Policy Research Shop

Methods of Privatization

Privatization in State Parks, Hospitals, and Prisons

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1. PRIVATIZATION OF PARK SYSTEMS

1.1 GENERAL HISTORY OF STATE PARK SYSTEMS

1.1.1 Historical Overview of State Park Systems

Most states began to develop a basic system of parks in the early 1920s. In the 1930s states grew these park systems into decidedly more substantial entities, largely through federal monies distributed as a part of the Roosevelt administration's Civilian Conservation Corps (CCC) program. While the 1930s saw a vast increase in the number of state parks as well as the breadth of recreational services offered by the budding parks and recreation agencies, several state legislatures did not feel that such agencies were a legitimate function of state government. Maryland, Ohio, and South Dakota did not create a state park system until the 1940s; Arizona and Colorado waited until the 1950s to establish state parks, and North Dakota and Wyoming did not develop their state park systems until the 1960s. Many legislatures insisted that the operating expenses of state parks ought to be met, as far as possible, from user fees and concessions. From the outset of widespread state park systems in the 1930s, state parks were able to generate, on average, 40 percent of operating expenses.[1] The earliest self-funding mandates, then, were largely a result of political ideology – namely, the question as to whether a state government could legitimately provide and fund park and recreation services through taxes.

State park systems have continued to self-generate approximately 40 percent of operating expenses through user fees and concessions. However, United States Census Bureau data shows that, in real dollar terms, while the aggregate budgets of states increased by 47 percent in the 1990s, expenditures on parks and recreation agencies only increased by 26 percent on average. Over this same period, full-time personnel decreased by four percent, and part-time personnel decreased by 32 percent.[2] This decline in personnel mirrors an increase in deferred maintenance projects. That is to say, park systems are increasingly being tasked with doing "more for less" and with less people. Many states have implemented various policies to privatize parks or park management as a means of cutting costs and increasing quality.

1.1.2 Introduction to New Hampshire State Park System

While New Hampshire's state park system dates back to 1891 (when a parcel of land on Pack Monadnock Mountain in Peterborough, now known as Miller State Park, was given to the state), the state began making substantial investments in state parks in the 1930s. Funding from the Roosevelt administration's Federal and State Work Relief programs allowed for the development of entrance roads, parking areas, bathhouses, water and sewage systems, picnic areas, hiking trails, campgrounds, and service buildings at Milan Hill, Hampton Beach, and Monadnock State Park. In 1937, the New Hampshire State

Legislature approved funding for the state park system, and also implemented user and entrance fees for park facilities.

In 1991, the New Hampshire State Legislature mandated that the state park system fund all operational expenses from revenues collected within the system. Any revenue generated within the state park system feed into a non-lapsing dedicated fund, known as the State Park Fund. The New Hampshire State Park System implemented a number of other privatization initiatives in the 1990s: the Mount Sunapee Ski Area was leased to a private entity, and the Umbagog Campground was acquired on the condition that the Umbagog National Wildlife Refuge would manage the campsites.[3]

1.2 PARK MANAGEMENT MODELS

Unlike the National Park System, each state operates its state park system differently. Each state park system has its own mission statement to which policies must adhere, and the citizens of the various states understand the function of a state park system differently. That is to say, no two state park systems are the same. However, the question as to whether state parks and/or state park systems ought to be privatized extends nationally. Just as no two state park systems are the same, neither are various privatization initiatives "one-size-fits-all" solutions. Privatization exists on a spectrum: fully public on the one side and fully private on the other. Within the existing literature discussing frameworks of park management, there are five broad models that can be abstracted – each with its own benefits and drawbacks. A park system's management model must be consistent with both the mission statement of that park system and the political culture of the state. Thomas More describes these broad management models in his articles, "From Public to Private: Five Concepts of Park Management and Their Consequences." [4]

1.2.1 Fully Public Model

At one end of the public-private spectrum of park management regimes is the fully public model. Ideologically this model is predicated on the political belief that it is a legitimate function of a state government to provide park and recreation services – funded fully through tax revenues. Under this model, agency personnel are responsible for all decision-making and policy initiatives, often acting as trustees of the public good. Public oversight is often substantial and transparency is a legal requirement. The chief benefit of a fully public model of state park management is that all parks and recreation services are available and accessible to all members of the public, with no (or sometimes minimal) direct cost to the individual. The principal drawbacks of the fully-public model are that non-users of state park or recreation facilities are required to pay for these services

nonetheless, and that agency bureaucrats lack incentives to control costs or respond to the public's shifting demand of park and recreation services.

