

9/16/03

09-22-2003



Attorney Docket No. HCAM.106068

FORM PTO-1594

T

U.S. DEPT. OF COMMERCE

102555182

PATENT AND TRADEMARK OFFICE

To The Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): Health Midwest

Individual(s) Association
 General Partnership Limited Partnership
 Corporation—State
 Other: Missouri nonprofit public benefit corporation

Additional name(s) of conveying party(ies) attached?
 Yes No

2. Name and address of receiving party(ies):

Name: HM Acquisition, LLC
Street Address: One Park Plaza
City: Nashville State: TN Zip: 37203

Individual(s) citizenship
 Association
 General Partnership
 Limited Partnership
 Corporation—State
 Other: Missouri limited liability company

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No

(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

3. Nature of Conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other: Asset Purchase Agreement and Assignment

Execution Date: April 1, 2003

4. Application number(s) or registration number(s):

A. Trademark Application No(s): B. Trademark Registration No(s): 2,098,112

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Clinton G. Newton
Internal Address: Shook, Hardy & Bacon L.L.P.
One Kansas City Place
Street Address: 1200 Main Street
City: Kansas City
State: Missouri
Zip: 64105-2118

6. Total number of applications and registrations involved..... 1

7. Total fee (37 CFR 3.41)..... \$40.00

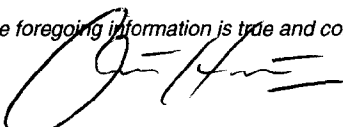
Enclosed
 Authorized to be charged to deposit account any deficiencies or credit any overpayment

8. Deposit Account No.: 19-2112
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Clinton G. Newton, Reg. No. 42,930  9/12/03

Name of person signing Signature Date

Total number of pages including cover sheet, attachments, and document: 14

Mail documents to be recorded with required cover sheet information to:

Mail Stop Assignment Recordation Services
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

09/17/2003 ECOOPER 00000164 2098112

01 FC:8521

40.00 UP

1309662v1

TRADEMARK REEL: 002826 FRAME: 0217

ASSIGNMENT OF SERVICEMARKS AND TRADEMARKS

THIS ASSIGNMENT OF SERVICEMARKS AND TRADEMARKS (this "Assignment") is made as of the 1st day of April, 2003, by Health Midwest, a Missouri nonprofit public benefit corporation ("Assignor"), to HM Acquisition, LLC, a Missouri limited liability company ("Assignee").

W I T N E S S E T H:

WHEREAS, Assignee and Assignor are parties to that certain Asset Purchase Agreement, dated as of November 22, 2002 (as amended, the "Asset Purchase Agreement"), pursuant to which Assignor has agreed to sell to Assignee and Assignee has agreed to purchase from Assignor the Purchased Assets (as defined in the Asset Purchase Agreement), including without limitation the servicemarks, trademarks and trade names of Assignor. Pursuant to the Asset Purchase Agreement, Assignor has agreed to execute such instruments as the Assignee may reasonably request in order to more effectively assign, transfer, grant, convey, assure and confirm to Assignee and its successors and assigns, or to aid and assist in the collection of or reducing to possession by the Assignee of, all of such assets; and

WHEREAS, pursuant to the Asset Purchase Agreement, Assignor desires to transfer and assign to Assignee or its assignee, and Assignee or its permitted assignee desires to accept the transfer and assignment of, all of Assignor's worldwide right, title and interest in, to and under Assignor's registered and unregistered domestic and foreign servicemarks, trademarks, trademark applications and trade names (including such rights in, to and under any website domain names) relating to the Purchased Assets, including without limitation the servicemarks, trademarks, servicemark and trademark applications and trade names set forth on Schedule A, attached hereto and incorporated herein by reference (all of the foregoing being referred to herein as the "Marks") together with the goodwill of the business associated therewith and which is symbolized thereby.

