabilities.

In its calculation of value for the Health System, Stroudwater considered all three (3) approaches. Under the Income Approach, Stroudwater applied a Discounted Cash Flow ("DCF") method, which provides an indication of value based on the entity's ability to generate net cash flow. This projected net cash flow is then discounted to present value using an appropriate risk-adjusted discount rate. Based on the projected free cash flow for the Health System, Stroudwater discounted the future cash flow streams at a discount rate of 11.94%. Using this methodology, Stroudwater reached a value for the Health System of approximately $228.5 million.

Under the Market Approach, Stroudwater utilized the Guideline Transactions ("GT") method, which considers the purchase prices paid in recent comparable hospital transactions to determine transaction multiples.[2] In applying the GT method, Stroudwater identified and calculated valuation multiples based on transactions that took place between January 2007 and January 2017, and selecting comparable transactions based on size of the facility, location, and annual revenue. Stroudwater selected GT multiple ranges of 0.68x – 0.71x for revenue and 5.77x – 7.16x for EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization). Under the Market Approach, Stroudwater applied the median multiple based on its analysis of thirty-two (32) comparable transactions to the Health System revenues and EBITDA multiples, resulting in a value range of $154.5 to $542.4 million for the Health System.

Lastly, under the Cost Approach, Stroudwater relied on the Net Asset Value method, utilizing the asset values reflected on the Health System's unaudited balance sheet for fiscal year ending on April 30, 2017. The balance sheet was adjusted by Stroudwater to exclude entities and assets that are not included in the Proposed Transaction and subtracted related liabilities. Based on its analysis under the Net Asset Value method, Stroudwater arrived at a value of $430.0 million for the Health System.

Ultimately, Stroudwater reconciled the values derived among the three (3) approaches by applying a weighted percentage to each valuation methodology and combined them to arrive at a total valuation range of $316.2 to $349.5 million for the Health System.

In its analysis of the estimated economic benefit the community will receive as a result of the Proposed Transaction, Stroudwater identified a number of quantitative and qualitative community benefits. Stroudwater analyzed five specific areas of economic benefit that the community is expected to receive: (1) provision of capital investments; (2) commitments to the Health System medical staff, employees, and hospital authority of Gwinnett County; (3) commitments to local governance and existing community benefit programs; (4) expanding and improving service lines; and (5) positioning for population health and enhancing quality requirements. However, in quantifying the direct community benefit to be received as a result of the Proposed Transaction, Stroudwater focused on one specific area: provision of capital investments. More specifically, Stroudwater identified two quantifiable benefits: (i) commitment to defeasance of bond debt of approximately $277.6 million, and (ii) $500 million in capital expenditure commitment over a ten (10) year period.

With respect to the debt defeasance, Northside has committed to defeasance of all of the Health System's outstanding short term and long term debt listed on its balance sheet as of the Proposed Transaction's closing date. As for the commitment to capital expenditures, Stroudwater, utilizing a present value technique, arrived at a present value

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[2] Stroudwater did not consider the Guideline Public Companies ("GPC") method under the Market Approach as it determined that the resulting value would not be indicative of

of $480 million for the capital commitment by Northside. As a result, Stroudwater reached a total value of the community benefit of $757.6 million.[3]

Stroudwater ultimately concluded that the total community benefit from the proposed affiliation to be $757.6 million. This community benefit is comprised of Northside capital commitments and debt defeasance. Thus, Stroudwater found that the economic value and community benefit of the Proposed Transaction exceeds the estimated value of the Health System. Furthermore, Stroudwater opined that the noneconomic value of the merger further enhances the community benefit.

Ernst & Young, LLP ("EY"), in accordance with O.C.G.A. § 31-7-405(b), was retained as an independent financial advisory consultant by the Attorney General to assist in the review of the proposed affiliation between the Health System and Northside. The Attorney General engaged EY to provide valuation advisory services, but not to provide a separate valuation or a fairness opinion. Bridget Bourgeois, a partner at EY, specializing in health care valuations, testified at the hearing. As part of its engagement, EY held discussions with representatives of all the parties involved in the Proposed Transaction and performed independent research and analyses to review the conclusions contained in Stroudwater's assessment of the value of the Health System and community benefit derived from the Proposed Transaction.