1.2.2 Operate Parks like a Public Utility

The next model of state park management is closest to that employed by the New Hampshire State Park System: state parks operate as public utilities, similar to systems of provision for water, gas, or electricity. Under this system, users pay some, or – in the case of New Hampshire - all of the costs necessary for the park system to operate and grow. The chief benefit of a public utility model is that funding is not contingent upon tax revenues, making the state park system more like a business than a government agency. As New Hampshire's experience confirms, user fees under a public utility management regime can be distributed across time and place; parks that have higher attendance can effectively subsidize those parks that draw fewer visitors. Some have also argued that fees increase efficiency by making managers more responsive to park users and their needs, while making the agencies more fiscally accountable.

But the question remains as to whether it is good or within the state park system's mandate for the park manager to respond directly to the changing public demand (especially when the stated goal of the state park system is preservation rather than development). Similarly, user fees are regressive, and might discourage individuals with less disposable income from utilizing this particular "public utility."

1.2.3 Outsourcing

One of the macro forces underlying the privatization of state parks is the differentiation between the need for a service and its production. There is a growing recognition within state park agencies that, while the department can still be active in managing park and recreation services as well as in identifying ways to improve or expand those services, the department need not *directly* implement these new services or operations. To this end, outsourcing offers another alternative model of park management. Under such a model, the public sector provides the funding (and land), but private firms compete for various service contracts, including state park operations, maintenance, development, and concessions.

The major advantages of the outsourcing model of state park management are that competition between private firms bidding for contracts helps keep costs low, and that the regular contract review timeframes allow for flexibility of both personnel and service provision. The chief drawback of outsourcing park and recreation services to private enterprises is that those private contractors must make a profit in addition to paying labor salaries and benefits. Private contractors often recoup costs through the provision of some good or service for which they can charge consumers. These goods and services, however, might not fall within the mandate of the state park system's mission statement.

Since profit is not a requirement in the public system, contractors might actually *raise* the cost of service provision. As More concludes, "outsourcing can provide agencies short-term benefits, but its long-term financial consequences are uncertain."

The following are several case studies from park systems that have implemented outsourcing (also called "competitive sourcing") models of park management:

Alaska State Parks: Beginning in the 1990s, Alaska State Parks began contracting out the operation of several campgrounds. Currently, the department contracts out seven small and isolated parks to private businesses. Because of their isolation, the parks were costly (relative to revenues) for the department to maintain under state control. Alaska State Parks mitigates potential drawbacks of the outsourcing model by keeping contract lengths short (from one to five years), and detailing maintenance standards within the contracts. In return for meeting maintenance standards, the private contractors keep the camping fees and enjoy other benefits, such as having their commercial use permit fee waived.[5]

British Columbia: In 1988, British Columbia Parks began using private-sector contractors to operate its parks. By 1992, after weighing the costs against the benefits of implementing an outsourcing model, the department determined that it would be able to cut costs while maintaining or improving the quality of parks by contracting out 100 percent of park maintenance, operations, and concessions.[6]

Alberta: The Alaska State Parks and British Columbia Parks examples demonstrate how outsourcing can be used to effectively contract out the operation and maintenance of *existing* parks and recreation services. In the mid-1990s, however, Alberta decided to *expand* its park system using a competitive sourcing management model. Despite seeing its budget reduced by almost $20 million over the course of the decade, the park system added an additional 34 undeveloped sites to the network. The department enlisted private operators in those program areas in which they specialized (e.g. maintenance, concessions, development, etc), helping to free up department resources from routine operational and maintenance duties, and allowing them to focus more on planning and managing protected landscapes and resources inventory, delivering heritage appreciation and environmental education, managing contracts and partnerships, and coordinating volunteer efforts.[7]

The Alberta parks example demonstrates that outsourcing has the potential for twofold efficiency gains: under such a model services are provided by private enterprises specializing in a particular service, and park agency personnel can specialize on what they do best - namely the high-level management of the park system and the ecological, cultural, and recreational integrity of the parks that the system comprises.