NOW, THEREFORE, in consideration of the foregoing and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

1. Assignment. Assignor does hereby transfer and assign to Assignee, and Assignee hereby accepts the transfer and assignment of, all of Assignor's worldwide right, title and interest in, to and under the Marks, together with the goodwill of the business associated therewith and which is symbolized thereby, all rights to sue for infringement of any Mark, whether arising prior to or subsequent to the date of this Assignment, and any and all renewals and extensions thereof that may hereafter be secured under the laws now or hereafter in effect in the United States, Canada and in any other jurisdiction, the same to be held and enjoyed by the said Assignee, its successors and assigns from and after the date hereof as fully and entirely as the same would have been held and enjoyed by the said Assignor had this Assignment not been made. With respect to those applications for Marks which are not yet in use, Assignee is a successor to the business of Assignor and/or is a successor to the ongoing and existing portion of the business to which each such Mark pertains, thus making assignment of the related applications permissible under Section 10 of the Lanham Act (15 U.S.C. § 1060).

2. Jurisdiction. Except to the extent that federal law preempts state law with respect to the matters covered hereby, this Assignment shall be governed by and construed in accordance with the laws of the State of Missouri without giving effect to the principles of conflicts of laws thereof.

3. Further Assurances. Assignor agrees to execute and deliver at the request of the Assignee, all instruments of transfer and other documents, and to perform any other reasonable acts the Assignee may require in order to vest all Assignor's rights, title, and interest in and to the Marks in the Assignee and otherwise in order to carry out the purposes and intent of this Assignment and to provide evidence to support any of the foregoing in the event such evidence is deemed necessary by the Assignee, to the extent such evidence is in the possession or control of Assignor.

4. Asset Purchase Agreement. Nothing contained in this Assignment shall be deemed or construed to increase, alter or modify any of the obligations, agreements, covenants or warranties of Assignor or Assignee under the Asset Purchase Agreement. If any conflict exists between the terms of this Assignment and the Asset Purchase Agreement, then the terms of the Asset Purchase Agreement shall govern and control.

[signature pages to follow]

IN WITNESS WHEREOF, Assignor has caused its duly authorized officer to execute this Assignment as of the date first above written.

Assignor:

HEALTH MIDWEST

By: Joseph L. Hiersteiner
Title: Executive Vice President

[SEAL]

STATE OF MISSOURI)
COUNTY OF JACKSON)

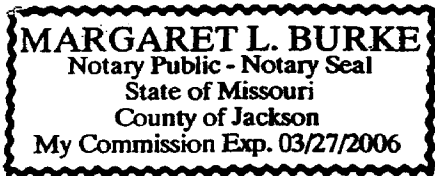
ss.:

On this 1st day of April, 2003, before me, the undersigned, personally appeared *, * of *, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

* Joseph L. Hiersteiner
Executive Vice President
Health Midwest

Margaret L. Burke
Notary Public



ACKNOWLEDGED AND ACCEPTED this Assignment from Assignor as of the date first above written.

Assignee:

HM ACQUISITION, LLC

By: Healthtrust, Inc. - The Hospital Company
Its: Sole Member

By: Gregg Berker
Title: Vice President

[SEAL]

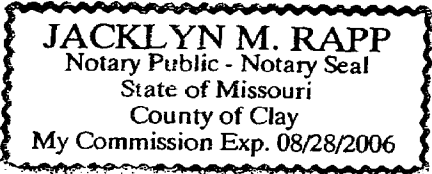
STATE OF MISSOURI)
) ss.:
COUNTY OF JACKSON)

On this 1st day of April, 2003, before me, Jacklyn M Rapp personally appeared Gregg Berker of _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Jacklyn M Rapp
Notary Public

JACKLYN M. RAPP
Notary Public - State of Missouri
County of Clay
My Commission Expires Aug. 28, 2006



EXECUTION COPY

ASSET PURCHASE AGREEMENT

BY

AND

BETWEEN

HEALTH MIDWEST

AND

HM ACQUISITION, LLC

Dated as of November 22, 2002

TRADEMARK
REEL: 002826 FRAME: 0222

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of November 22, 2002 by and between **HEALTH MIDWEST**, a Missouri nonprofit public benefit corporation ("Seller"), and **HM ACQUISITION, LLC**, a Missouri limited liability company ("Buyer"). **HCA INC.**, a Delaware corporation ("Guarantor"), joins in this Agreement solely for the purposes set forth in **Section 14.18**.

