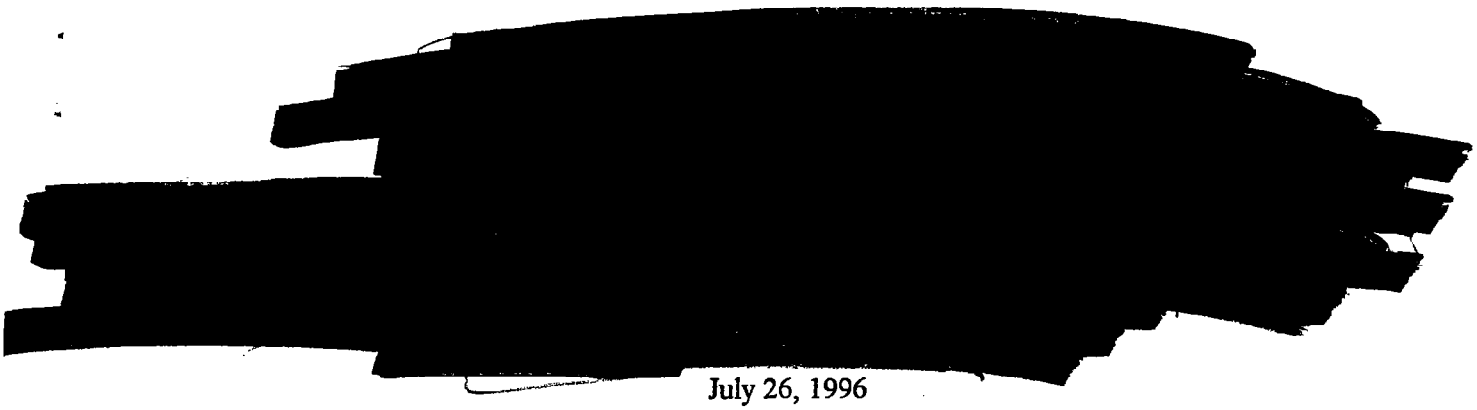

July 26, 1996

Via Facsimile and Mail

Mr. Richard Smith
Premerger Notification Office
Bureau of Competition - Room 303
Federal Trade Commission
Sixth Street & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Application of Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act")

Dear Dick:

The purpose of this letter is to ask you, on behalf of the Premerger Notification Office, to review the terms of three possible structures to a proposed transaction, so that we may discuss the application of the Act to each proposed structure.

There are three parties to the proposed transaction: (i) an entity included within Hospital System A (such entity is referred to in this letter as "Hospital System A"), (ii) an entity included within Hospital System B (such entity is referred to in this letter as "Hospital System B") and (iii) Hospital C or its sole member. Each of the parties is a non-profit corporation. Hospital C is a nonstock, membership corporation which, as noted above, currently has one member. For purposes of this letter, please assume that Hospital System A, Hospital System B and Hospital C each satisfy the "commerce" and "size of the person" tests under Section 7A(a)(1) and 7A(a)(2), respectively, of the Act. The parties are currently considering several alternative structures to the proposed transaction, three of which are described in this letter. Corporate, licensing, operational, tax and government reimbursement issues will dictate the structure implemented by the parties.

It is the intent of the parties that the steps in each of the alternatives outlined below will occur at the same time. Based on the parties' understanding that the Premerger Notification Office does not recognize simultaneous transactions, the parties have established an order for the steps to each proposed alternative for purposes of this analysis.

1. Alternative 1.

a. In the first proposed structure, on the closing date (the "Closing Date"): (i) Hospital System A would acquire the sole membership of Hospital C for a purchase price of $12 million; and (ii) immediately after such acquisition, Hospital System A would amend the governing documents of Hospital C to create a second membership in Hospital C, which will also be held by Hospital System A, and Hospital System B would acquire the second membership from Hospital System A for $5.88 million (49% of the purchase price paid by Hospital System A for its sole membership interest). Neither Hospital System A nor Hospital System B would assume any liabilities of Hospital C, whether as primary obligor, guarantor or otherwise, in connection with the purchase of its membership interest in Hospital C.

b. As members of Hospital C, Hospital System A and Hospital System B would each be entitled to appoint one-half of the directors of Hospital C. The two members would have reserved powers to take certain fundamental corporate actions requiring the agreement of both members. Hospital C's governing documents would provide that, in the event of a dissolution and liquidation of Hospital C, 51% of any assets remaining after the payment of liabilities by Hospital C would belong to Hospital System A and 49% would belong to Hospital System B. Hospital System B would provide all capital funding and all working capital needed to fund any losses during the first five years after the Closing Date, and profits and losses during this period would inure to Hospital System B.

c. Effective as of the fifth anniversary of the Closing Date, Hospital System A would have an option to acquire 51% of the profits and losses of Hospital C in exchange for a payment to Hospital System B determined in accordance with a formula. If Hospital System A exercises this option, any additional funding of Hospital C required of its members would be provided 51% by Hospital System A and 49% by Hospital System B. If Hospital System A does not exercise this option, Hospital System B would pay to Hospital System A the amount of $6.12 million plus interest, and Hospital System A would cease to be a member of Hospital C.

d. Hospital C would be managed by Hospital System A through July 1997, when the term of an existing management agreement between Hospital System A and Hospital C expires; after July 1997, Hospital C would be managed by Hospital System B pursuant to a management agreement to be entered into by Hospital System B and Hospital C. Hospital System A would, at all times prior to and after July 1997, have a management contract for the operation of Hospital C in accordance with certain religious principles.