1.2.4 Private Ownership of Parks and Recreation Services by Not-For-Profits Organizations

Moving more solidly into the private side of the public-private spectrum of park management is the model whereby state park systems sell properties to not-for-profit organizations such as The Nature Conservancy, the National Audubon Society, of other state or local groups. This model relies on like-minded private individuals operating under an existing institution to organize and purchase natural areas that will serve the public good. The major benefit of such a management model is that park budgets are not at the mercy of tax or self-generated revenues. The most dedicated conservationists and preservationists elect to fund the park and recreation services. The Nature Conservancy has been most active in private preservation of natural areas: the not-for-profit has nearly 1 million members and protects nearly 100 million acres of land.

There are also successful public-private partnerships in which the comparatively more flexible not-for-profits purchased land as it came on the market and assumed management of it until the government obtained necessary appropriations and authorization for acquisition. The extent of this option is unclear, however.

In both variations of private ownership of parks and recreation services by not-for-profit organizations, the state yields ownership and control of public parks and protected areas to a private group. The question remains as to whether such a park is truly a "state park" after a private entity assumed control of it. Similarly, a private not-for-profit organization such as The Nature Conservancy might differ from a state park system with respect to the agency's mission statement.

1.2.5 Fully Private Model

At the far end of the public-private spectrum of state park management is the fully private model. Under this model, individual firms purchase and operate natural areas on a for-profit basis. The principal advantages of this model are its efficiency and lack of tax burden. The state yields all control and oversight to private entities, so the bureaucracy needed to administer the park system is eliminated. However, since private markets are efficient, only those parks capable of producing a profit would remain in operation. As More notes, there are some natural areas that would be able to generate a profit; they tend to be "small, intriguing or spectacular places" where access can be easily controlled (and where those who are unable or unwilling to pay can be easily excluded) and admission charged can be easily collected. A fully private park management model provides all the advantages of market efficiency with no cost to the taxpayer. However, private enterprises might operate according to a different mission statement than did the state park system that they are effectively replacing. Private park owners are likely to focus on

only those areas capable of making a profit, and have no obligation (or, necessarily, the incentive) to promote factors like ecological and/or cultural integrity and public access.

1.3 CASE STUDIES: SYSTEM-WIDE "CREATIVE SOLUTIONS"

The five state park management models detailed in Section II are abstracted frameworks that are helpful in understanding the broad stages along the public-private spectrum of state park management. However, these five models do not take into account the idiosyncrasies inherent in each state park system. Throughout the country, individual state park systems have implemented specific policies – "creative solutions" – that adhere to the mission statement of the department and fit within the broader political culture of the state. Several of these "creative solutions" are detailed below.

1.3.1 Sponsorship: Maryland, Washington

One of the more controversial solutions to funding shortfalls for state park systems is sponsorship contracts. There are varying degrees of sponsorship, and each contract is highly specific, but the debate as to whether or not a park system ought to generate revenue through sponsorship is one over commercialization. To some park professionals, commercial exploitation cheapens the park experience or acts against the system's mission statement. To others, however, such commercial activity is a creative source of funding that can help *improve* state parks through maintenance projects or expanded recreation services.

Several state park systems began signing sponsorship agreements in the 1990s, when the economic recession forced many state governments to seek partners with other levels of public service, and, eventually, with private commercial or corporate concerns. Park agencies sought corporate sponsors for small, one-off events or services that would otherwise have gone unfunded. Businesses, both local and national, recognized the opportunity to step in as sponsors, gaining a new outlet for advertising their products and services. State park agencies in Maryland and Washington were some of the first to partner with corporate sponsors.[8]

Maryland State Parks: Faced with no funding for its statewide brochure detailing the state's parks and recreation services in the early 1990s, Maryland state park officials sought a corporate partner. Gore Industires, the manufacturer of Goretex, was eager to fund the entire cost of the brochure, recognizing that the company could benefit by advertising its product to park visitors. For its contribution, Gore was presented with a quarter-panel of the brochure upon which it placed a description of how a person might best prepare for a hiking or camping trip, featuring the type of equipment and clothing to bring along.[9]