In the course of its engagement, EY analyzed Stroudwater's underlying valuation methodologies and assumptions, and performed a number of sensitivity analyses of Stroudwater's valuation and assessment of community benefit. In its review, EY confirmed that the Income, Market, and Cost approaches to value considered by Stroudwater are consistent with generally accepted industry standards for valuation analysis. As a result of its sensitivity analysis, EY calculated a value range of $338.1 million to $481 million for the Health System, as compared to Stroudwater's value range of $316.2 million to $349.5 million. EY observed that Stroudwater's concluded value

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the value of the Health System.

[3] Although not included in its concluded value of direct community benefits, Stroudwater identified other quantifiable benefits in two additional areas: (i) commitment to local governance and existing community benefit programs, and (ii) expanding and improving service lines. Specifically, Stroudwater identified an additional $632.8 million in benefits associated with charity care ($569.9 million), existing community programs ($62 million), and clinical research ($900,000).

range for the business enterprise of the Health System is reasonably consistent with the lower end of its observations. However, EY noted that Stroudwater's concluded value range for the Health System omitted approximately $457 million of net non-operating assets, such as, cash and investments, which will transfer to Northside under the Proposed Transaction. As a result, after adjusting for net non-operating assets, EY observed that Stroudwater's total value for the Health System that will transfer under the Proposed Transaction is approximately $773.2 million to $806.5 million.

In its review of Stroudwater's assessment of community benefits to be derived from the potential transaction, EY's sensitivity analysis resulted in a potential community benefit value range of approximately $424 million to $675 million, compared to Stroudwater's value of $757.6 million. However, EY noted that Stroudwater identified an additional $632 million in value to the community comprised of charity and indigent care, existing community programs, and clinical research. After adjusting Stroudwater's concluded community benefit value to include this additional value, EY observed that Stroudwater's adjusted value for community benefit is approximately $1.4 billion, which EY found to be reasonably consistent with its observations.

Furthermore, EY also conducted independent research of valuation multiples for comparable hospital transactions and compared these to the valuation multiples implied by the Proposed Transaction. Ultimately, EY found that the valuation multiples based on Stroudwater's concluded fair market value range of the Health System is within the range of valuation multiples in similar transactions, and consistent with the declining financial performance of the Health System. Therefore, EY concluded that it appears Stroudwater used relevant valuation approaches in its valuation analysis of the Health System and its analysis of the community benefit is supportive of the Proposed Transaction.

PUBLIC COMMENT

The public hearing was held on October 17, 2017, at 1:00 p.m. in the GMC Resource Center. Seven (7) persons made comments at the public hearing and all were in favor of the Proposed Transaction.

Following the public hearing, the record was held open until the close of business on Friday, October 20th, at 5:00 p.m., for any further public comment. This Office received one (1) anonymous written public comment after the public hearing. The written public comment purported to be from an employee of the Health System and was opposed to the transaction; the concerns were fully considered in conjunction with the record. Counsel for the parties were requested to inform this Office in writing before the record closed, as to whether their respective clients intended to proceed with the Proposed Transaction as structured or modify the Proposed Transaction in some respect. Counsel for the Authority, the Health System and Northside have written a joint letter stating that their clients wish to proceed with the transaction as proposed.

II.

FINDINGS

The Hospital Acquisition Act (the "Act") involves a public interest determination in the Attorney General's review of a proposed disposition and acquisition of hospital assets. *See* O.C.G.A. § 31-7-400 *et seq.*; *Sparks v. Hospital Authority of City of Bremen and County of Haralson*, 241 Ga. App. 485 (1999) (physical precedent only). The Act requires a written notice filing and a public hearing "regarding the Proposed Transaction in the county in which the main campus of the hospital is located." O.C.G.A. §§ 31-7-401, 31-7-405(a). The purpose of the public hearing is "to ensure that the public's interest is protected when the assets of a nonprofit hospital are acquired by an acquiring entity by requiring full disclosure of the purpose and terms of the transaction and providing an opportunity for local public input." O.C.G.A. § 31-7-406.