Analysis.

The steps outlined in paragraph 1(a)(i) and (ii) above would be analyzed separately under the Act.

Hospital System A's acquisition of the sole membership interest in Hospital C would be analyzed under 16 C.F.R. §801.2(d) but viewed as an asset acquisition for report form and valuation purposes. See Premerger Notification Practice Manual, Interpretation Nos. 99 and 115 (B. Prager ed. 1991). Under 16 C.F.R. §801.10(b), the value of assets to be acquired is their fair market value, or, if determined and greater than the fair market value, the acquisition price.

Pursuant to 16 C.F.R. §801.10(c)(2) and the Statement of Basis and Purposes for Rules, "acquisition price" includes the value of all consideration for assets to be acquired; assumption of liabilities, if consideration for an acquisition, must be valued in computing the acquisition price. We do not believe the consideration for Hospital System A's acquisition of the sole membership of Hospital C includes an assumption of liabilities. As noted in paragraph 1(a), neither Hospital System A nor Hospital System B would assume, guarantee or otherwise accept responsibility for any of the liabilities of Hospital C in connection with the acquisition of its membership interest in Hospital C. The legal duty to pay the liabilities of Hospital C would remain solely with Hospital C. Indeed, in the event of Hospital C's bankruptcy or insolvency, while the Hospital Systems' respective investments in the membership interests of Hospital C would be at risk, neither Hospital System would be liable to pay any liabilities of Hospital C. Since the liabilities of Hospital C would not be assumed, guaranteed or otherwise transferred in connection with Hospital System A's acquisition of the sole membership interest in Hospital C, assumption of liabilities would not be "consideration" for Hospital System A's acquisition of the membership interest in Hospital C, and would not be included in computing the "acquisition price" for such membership interest.

This analysis is consistent with the commentary to Interpretation No. 115, Premerger Notification Practice Manual ("Interpretation No. 115"), which states that a guarantee of the liabilities of a non-profit corporation should not be treated as an assumption of liabilities to be included in the "consideration" for the sole membership of the non-profit corporation, because the guarantee does not assure that anything will be paid by the guarantor or relieve the primary obligor of its legal duty to pay. If a guarantee would not be treated as an assumption of liabilities included in "consideration," the liabilities of Hospital C, which would not be assumed or guaranteed by either Hospital System, would not be included in the "consideration" for the sole membership of Hospital C.

Based on the foregoing analysis, the acquisition price of the sole membership interest in Hospital C would be $12 million, the purchase price paid by Hospital System A, and would not meet the "size of the transaction" test under Section 7A(a)(3) of the Act and 16 C.F.R. §802.20(a).

Because the acquisition price would be $15 million or less, the fair market value of the assets acquired would also need to be determined by the board of directors of Hospital System A or its delegee in accordance with 16 C.F.R. §801.10(c)(3). If the board or its delegee determines that the fair market value of the assets acquired from Hospital C is $15 million or less, the acquisition of the sole membership interest would be exempt under 16 C.F.R. §802.20(a). To the extent the board or its delegee determines that the fair market value of the assets acquired from Hospital C is more than $15 million, a filing would be required by the ultimate parent entity of Hospital System A, as acquiring person, and the ultimate parent entity of Hospital C, as acquired person.

We understand that the Premerger Notification Office does not treat the acquisition of less than the entire interest in a non-profit, nonstock membership corporation as a reportable transaction under the Act. In accordance with this analysis, the second step of this transaction described in paragraph 1(a)(ii) (Hospital System B's acquisition of the second membership interest in Hospital C) would not require a notification filing under the Act.

We do not believe that the facts set forth in paragraphs 1(b), (c) and (d) change the foregoing analysis with respect to the steps outlined in paragraph 1(a)(i) and (ii).