Washington State Parks: New Hampshire was the first state to sign an exclusive beverage sponsorship agreement within its state parks. The state of Washington, however, is the most recent example of beverage and concessions sponsoring, having awarded a contract which gives exclusive vending rights in return for a cash payment of $60,000 and other benefits estimated at $2.1 million over the five-year life of the agreement.[10]

Benefits of Sponsorship: A principal benefit of the sponsorship funding strategy is its flexibility. Each state can seek out corporate sponsors that fit the particular needs of its state park system at a particular time. Regular contract reviews can help ensure that the partnership continues to address the needs of both parties. Across the nation's various state park systems corporations have supplied computers, printed materials, provided free vehicles leasing or outright donations of cars, given free labor, and provided uniform clothing to park agents. In each case, the park agency has offered relatively little in return other than some recognition and logo placement.

Potential Dangers of Sponsorship: The chief drawback of sponsorship is that it effectively constitutes a de facto transference of partial park ownership to corporate partners. This threat increases with the portion of state park revenue that is generated through corporate sponsorships. There is no quantifiable threshold of how much sponsorship is too much sponsorship, but when day-to-day operations become significantly dependent on corporate sponsors the threat intensifies.

1.3.2 Citizen Groups: Missouri Parks Association (MPA)

The state of Missouri began acquiring parks in the early 1920s, funded by a legislative diversion of 25 percent of hunting and fishing license fees. This diversion of license fees away from the fish and game department and into the fledgling state park system was politically tenuous, as Missouri citizens protested that the state government could not legitimately reallocate such tax revenues. The state parks came under the purview of a state park board in 1936, subsisting on meager public funding. The park system continued to expand over the decade despite its lack of funding through the generosity of private citizens and institution, who contributed more than 60 percent of park units and acreage over the years. Missouri's state park system continued to operate and grow through a combination of dedicated state taxes, federal funding, and donations from private individuals.

In 1982, federal funding for Missouri state parks dried up, and a recession and inflation forced the state to rescind much of the funding that it had previously budgeted for the parks in order to meet other pressing financial obligations. Throughout the early 1980s, the state park system's budget was only half of what it had been in the late 1970s.[11]

In the context of this severe funding shortage, a group of private citizens – the Missouri Parks Association (MPA) – was founded, and dedicated itself to the "protection, enhancement, and interpretation of Missouri state parks and historic sites."[12] Leaders of the MPA saw the group's challenges as twofold: to educate Missouri citizens and public officials about the nature and mission of the park system and to establish a consistent base of financial support.

While most state park systems – including New Hampshire's – have "friends of state parks" associations, those are limited in scope to specific or regional parks. The Missouri Parks Association is the first organization comprising private citizens dedicated to maintaining the state park *system*. The MPA has been successful in lobbying for a dedicated tax for the state park system, has contributed to the management of parks through yearly membership dues, and has challenged inappropriate uses of park funding. Broadly speaking, the MPA serves as both a fundraising leader and fiscal watchdog of the Missouri state park system. It also ensures a base of dedicated citizens willing to coordinate and participate in volunteer efforts to help maintain and expand Missouri's state parks.

1.3.3 Service Learning Partnerships: Florida, Indiana, Delaware

In times of stretched park budgets, park management plans and the funds set aside to address resource and maintenance concerns can be redirected or eliminated altogether. Establishing long-term management objectives is difficult in such a context, as park systems are increasingly left with static or reduced personnel to implement any management plans.

Several state park systems – including those of Florida, Indiana, and Delaware - have leveraged university students to mitigate perennial personnel reductions by forming service learning partnerships with colleges and universities across the state. Given the range of interdisciplinary resource management issues to be addressed in state parks, there are a number of opportunities for experiential learning partnerships for college or graduate students interested in field work, natural resource management, state governance, business, marketing, biology, geology, etc. Over the past decade, service learning partnerships have been established in Florida with Seminole Community College, in Indiana with Indiana University and Purdue University-Columbus, and Delaware State University. [13]

Summer residency programs represent a variation of the service learning partnership that is gaining traction in Florida, Indiana, and Delaware – the programs are twofold, with a "hands-on" component of field research and service, as well as a curriculum of business, economics, public relations, ecology, and other interdisciplinary studies related to park

system management.[14] Both service learning partnerships and summer residency programs offer park systems a reliable source of qualified personnel around which the agency can set long-term management goals, and provide students with on-the-job training as either an internship or as a supplement to course-work in the classroom.