WITNESSETH:

WHEREAS, Seller owns or controls, directly or indirectly, the organizations identified as System Entities on **Schedule One** attached hereto (each referred to herein individually as a "System Entity" and Seller and the System Entities are sometimes collectively referred to herein as the "System"); and

WHEREAS, System Entities directly or indirectly own and operate or lease and operate each of the hospitals and/or other health care facilities set forth on **Schedule Two** attached hereto (collectively, the "Facilities"); and

WHEREAS, to the extent the Closing (as defined herein) occurs, Seller desires to treat some portion of the transactions contemplated hereby and one or more other transactions as transactions qualifying as an exchange of "like kind" property pursuant to Section 1031 of the Code (as defined herein); and

WHEREAS, in reliance upon the representations, warranties and covenants of Seller set forth herein, Buyer desires to acquire from Seller substantially all of the System's operating assets, including, without limitation, the Facilities, and assume certain liabilities, all as more fully set forth herein; and

WHEREAS, in reliance upon the representations, warranties and covenants of Buyer set forth herein, including the assumption by Buyer of certain liabilities as more fully set forth herein, Seller is willing to sell to Buyer substantially all of the System's operating assets, including, without limitation, the Facilities;

NOW, THEREFORE, for and in consideration of the premises, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy all of which are forever acknowledged and confessed, the parties hereto agree as follows:

1. DEFINITIONS

1.1 Definitions. As used herein the terms below shall have the following meanings:

"AAA" has the meaning given that term by **Section 14.2**.

“Applicable Rate” means the applicable federal rate published by the Internal Revenue Service with respect to any month.

“Approval” means any approval, authorization, consent, qualification or registration, or any extension, modification, amendment or waiver of any of the foregoing, of or from, or any notice, statement, filing or other communication to be filed with or delivered to, any Governmental Entity or any other Person.

“Assets Whose Use Is Limited” has the meaning given that term by **Section 2.2**.

“Assumed Contracts” means all commitments, contracts, leases and agreements in respect of the Facilities or Purchased Assets to which Seller or any System Entity is a party or by which Seller or any System Entity, the Facilities, the Purchased Assets or any portion thereof are bound, including, without limitation: (a) the Triad Agreements, (b) physician agreements, (c) agreements with health maintenance organizations, preferred provider organizations or other third party payor organizations, (d) joint venture or partnership agreements, (e) employment contracts or any other contracts, agreements or commitments to or with individual employees or agents, (f) contracts or commitments materially affecting ownership of, title to, use of or any interest in real estate, including any tenant leases, (g) equipment leases, (h) equipment maintenance agreements, (i) agreements with municipalities, (j) collective bargaining agreements or other contracts, commitments, obligations or duties to or with any labor unions, labor organizations or other employee representatives or groups of employees, (k) except to the extent associated with Excluded Liabilities, loan agreements, bonds, mortgages, liens or other security agreements, (l) patent licensing agreements or any other agreements, licenses or commitments with respect to patents, patent applications, trademarks, trade names, service marks, technical assistance, copyrights or other like terms affecting the Facilities or the Purchased Assets, (m) agreements, licenses or commitments relating to data processing programs, software or source codes, (n) policies of general liability insurance, malpractice liability insurance, property and casualty insurance and other contracts or policies of insurance for risks of System operations, and (o) any other contracts or commitments, whether in the ordinary course of business or not, which involve future payments, performance of services or delivery of goods or materials, to or by Seller or any System Entity; provided that Assumed Contracts will not include any Excluded Contracts. To the extent that any commitment, contract, lease or agreement relates both to Purchased Assets and Excluded Assets or Excluded Liabilities, the parties will use their commercially reasonable efforts to equitably allocate the rights and obligations under such commitments, contracts, leases or agreements between themselves, both before and after the Closing. Notwithstanding the foregoing, Buyer shall have no obligations or liabilities for the matters described in **Section 2.4(l)**.