2. Alternative 2.

a. In the second proposed structure, on the Closing Date: (i) Hospital System A would make a payment of $12 million to the sole member of Hospital C, and Hospital C would be merged with a newly-formed non-profit, nonstock membership corporation in which Hospital System A is the sole member ("Newco"), with Hospital C continuing as the surviving corporation of the merger (the "Surviving Corporation"), and (ii) upon the effectiveness of the merger, the governing documents of the Surviving Corporation would be amended to create a second membership in the Surviving Corporation which would be held by Hospital System A, and Hospital System B would acquire from Hospital System A such second membership for $5.88 million. Although the Surviving Corporation would succeed, by operation of law, to the liabilities of Hospital C, neither Hospital System A nor Hospital System B would assume any liabilities of the Surviving Corporation or Hospital C, whether as primary obligor, guarantor or otherwise.

b. After the acquisition of such membership interests, the facts set forth in paragraphs 1(b), (c) and (d) would apply to Hospital C, as the Surviving Corporation.

Analysis

The steps outlined in paragraphs 2(a)(i) and (ii) above would be analyzed separately under the Act.

The merger transaction described in paragraph 2(a)(i) would be analyzed under 16 C.F.R. §801.2(d)(1)(i), pursuant to which Hospital System A would be deemed to have acquired the "voting securities" of Hospital C; however, since the transaction involves non-profit membership corporations, the transaction would be viewed as an asset acquisition for report form and valuation purposes. See Interpretation No. 115.

Under 16 C.F.R. §801.10(b), the value of assets to be acquired is their fair market value, or, if determined and greater than the fair market value, the acquisition price. As noted in paragraph 2(a), neither Hospital System A nor Hospital System B would assume, guarantee or otherwise accept responsibility for any of the liabilities of the Surviving Corporation in connection with the transaction as proposed in Alternative 2; the legal duty to pay such liabilities would remain with the Surviving Corporation. For the reasons set forth in the analysis under Alternative 1, and consistent with the commentary to Interpretation No. 115, the liabilities of Hospital C would not be included in the calculation of the "consideration" constituting the "acquisition price" in connection with the merger of Newco with Hospital C. The acquisition price in connection with the merger of Newco with Hospital C would be the $12 million paid by Hospital System A to the sole member of Hospital C, and would not meet the "size of the transaction" test under Section 7A(a)(3) of the Act and 16 C.F.R. §802.20(a).

Consistent with the analysis under Alternative 1, the fair market value of the "assets" acquired in connection with the merger would also need to be determined by the board of directors of Hospital System A or its delegee in accordance with 16 C.F.R. §801.10(c)(3). If the board or its delegee determines that the fair market value of the assets acquired from Hospital C is $15 million or less, the acquisition of the sole membership interest would be exempt under 16 C.F.R. §802.20(a). To the extent the board or its delegee determines that the fair market value of the assets acquired from Hospital C is more than $15 million, a filing would be required by the ultimate parent entity of Hospital System A, as acquiring person, and the ultimate parent entity of Hospital C, as acquired person.

For the reasons set forth in the analysis under Alternative 1, the second step of this transaction described under paragraph 2(a)(ii) (the acquisition of less than the entire interest in a non-profit, nonstock membership corporation) is not a reportable transaction under the Act. Accordingly, Hospital System B's acquisition of the second membership interest in the Surviving Corporation would not require a notification filing under the Act.

We do not believe that the facts set forth in paragraphs 1(b), (c) and (d) change the foregoing analysis with respect to the steps outlined in paragraphs 2(a)(i) and (ii).

3. Alternative 3.

a. Under the third proposed structure, on the Closing Date: (i) the sole member of Hospital C would amend Hospital C's governing documents to create two memberships in Hospital C, (ii) Hospital System A would purchase from the sole member of Hospital C one membership interest for a purchase price of $6.12 million, and (iii) Hospital System B would purchase from the former sole member of Hospital C the second membership interest for $5.88 million. Neither Hospital System A nor Hospital System B would assume any liabilities of Hospital C, whether as primary obligor, guarantor or otherwise, in connection with its purchase of a membership interest in Hospital C.

b. After the acquisition of such membership interests, the facts set forth in paragraphs 1(b), (c) and (d) would apply to Hospital C.

Analysis.

As noted in the analysis under Alternatives 1 and 2, we understand that the Premerger Notification Office does not treat the acquisition of less than the entire interest in a non-profit, nonstock membership corporation as a reportable transaction under the Act. Accordingly, under this third proposed structure neither the acquisition of a membership interest by Hospital System A nor the acquisition of a membership interest by Hospital System B would require notification filings under the Act, because neither Hospital System A nor Hospital System B would acquire the entire membership interest in Hospital C.

We do not believe that the facts set forth in paragraphs 1(b), (c) and (d) change the foregoing analysis with respect to the steps outlined in paragraph 3(a).

* * *

The parties seek the Premerger Notification Office's concurrence that the transactions described above will be analyzed under the Act as set forth in this letter. Since counsel for certain of the parties to the proposed transaction desire to participate in our discussion, I would appreciate if you would advise me in advance a [redacted] to when we can schedule a conference call to discuss the Premerger Notification Office's position on the above analyses.

Very truly yours,

[redacted]

[redacted]

[redacted]