1.4 Conclusion

Each state's park system is highly idiosyncratic – having its own mission statement, management models, and consumer demand. Any policy aimed at privatizing New Hampshire's state park system, then, must be tailored for the needs of New Hampshire park and recreation consumers and fit within the context of the state's political culture. The stated mission of New Hampshire's Division of Parks and Recreation is: "to provide New Hampshire's citizens and guests with outstanding recreational, educational, and inspirational experiences through the responsible management and cooperative stewardship of the state's natural, recreational, and cultural resources."

While a system-wide shift from one of the broad management models discussed in this report involves a serious policy decision, several of the more micro "creative solutions" that other states have implemented within their park system might prove to be successful in New Hampshire. A statewide "friends of the park system" association modeled after Missouri's Park Association could work in tandem with the existing "friends" of individual parks to ensure that private citizens are networked, educated, and engaged in the stewardship of their local parks as well as parks across the state. Similarly, service learning partnerships could be fostered with colleges and universities across New Hampshire, modeled after the Florida, Delaware, and Indiana. The careful implementation of several small "creative solutions" within New Hampshire's state park system has the potential to engage the citizenry as well as the state's future leaders in ensuring that the state's parks continue to live up to their intended purpose.

2. PRISIONS PRIVATIZATION

2.1 Prison Summary

The Privatization of prisons in the United States has been the subject of heated controversy for considerable time. The history of private prisons can be traced back to Medieval Europe and has changed considerably throughout history, alternating from attempts to expand or curtail its use. Recent trends in the increased lengthening of prison sentences and an increased amount of recidivism has led to a dramatic expansion in the number of inmates in the US prison system. This increase in prison populations,

combined with a reduction in State and Federal budgets has led to increased interest in the potential benefits of privatizing prisons.

- Prison Privatization commonly occurs in three ways: prison construction, provision of prison services, and general operations of prisons.
- Though contested, evidence suggests the Privatization of Prisons is estimated to lead to a cost savings of 5% to 20%.
- Evidence shows that the presence of private prisons has encouraged public facilities to adopt similar cost-saving strategies in staff deployment and procurement policies.
- A series of complex and unresolved legal issues around the 5th, 6th, 8th, and 14th as well as limitations on sovereign immunity could make the operation of private prisons more difficult in the near future.
- While there have been some well publicized scandals surrounding private prisons, studies have shown that privately operated prisons function as well as publicly operated prisons.
- The vast majority problems related to the management of privatized prisons can usually be linked to poorly drafted contracts, lack of oversight by contracting agencies, and transferring inmates with classification level requirements to private prisons that do not have the resources and capabilities to handle these inmates.

2.2 The History of Private Prisions

2.2.1 The Origins of Private Prisons

The privatization of prisons is not a new issue. The first prisons in the United States were privately operated. These prisons were operated by European companies that had operated throughout Medieval England for centuries[15]. Typically these companies paid for the right to transport prisons to the new world and then sell them off as indentured servants. Transporting convicts to America was an innovation that radically transformed the administration of criminal justice. This innovation expanded the power of the state to impose sanctions without the need to increase its administrative structure[16].
During the 18th century, the modern prison emerged in America as a viable alternative to servitude or the death penalty. Also during this time, the use of privately operated facilities became popular. In the colonies, criminal justice procedures were copied from English custom. For a fixed fee states allowed private contractors to supervise prisoners inside prison walls.[17] Although appointed by the government, a head jailer was considered an independent operator of a profit-making enterprise functioning as a government contractor. Often, jailers employed prisoners[18]. In privately operated facilities, inmates were often engaged as laborers and craftsmen in private-sector activities, such as manufacturing.

By the of the 19th century Prisoner became a major source of public labor with 13 states having contracts with private prisons to provide labor for public works. However this practice was soon to take a change[19]. A damning report of prisoner abuses out of San Quentin and an influx of criticism from a collation of organized labor groups and farmers began to attack the idea of prisoner labor in order to reduce what as perceived as unfair competition. This led to the gradual reduction of the privatization of prisons in the United States. Around the 20th century it prisons became seen almost entirely as a governmental service, and shifted from a profit making enterprise to a governmental expense and were phased out through the 1920s[20].