“Assumed Liabilities” has the meaning given that term by **Section 2.3**.

“Assumed Physician Receivables” means all accounts and notes receivable from physicians and other potential sources of referrals (or Persons owned or controlled, in whole or in part, by physicians or potential sources of referrals, including those in a position to influence referrals) to Seller or any System Entity other than Excluded Physician Receivables.

“Balance Sheet” has the meaning given that term by **Section 6.5**.

Hospice; VNA Corporation d/b/a Visiting Nurse Services of Health Midwest; VNA Plus, Inc.; and Community Options, Inc.

"Hospitals" means Research Medical Center, Baptist Lutheran Medical Center, Independence Regional Health Center, Medical Center of Independence, Menorah Medical Center, Overland Park Regional Medical Center, Lee's Summit Hospital, Research Belton Hospital, Lafayette Regional Health Center, Allen County Hospital, and Research Psychiatric Center; but only to the extent (a) such Hospitals are transferred to Buyer at the Closing and (b) with respect to any such Hospital in which substantially all of its assets are leased from a third party, the applicable underlying lease remains in effect.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the related regulations and published interpretations.

"Income Statement" has the meaning given that term by Section 6.5.

"Income Tax Benefit" has the meaning given that term by Section 12.5(d)(ii).

"Indemnified Party" has the meaning given that term by Section 13.4.

"Indemnifying Party" has the meaning given that term by Section 13.4.

"Individual Matter" has the meaning given that term by Section 13.3.

"Initial Purchase Price Adjustment" has the meaning given that term by Section 2.6.

"Insider" has the meaning given that term by Section 7.10.

"Intellectual Property" means all names, patents, copyrights, trade names, trademarks and service marks (or variations thereof) associated with any Facility, Seller and/or System Entities and any applications therefor, mask works, net lists, schematics, technology, know-how, trade secrets, ideas, algorithms, processes, computer software programs and applications (in both source code and object code form), and tangible or intangible proprietary information or material, including the names "Health Midwest", "HM" and any variation thereof or any trademark or service mark utilizing "Health Midwest" or "HM" therein.

"Interim Balance Sheet" has the meaning given that term by Section 2.7.

"JAMS" has the meaning given that term by Section 14.2.

"Joint Venture Entity" means the joint venture entities identified as such on Schedule One, whether they take the form of a partnership, limited liability company, corporation or other form of organization.

"Justice Department" means the United States Department of Justice.

(k) the gender of all words herein include the masculine, feminine and neuter, and the number of all words herein include the singular and plural.

