necessary, respondent shall provide the NRH Assets with sufficient working capital to maintain the current rate of operation of the NRH Assets, and to carry out any capital improvement plans which have been approved.

m. HEALTHSOUTH shall continue to

provide the same support services to the NRH Assets, which are not provided by that hospital's employees, as are being provided by ReLife to the hospital as of the date this Agreement is signed. HEALTHSOUTH may charge the NRH Assets the same fees, if any, charged by ReLife for such support services as of the date of this Agreement. HEALTHSOUTH personnel providing such support services must retain and maintain all material confidential information of the NRH Assets on a confidential basis, and, except as is permitted by this Agreement, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of respondent's businesses, including without limitation businesses in the Nashville metropolitan area. Such personnel shall also execute a confidentiality agreement prohibiting the disclosure of any material confidential information of the NRH Assets

n. HEALTHSOUTH shall cause the NRH Assets to continue to expend funds for marketing and advertising at a level not lower than that expended in fiscal year 1994 or budgeted in fiscal year 1995, and shall increase such spending as deemed reasonably necessary by the Management Committee in light of competitive conditions.

4. Should the Federal Trade Commission seek in any proceeding to compel respondent to divest any of the NRH Assets as provided in the Consent Order, or to seek any other injunctive or equitable relief for any failure to comply with the Consent Order or this Agreement, or in any way relating to the Acquisition, respondent shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Respondent also waives all rights to contest the validity of this Agreement.

5. To the extent that this Agreement requires respondent to take, or prohibits respondent from taking, certain actions that otherwise may be required or prohibited by contract, respondent shall abide by the terms of this Agreement or the Consent Order and shall not assert as a defense such contract requirements in a civil penalty action brought by the

Commission to enforce the terms of this Agreement or Consent Order.

6. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to respondent made to its principal office, respondent shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of respondent and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession, or under the control of respondent, relating to compliance with this Agreement;

b. Upon five (5) days' notice to respondent, and without restraint or interference from respondent, to interview officers or employees of respondent, who may have counsel present, regarding any such matters.

7. This Agreement shall not be binding until approved by the Commission.

## Analysis of Proposed Consent Order to Aid Public Comment HEALTHSOUTH Rehabilitation Corp., File No. 951–0007

The Federal Trade Commission has accepted, subject to final approval, a proposed consent order from HEALTHSOUTH Rehabilitation Corporation ("HEALTHSOUTH"). The agreement would settle charges by the Federal Trade Commission that HEALTHSOUTH's proposed merger with ReLife Inc. ("ReLife") would violate Section 5 of the Federal Trade Commission Act, and Section 7 of the Clayton Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or issue and serve the agreement's proposed order.

HEALTHSOUTH owns and operates rehabilitation hospital service facilities nationwide, including facilities in the Birmingham, Alabama, Charleston, South Carolina, and Nashville, Tennessee metropolitan areas. ReLife operates rehabilitation hospital facilities in these same areas, among others. The complaint accompanying the proposed consent order discusses the proposed acquisition's impact upon competition for rehabilitation hospital services in the Birmingham, Charleston, and Nashville

areas. According to the complaint, HEALTHSOUTH operates (*i.e.*, owns, leases, or manages):

- —a rehabilitation unit within Medical Center East, a general acute care hospital in Birmingham, Alabama;
- Trident Neurosciences Center, a rehabilitation hospital in Charleston, South Carolina; and
- Vanderbilt Stallworth Rehabilitation Hospital, a rehabilitation hospital in Nashville, Tennessee.
   ReLife operates:
- Lakeshore Hospital, a rehabilitation hospital in Birmingham, Alabama, as well as rehabilitation hospital units within Bessemer Carraway Medical Center, Brookwood Medical Center, and Carraway Methodist Medical Center, all general acute care hospitals in Birmingham, Alabama or adjacent communities in Jefferson County, Alabama;
- a rehabilitation hospital unit within Roper Hospital, a general acute care hospital in Charleston, South Carolina; and
- —Nashville Rehabilitation Hospital in Nashville, Tennessee, a general acute care hospital in Nashville, Tennessee which contains a rehabilitation hospital unit, as well as rehabilitation unit within Sumner Memorial Hospital, a general acute care hospital in Gallatin, Tennessee northeast of Nashville.

The consent order, if issued in final form by the Commission, would settle charges that the acquisition may substantially lessen competition for rehabilitation hospital services in the Birmingham, Charleston, and Nashville areas. The complaint alleges that HEALTHSOUTH and ReLife are competitors in those market areas, where, according to the complaint, concentration is already high, and entry by new competitors would be difficult. The complaint alleges that the Commission has reason to believe that the acquisition would have anticompetitive effects in the Birmingham, Charleston, and Nashville rehabilitation hospital services markets, in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act, unless an effective remedy eliminates such anticompetitive

The order accepted for public comment contains provisions requiring the divestiture by HEALTHSOUTH of Nashville Rehabilitation hospital and related assets in Nashville, Tennessee. The order also requires the termination by HEALTHSOUTH of management contracts pertaining to the rehabilitation hospital facilities at Roper Hospital in