Under the Act, disclosure is linked to whether "appropriate steps have been taken to ensure that the transaction is authorized, to safeguard the value of charitable assets, and to ensure that any proceeds of the transaction are used for appropriate charitable health care purposes." O.C.G.A. § 31-7-406. The Act identifies thirteen (13) factors that are key considerations in determining whether the appropriate steps have been taken by the parties. *Id.* The thirteen (13) factors are listed in Appendix A to this report.

The thirteen (13) factors set forth in O.C.G.A. § 31-7-406 can be grouped into four (4) categories relating to (a) the exercise of due diligence by the seller (factors number 1, 2, 3, 4 and 8), (b) conflicts of interest (factors number 5 and 13), (c) valuation of the hospital assets (factors number 6, 7 and 10), and (d) the charitable purpose of the Proposed Transaction (factors number 9, 11 and 12).

The Exercise of Due Diligence by the Seller

The disposition of the Health System is authorized by applicable law as provided in factor number 1, and the Health System has taken the appropriate actions to sell the Gwinnett Hospitals. O.C.G.A. §§ 14-3-302, 31-7-400 *et seq.* With regard to factor number 2, it does not appear that the proposed disposition is inconsistent with the directives of any major donors who have contributed over $100,000.00.

The due diligence factors number 3 and 4 necessitate review of the process and procedures employed by the seller "in deciding to dispose of hospital assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition." O.C.G.A. § 31-7-406(3). As discussed in detail above, the Seller exercised appropriate due diligence in its selection process because the evidence shows that an extensive and deliberative process was conducted by the Seller with the assistance of professional consultants. Approximately twelve (12) potential partners were considered. Of those considered, offers were solicited from six (6) potential partners, of which all six (6) submitted comprehensive proposals. The deliberative process employed by the Health System in selecting the proposal of Northside demonstrates the exercise of due diligence, consistent with factors number 3 and 4.

Since there is no separate management or services contract negotiated in conjunction with the Proposed Transaction, factor number 8 is not applicable to the determination of the Seller's exercise of due diligence.

Conflicts of Interest

The disclosure of any conflict of interest involving the Sellers, the Chief Executive Officer of the Hospital System and its expert consultant is to be considered under factor number 5. Conflict of interest certifications as required by the Act and the notice filing requirements of the Attorney General have been filed by all members of the Health System and Hospital System boards, the Chief Executive Officer of the Health System and Hospital System, and the Health System's financial consultant. Although some exceptions were noted on the certifications, such certifications do not disclose any impermissible or significant conflicting financial interest in the Proposed Transaction. With regard to factor number 13, health care providers will not be offered an opportunity to invest or own an interest in the Hospital System. Therefore, factor number 13 is not applicable.

Valuation of the Hospital Assets

The value of the Hospital System and the amount of consideration to be paid in the Proposed Transaction must be weighed under factors number 6, 7 and 10. In a sale of hospital assets from one nonprofit corporation to another nonprofit corporation, the nonprofit seller should receive an enforceable commitment for fair and reasonable community benefits for its assets. *See* O.C.G.A. § 31-7-406(6). Based on the record, including the analysis conducted by Stroudwater on behalf of the Health System and the Hospital System, and the review by Ernst & Young at the request of the Attorney General as described herein, the Health System and the Hospital System will receive an enforceable commitment for fair and reasonable community benefits in exchange for its assets as required by the Act.

Since the Seller is not financing any portion of the Proposed Transaction, factor number 7 is not applicable. Factor number 10 requires that a meaningful right of first refusal has been retained, should the successor nonprofit corporation subsequently propose to sell, lease, or transfer the Hospital System to another entity. The Authority will continue to own the primary assets of the Hospital System which will be leased to Northside. The Agreement prohibits assignment or transfer of the Health System's rights without the prior written consent of the Authority. (Affiliation Agreement, 10.4). Moreover, the Agreement provides that the Authority may enforce the terms of the Agreement through all available legal means. The proposed Agreement is consistent with the purposes of factor number 10.