2. SALE OF ASSETS AND CERTAIN RELATED MATTERS.

2.1 Sale of Purchased Assets. Subject to the terms and conditions of this Agreement, Seller agrees to sell, convey, transfer and deliver to Buyer and Buyer agrees to purchase at Closing, all of Seller's interest in the Purchased Assets (defined below) determined as of Closing after taking into account the effect of the merger of System Entities into Seller contemplated by **Section 10.1**. The "Purchased Assets" are, collectively, all assets, real, personal and mixed, tangible or intangible, other than the Excluded Assets (as defined in **Section 2.2** below), which are owned or leased by Seller, its Affiliates and/or System Entities (and at Closing will be owned or leased by Seller) and which are associated with, held or used in the business or operations of the Facilities, Seller and/or System Entities, including the following items: (i) fee simple title and/or leasehold title, as the case may be, to all real property described in Seller's Disclosure Schedule hereto, together with all improvements, buildings and fixtures located thereon or therein, which shall include the Facilities (collectively, the "Real Property"), (ii) all equipment (including movable equipment), vehicles, furniture, furnishings, and computers and other data processing equipment, (iii) all supplies and inventory, (iv) assumable prepaid expenses, claims for refunds and rights to offset in respect thereof, (v) all business, operational and financial books and records, and, to the extent assignable under applicable Law, all patient and medical staff records, (vi) all of the interest of Seller and/or the System Entities in Assumed Contracts (together with all rights to legal opinions obtained by Seller or any System Entity in connection with the Assumed Contracts), including all insurance policies constituting Assumed Contracts, (vii) all Permits and Approvals issued or granted by Governmental Entities, to the extent assignable, held or used by Seller and/or System Entities relating to the ownership, development, business or operations of the Purchased Assets (including any pending or approved governmental Approvals regarding any Purchased Assets), (viii) the Intellectual Property, (ix) any insurance proceeds, including to the extent provided in **Section 2.8**, (x) to the extent set forth in the Employee Benefit Plans Supplement, funds set aside in trust to fund obligations arising under the Retirement Reserve Plan to be assumed by Buyer pursuant to the Employee Benefit Plans Supplement; (xi) all accounts receivable generated in connection with the business or operation of the Facilities, Seller and/or System Entities through the Closing, whether known or unknown, recorded or unrecorded, including any accounts receivable that have been charged off as bad debts and all accounts receivable included in Net Working Capital (other than Government Patient Receivables); (xii) the right to receive, consistent with **Section 11.1**, an amount equal to the value of all Government Patient Receivables; (xiii) rights to settlement and retroactive adjustments, if any, for all cost reporting periods ending on or prior to the Closing Date arising from or against the U.S. Government under the terms of the Medicare program, or TRICARE and against any state under its Medicaid program and against any third party payor programs that settle on a basis other than an individual claim basis, and rights to any reimbursement from Medicare, TRICARE or Medicaid as a result of any loss suffered by Seller or any System Entity with respect to the sale of the Purchased Assets ("Agency Receivables"); (xiv) any claims, rights, causes of action and/or judgments related to the Facilities or the Purchased Assets (including the Assumed Contracts), contractual or otherwise, accruing or arising prior to the Closing that inure to the benefit of or creates rights in Seller and/or System Entities against third parties; (xv) rights to judgments, settlement amounts and other payments attributable to periods before and after the

obligation to Close commencing on and after April 1, 2003 will be subject to there not having occurred, from and after November 22, 2002, any fact, matter, change, circumstance or effect that has had or would reasonably be expected to have a Material Adverse Effect with respect to Seller.

9.10 Specified Matters. Buyer's obligation to close shall be conditioned upon Buyer being satisfied, in its sole and absolute discretion, either (i) that there are no Specified Matters, or (ii) that any Specified Matters identified by Buyer have been resolved in a manner satisfactory to Buyer, in its sole and absolute discretion. Buyer may waive the provisions of this Section 9.10 in whole or in part, in Buyer's sole and absolute discretion.

9.11 Third Party Consents. Buyer shall have received consents to the assignment of the contracts set forth on Schedule 9.11 hereto, in form and substance reasonably acceptable to Buyer.

10. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER.

The obligations of Seller hereunder are, at the option of Seller, subject to the satisfaction, on or prior to the Closing Date, of the following conditions unless waived in writing by Seller:

10.1 Merger of System Entities with Seller. The System Entities listed on Schedule One other than Acquired Entities shall have merged into Seller with Seller as the surviving corporation and Seller shall have received a Certificate or Certificates of Merger from the Secretary of State of Missouri and the Secretary of State of Kansas to that effect; provided that this condition shall be deemed waived by Seller effective at the close of business on February 28, 2003. Seller will use commercially reasonable efforts to cause this condition to be satisfied as soon as practicable.

10.2 Opinion of Buyer's Counsel. Seller shall have received from counsel to Buyer an opinion dated as of the Closing Date and addressed to Seller, in form and substance reasonably satisfactory to Seller, to the effect that: (i) Buyer is a limited liability company duly organized and validly existing in good standing under the laws of the state of its organization; (ii) Buyer has full power and authority to make, execute, deliver and perform this Agreement, and all proceedings required to be taken by Buyer to authorize the execution and performance of this Agreement, and to purchase and receive the Purchased Assets as herein contemplated have all been duly and properly taken; and (iii) this Agreement constitutes the valid and binding obligation of Buyer, enforceable in accordance with its terms. Such opinion shall contain usual and customary qualifications. In rendering such opinion, such counsel may rely upon certificates of governmental officials and may place reasonable reliance upon certificates of officers of Buyer.