Private prisons began to see a reemergence in the 1980s. Due to an increase in the number of prisoners associated with increased recidivism rates and the increased lengths of average prison sentences, the cost of maintaining prisons became an increased burden on governments. The U.S. Immigration and Naturalization Service (INS) was among the first governmental agencies to take advantage of the emerging market of private prison operators[21]. At the end of 1984, INS had contracts with two private companies for the detention of illegal aliens; by the end of 1988, then number of private INS detention facilities had grown to seven, housing roughly 800 of the 2,700 aliens in INS custody[22]. This untimely led to expansion of private prisons in the modern day.

2.2.2 Private Prisons Today

Information from the most recent Census of State and Federal Correctional Facilities reveals that there are 126,249 prisoners placed in private facilities. This accounts for 7.8% of all prisoners. Private groups also operate a total of 7.7% of all prison facilities[23]. Private prisons appear to be growing at a quick rate. Over the last 10 years all additional federal facilities have been privately run.

The market for Private Prisons is highly consolidated. 75% of all private prisons are run by two companies the Corrections Corporation of America (50%) and Wackenhut Corrections Corporation (25%)[24]. The rest of the market is made up of about total of 10 suppliers. It is believed that in the future the number of companies operating privatized prisons is likely to decrease as competition and the costs of doing business increase, thus forcing a consolidation of firms within the industry.

2.3 METHODS OF PRISON PRIVATIZATION

Prisons in the United States are generally privatized in one of three ways.

2.3.1 The construction of prisons

Under this model prisons are constructed by a private company in exchange for a set fee. The private company is able to construct a prison without being constrained by many of the regulations that governments must follow.

2.3.2 The provision of services to the prison

The provision of services to prisoners typically involves the provision of goods and services to publicly operated prisons by private companies. This usually either means sending supplies such as food and clothing to prisons or running educational and substance abuse programs. Evidence suggests private companies can supply these program at a reduced cost and that the allowing the companies to offer these services causes publicly operated prisons to adopt similar programs and reduce their costs as well.

2.3.3 The overall management of prisons

The most extreme method of prison privatization involves turning over the general management of prisons to a private group. In this model all staffing is performed by the private group and day to day management responsibilities are no longer assumed by the government.

2.4 Proposed Benefits of in Private Prisons

Proponents of the privatization of prisons have pointed out several benefits for privatization. These frequently include cost savings, decreased construction times, an increased range of financing options.

2.4.1 Cost Savings

The largest proposed benefit for the privatization of prisons is that they produce a reduction to total cost associated with running a prison. This point has been highly contested by many different groups and has led to heated debate. The below table contains a list of the cost savings found 25 major studies. The range of savings varies significantly from 0-63%. Many of these studies have not been conclusive in determination of the cost savings. There are several factors which may either inflate or

reduce the amount of cost savings found in these studies. Most rigorous finical studies have determined the amount of cost savings to be between 5-20%[25].

The source of cost savings for is predominantly from two categories. These are reduction in labor costs as well as more efficient supply chain methods. Reduced labor costs are by far the large cost savings method used by private companies. Prisons are extremely labor intensive, with approximately 65 to 70 percent of the costs of operating a prison going to staff salaries, fringe benefits, and overtime. Controlling these costs is more difficult to achieve with unionized government workers. Private firms typically use nonunion labor, allowing for the lowest benefit packages. Overall, private firms claim that they can save 10 to 20 percent in prison operations due largely to efficient handling of labor costs. They also hire significantly fewer staff members to run the prisons. This allows private prisons to be run a significantly reduced cost. The evidence behind the increased efficiency in supply chains is less clear.