Charitable Purpose of the Proposed Transaction

With respect to the charitable purpose of the Proposed Transaction, factor number 9 requires that the disposition of proceeds be used for charitable health care purposes consistent with the nonprofit's original purpose. The testimony and notice filing disclose that Northside will make certain investments in the Hospital System, the Health System, and their respective subsidiaries and affiliates, over a ten (10) year period. In addition, Northside will satisfy all of the Health System's and Hospital System's short and long term debt existing as of closing. It does not appear, however, that there will be any monetary proceeds generated by the proposed affiliation.

The other two charitable purpose factors, factor numbers 11 and 12, concern the purchaser's commitment to provide (a) continued access to affordable care, (b) the range of services historically provided by the seller, (c) health care to the disadvantaged, the uninsured and the underinsured and (d) benefits to the community to promote improved health care. The notice filing and the testimony provided at the public hearing indicate that the emergency room will remain open 24 hours a day, seven days a week. After completion of the transaction, the Hospital System will continue in existence as part of Northside, a Georgia nonprofit corporation. Northside has committed to following the Health System's pre-closing policies and procedures concerning the provision of charitable and indigent care; the Gwinnett Hospitals will continue to serve uninsured, underinsured and indigent patients without regard to ability to pay. The evidence, taken as a whole, demonstrates an enforceable commitment to improve health care in the community and to assure continued access to affordable care.

III.

CONCLUSION

Upon review of the public record and in accordance with the Hospital Acquisition Act, the Hearing Officer finds that the public record in this matter discloses that the parties have taken appropriate steps to ensure (a) that the Proposed Transaction is authorized, (b) that the value of the charitable assets is safeguarded and (c) that any proceeds of the Proposed Transaction are used for appropriate charitable health purposes.

This 16TH day of November, 2017.

JULIE ADAMS JACOBS
Senior Assistant Attorney General
Hearing Officer

APPENDIX A

(1) Whether the disposition is permitted under Chapter 3 of Title 14, the Georgia Nonprofit Corporation Code,' and other laws of Georgia governing nonprofit entities, trusts, or charities;

(2) Whether the disposition is consistent with the directives of major donors who have contributed over $100,000.00;

(3) Whether the governing body of the nonprofit corporation exercised due diligence in deciding to dispose of hospital assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition;

(4) The procedures used by the nonprofit corporation in making its decision to dispose of its assets, including whether appropriate expert assistance was used;

(5) Whether any conflict of interest was disclosed, including, but not limited to, conflicts of interest related to directors or officers of the nonprofit corporation and experts retained by the parties to the transaction;

(6) Whether the seller or lessor will receive fair value for its assets, including an appropriate control premium for any relinquishment of control or, in the case of a proposed disposition to a not-for-profit entity, will receive an enforceable commitment for fair and reasonable community benefits for its assets;

(7) Whether charitable assets are placed at unreasonable risk if the transaction is financed in part by the seller or lessor;

(8) Whether the terms of any management or services contract negotiated in conjunction with the transaction are reasonable;

(9) Whether any disposition proceeds will be used for appropriate charitable health care purposes consistent with the nonprofit corporation's original purpose or for the support and promotion of health care in the affected community;

(10) Whether a meaningful right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation has been retained if the acquiring entity subsequently proposes to sell, lease, or transfer the hospital to yet another entity;

(11) Whether sufficient safeguards are included to assure the affected community continued access to affordable care and to the range of services historically provided by the nonprofit corporation;

(12) Whether the acquiring entity has made an enforceable commitment to provide health care to the disadvantaged, the uninsured, and the underinsured and to provide benefits to the affected community to promote improved health care; and

(13) Whether health care providers will be offered the opportunity to invest or own an interest in the acquiring entity or a related party, and whether procedures or safeguards are in place to avoid conflicts of interest in patient referrals.