

D. ~~independent of the transferee; and~~

~~(2) 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.~~

(c) The regulating entity may determine that a distribution of assets of a nonprofit health entity ~~or a vote of its certificate holders as provided under § 6.5-303(2)(iii) of this subtitle~~ is not required under this section if the transaction is:

- (1) determined not to be an acquisition;
- (2) in the ordinary course of business; and
- (3) for fair value.

~~(d) In determining fair value, the appropriate regulating entity may consider all relevant factors, including, as determined by the regulating entity:~~

~~(1) the value of the nonprofit health entity or an affiliate or the assets of such an entity that is determined as if the entity had voting stock outstanding and 100% of its stock was freely transferable and available for purchase without restriction;~~

- ~~(2) the value as a going concern;~~
- ~~(3) the market value;~~
- ~~(4) the investment or earnings value;~~
- ~~(5) the net asset value; and~~
- ~~(6) a control premium, if any.~~

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

~~(1) 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) the procedures the transferor used in making the decision, including whether appropriate expert assistance was used;~~

~~(3) 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) whether the transferor will receive fair value for its public or charitable assets;~~

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