10.3 Action/Proceeding. No court or any other Governmental Entity shall have issued an order restraining or prohibiting the transactions herein contemplated; and no Governmental Entity shall have commenced or threatened in writing to commence any action or suit before any court of competent jurisdiction or other Governmental Entity that seeks to restrain or prohibit the consummation of the transactions contemplated or otherwise seeks a remedy which would materially and adversely affect the ability of Buyer to enjoy the full use and enjoyment of the

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in multiple originals by their authorized officers, all as of the date and year first above written.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE THAT IS ENFORCEABLE AGAINST THE PARTIES.

SELLER:
HEALTH MIDWEST

By: *Gregory W. Bru*
Title: President & CEO

BUYER:
HM ACQUISITION LLC

By: Healthtrust, Inc. – The Hospital Company
Its: Sole Member

By: _____
Title: _____

GUARANTOR (solely for the purpose of the provisions of Section 14.18):
HCA INC.

By: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in multiple originals by their authorized officers, all as of the date and year first above written.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE THAT IS ENFORCEABLE AGAINST THE PARTIES.

**SELLER:
HEALTH MIDWEST**

By: _____
Title: _____

**BUYER:
HM ACQUISITION LLC**

By: Healthtrust, Inc. – The Hospital Company
Its: Sole Member

By: Jack P. Bowender, Jr.
Title: Executive Vice President

**GUARANTOR (solely for the purpose of the provisions of Section 14.18):
HCA INC.**

By: Jack P. Bowender, Jr.
Title: Chairman and Chief Executive Officer

SCHEDULE ONE
SYSTEM ENTITIES; JOINT VENTURES

PART ONE: SYSTEM ENTITIES

Health Midwest Central Region

Research Medical Center¹ (including Research College of Nursing and Research Belton Hospital divisions)

Baptist Lutheran Medical Center²

Research Psychiatric Center

Health Midwest-Eastern Region³

Medical Center of Independence

Medical Center Imaging, Inc.⁴

Independence Regional Health Center

Lee's Summit Hospital

Lee's Summit Medical Imaging, Inc.⁵

Health Midwest-Johnson County, Inc.⁶

Menorah Medical Center⁷

Overland Park Regional Medical Center, Inc.

Health Midwest Development Group⁸ (including Lafayette Regional Health Center and Allen County Hospital divisions)

Research Mental Health Services

Community Options, Inc.

V.N.A. Corporation d/b/a Visiting Nurse Services of Health Midwest

¹ Holds a membership interest with 3 other unrelated hospitals in Lifeflight Eagle, a tax exempt air ambulance service.

² Holds a membership interest with Menorah Medical Center and other unrelated parties in Hospital Linen Services, Inc., a nonprofit hospital laundry service.

³ Party to Lease of Independence Regional Health Center and Overland Park Regional Medical Center from Triad Entities.

⁴ Seller will transfer to Buyer all issued and outstanding capital stock of Medical Center Imaging, Inc. rather than its assets.

⁵ Seller will transfer to Buyer all issued and outstanding capital stock of Lee's Summit Imaging, Inc. rather than its assets.

⁶ Party to Lease of Independence Regional Health Center and Overland Park Regional Medical Center from Triad Entities.

⁷ Holds a membership interest with Baptist Lutheran Medical Center and other unrelated parties in Hospital Linen Services, Inc., a nonprofit hospital laundry service.

⁸ Holds a management contract to manage Cass Medical Center in Cass County, Missouri. Also holds a 50% membership interest in Grand River Health System Corporation which leases Hedrick Medical Center from the City of Chillicothe, Missouri; an unrelated third party, North Kansas City Hospital, holds the other 50% membership interest in Grand River Health System Corporation. Leases Allen County Hospital from the Board of County Commissioners of Allen County, Kansas. Leases Lafayette Regional Health Center from the City of Lexington, Missouri.