

[(3)](4) ensure that no part of the public or charitable assets of the acquisition inure directly or indirectly to an officer, director, or trustee of a nonprofit health entity; and

[(4)](5) ensure that no officer, director, or trustee of the nonprofit health entity receives any immediate or future remuneration as the result of an acquisition or proposed acquisition except in the form of compensation paid for continued employment with the acquiring entity.

(e) (1) In determining whether an acquisition is in the public interest, the appropriate regulating entity shall consider:

[(1)](I) whether the transferor exercised due diligence in deciding to engage in an acquisition, selecting the transferee, and negotiating the terms and conditions of the acquisition;

[(2)](II) the procedures the transferor used in making the decision, including whether appropriate expert assistance was used;

[(3)](III) whether any conflicts of interest were disclosed, including conflicts of interest of board members, executives, and experts retained by the transferor, transferee, or any other parties to the acquisition;

[(4)](IV) whether the transferor will receive fair value for its public or charitable assets;

[(5)](V) whether public or charitable assets are placed at unreasonable risk if the acquisition is financed in part by the transferor;

[(6)](VI) whether the acquisition has the likelihood of creating a significant adverse effect on the availability or accessibility of health care services in the affected community;

[(7)](VII) whether the acquisition includes sufficient safeguards to ensure that the affected community will have continued access to affordable health care; and

[(8)](VIII) whether any management contract under the acquisition is for fair value.

(2) IN DETERMINING WHETHER A ~~HEALTH CARE NONPROFIT HEALTH~~ ENTITY HAS EXERCISED DUE DILIGENCE AS REQUIRED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE APPROPRIATE REGULATING ENTITY MAY NOT DETERMINE THAT DUE DILIGENCE WAS EXERCISED UNLESS THE ~~HEALTH CARE NONPROFIT HEALTH~~ ENTITY CONSIDERED THE RISKS OF AN ACQUISITION, INCLUDING WHETHER AN ACQUISITION:

(I) WOULD RESULT IN DISECONOMIES OF SCALE; OR

(II) WOULD VIOLATE FEDERAL OR STATE ANTITRUST LAWS.

SECTION 2. AND BE IT FURTHER ENACTED, That: