[redacted] is a non-holder (exp. where there is a change in name also) this would constitute an acquisition. Facts in this case do not meet this test since each person retains operation of its own hospital. Change of [redacted] in profits/losses + nothing more is mere partnership arrangement.

August 26, 1993

VIA FEDERAL EXPRESS

Bureau of Competition
Federal Trade Commission
6th St. and Pennsylvania Ave., N.W.
Washington, D.C. 20580

FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION OFFICE
10 50 AM

Dear Mr. Cohen:

This is to confirm the interpretation of the application of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act"), as amended, 15 U.S.C. § 18a, and the Rules promulgated

Under the proposed transaction, two hospitals intend to enter into a joint operating agreement by a contract. This will not involve the formation of a corporation. The first hospital ("Hospital A") is a separate corporation, owned by a hospital system. The second hospital ("Hospital B") is also a part of a larger hospital system, but is a division of the system and not separately incorporated. Under the proposed joint operating agreement, both hospitals will run their [redacted]

[redacted]

assets would be acquired by a new corporation to be formed by Hospital A and Hospital B. However, this is not yet being contemplated.

Note however that any agreement to restrict services may be an illegal conspiracy in restraint of trade violation of both the Sherman Act + FTC Act.

[redacted]

This view is consistent with Interpretations 195 and 196 of the Premerger Notification Practice Manual (1991 ed.), which states that non-corporate joint ventures are not covered by the Act.

You further stated that if a new corporation is formed by the hospitals for the purposes of acquiring new assets, the transaction would be analyzed under the joint venture rules, 16 C.F.R. § 801.40. If this new corporation is a not for profit corporation within the meaning of the Internal Revenue Code § 501(c)(1) - (4), (6)-(15), (17)-(20) or (d), it will be exempt [redacted]

Please let me know as soon as possible if this letter does not reflect the informal opinion pursuant to 16 C.F.R. § 803.30(a) given to me and David Ettinger over the telephone. Thank you very much for your assistance.

Sincerely,

[redacted]

[redacted]

→ Formation of the new corporation is analyzed [redacted]

this corporation of "new asset" is analyzed separately. If the non-profit issues voting stock, which is doubtful, it may rely on §02.40 for an exemption: if it does not the transaction must file [redacted] apply.