Comparative Studies of Private Facility Operational Cost Savings	
Study	**Estimated Savings**
Hamilton County, Tennessee, 1989	5%
Urban Institute: KY and MA, 1989	0%
Sellers Study, 1989	63%
Texas Sunset Advisory, 1991	14%
Florida Corrections Commission, 1993	8-10%
California Community Corrections, 1993	0%
Australia, 1993	23%
Australia, 1994	11-28%
Kentucky DOC, 1994	9%
NIC: Florida, 1995	0%
Texas, 1995	21%
Tennessee Fiscal Review Committee, 1995	0%
Tennessee and Louisiana, 1996	0 to 2%
Louisiana, 1996	14% to 16%
Wisconsin Task Force, 1996	11-14%
UK, 1996	13-22%
UK, 1996	11-17%
Kentucky, 1996-97	12%
Washington (TN. and LA.), 1996	0-2%
Kentucky DOC, 1996-1997	12%

Arizona DOC, 1997	17%
University of Cincinnati, 1999 (per inmate/day)	$0 to $2.45
Delaware County Pennsylvania, 1999	14-16%
Florida OPPAGA, 2000	3.5-10.6%
Arizona DOC, 2000[26]	12.23%

2.4.2 Improved Construction Time

The largest benefits from Privatization appear to be found in the construction of prisons. Most studies suggest that Private prisons can be constructed in about half the time and half the cost of publicly constructed prisons. For example, CCA built a 350-bed detention center in Houston, Texas, for INS. CCA completed the project in 5 1/2 months at a cost of $14,000 per bed. INS calculated construction to take 2 1/2 years at a cost of $26,000 per bed. In a comprehensive study of privatizing the District of Columbia's Department of Corrections, estimated that rebuilding several prison facilities would take the public sector 5 to 6 years, whereas it would only take the private sector 3 to 4 years[27].

2.5 Arguments Against Prison Privatization

2.5.1 Cost increases

Some groups have argued that Private Prisons actually led to an increase in costs. The claims are predominantly backed up by a allegations of a practice called "skimming the cream" in which prisons purposely only take the cheapest inmates avoiding more expensive inmates which medical issues or are a security risk. Anecdotal evidence seems to indicate that private prisons avoid more expensive prisoners[28].

Another cost associated with the privatization of prisons is the monitoring cost spent by governments to determine if the private company is completing its contract. The cost of monitoring and creating a proper private prison contract can be expensive. These costs are also rarely calculated into the equation when determining the amount of money saved by the privatization of prisons.

2.5.2 Legal Complications

As is discussed later in this report there are several complicated and unresolved legal issues surrounding the privatization of prisons. In short these issues surround the use of force by private contractors while subduing inmates and the ability of private contractors to make assign and remove good behavior credits to inmates. It remains unclear what the implications of these issues are for private prisons.

2.5.3 Ethical Concerns & Corruption

Frequently opponents to privatized prisons express concerns about the ethics of privatized prisons. Opponents claim there is a belief that holding prisoners for a profit is fundamentally unethical. This claim has been enhanced by a series of well publicized and shocking scandals surrounding the privately operated prisons. Chief of which is the "Cash for Kids" scandal in which Robert Mericle, builder of two private, for-profit detention facilities gave a series of cash payments to two judges in exchange for their efforts to give large jail sentence to juveniles in order to increase capacity at his jails[29]. Over 7,000 children appear have been incardinated under this scandal. After the scandal many states have begun programs to end speculative prison construction in which prisons are built before being asked for by the government.

2.6 Legal Implications of Private Prisons

Private Prisons have a wide range of legal issues. Despite the presence of private prisons for nearly 30 years, many of these issues remain unresolved. There are two main issues.

1. Do Private Prisons maintain sovereign immunity and protection from many lawsuits by inmates
2. What actions can a private prison take against inmates without violating due process rights found in the 5th, 6th, 8th, and 14th amendment rights

As to the first question, the Supreme Court has ruled that Private Prisons do not have the same protections as state and federal prisons. The question is where private prisons were operating under the "Color of the State" when operating prisons. In the case of Richardson v. McKnight[30], the Supreme Court ruled that because the private prison was being operated to generate a profit and not perform a public function they did not have the same legal protections associated with public prisons. This implication could lead to significant increases in litigation against private facilities that could increase costs.

The second question of actions taken against inmates by private prisons remains unresolved. Inmates held within private and public prisons maintain the same constitutional rights, but the ability of private and public facilities to regulate prisoners are quite different. Since inmates are guaranteed the right to due process whenever any type of punishment is applied against them, the use of force (including deadly force) has been called into question. A more practical concern is related to the issue of good behavior time. Prisoners are typically rewarded with good behavior that leads to a reduction in the length of a sentence. Good behavior time can be rewarded or taken away by a variety of public prison officials, but is overseen by an oversight board. How these processes are run by private prisoners has been called into question. Since many private

prisons are paid for each inmate the hold, a conflict of interest exists in determining the length of prison sentences. Given issues surrounding the "Cash for Kids" scandal allowing private employees to recommend longer sentences for inmates has drawn criticism. Currently several lower courts have issued conflicting ruling on these issues and they remain unresolved[31]. It is important to note that many of these legal issues are seen predominantly with maximum security inmates, while private prisons are predominately associated with minimum security prisons.

2.7 Conclusion

Private Prisons in the United States have a long and complicated history. Private prisons still make up a relatively small portion of the total prison market. They seem to be able to produce a modest cost savings of around 5-20%. However it appears that a combination of legal concerns and ethical issues will continue to minimize the extent to which private prisons are able to expand. It is likely that private prisons will never be able make inroads into maximum security prisons. Despite these criticisms, privatization still provides a key role within the correctional system. Although the private sector has been unable to keep its promise of greatly improving prison operations, its mere presence has had a significant impact on traditional prison operations and led to the reexamination of the practices found in many public prisions.

3. PRIVATIZING HEALTH CARE PROVISION

3.1 Background

As with any major reform of a vital process or institution, privatizing aspects of New Hampshire's public health provision systems brings with it many potential costs as well as prospective benefits. Public hospital privatization has been the trend across the United States for decades, but many other states have struggled with adopting and implementing a successful health privatization strategy. In some cases, selling public hospitals or contracting out services has brought progress, more charitable distribution of goods and services, and efficiency and cost-savings. On occasion, privatizing hospitals has been a failure. An examination of the possible pitfalls or advantages to privatization, historically within the health care provision industry and among specific case studies, as well as an analysis of the effects of public versus private ownership on hospital care quality, costs, and efficiency is warranted.

3.2 New Hampshire Health Care

According to multiple studies, New Hampshire health care provision is quite good. The New Hampshire Health Care Quality Assurance Commission's latest annual report shows

New Hampshire comparing favorably to the rest of the United States in terms of quality of care and minimization of adverse events[32]. Additionally, the New Hampshire Center for Public Policy Studies' recent New Hampshire Healthcare Dashboard report also identifies the quality of care in the Granite State to be among the best in the nation, however the report cites cost and access as two lagging measurements[33]. Over the past year, the quality of New Hampshire's mental health care has been called into question. Advocates for the mentally ill are suing the state and a federal Justice Department investigation into New Hampshire Hospital and its nursing home piece, Glencliff Home, found the state failing patients, in a condition of crisis[34], and in violation of the Americans with Disabilities Act[35]. Clearly, there is room for improvement in the state's health care provision in terms of many metrics, including quality, cost, efficiency, and accessibility. Privatization may be able to ameliorate some of the problems with public provision and perhaps improve on current strengths.

3.3 Health Care Privatization Literature

The literature on the debate between public and private ownership is substantial, informed by tremendous amounts of economic theory. The same general principles on the tensions between public and private ownership extend into the health care provision sphere, with the major caveat that the private realm is subdivided into for-profit and non-profit health care providers that can be significantly different from one another. The National Bureau of Economic Research (NBER), itself a private, non-profit entity, has extensively examined the three categories of ownership that define health care provision's mixed market on both a theoretical and empirical level (while an empirical analysis will come later in the report, understanding the foundations of privatization theory is helpful).

The theoretical obstacles to effective public provision of care are primarily centered around issues of efficiency, cost, and innovation, while the core benefits of state provision are greater command over the health care system and a more focused directive for providing good care over profits. As the NBER elaborates, "Government-controlled firms can take broad social welfare as their goal, and may benefit from centralized control, yet also suffer from several disadvantages. The latter include absence of capital market monitoring; soft budget constraints; expropriation of investments; lack of precise objectives; as well as lobbying, patronage, and politicized resource allocation."[36]

Conversely, economic theory predicts that health care provided by the private sphere will have the advantages of lower costs, greater efficiency, and more technological innovation, but perhaps at the expense of quality. As the NBER explains, "Since private providers (especially for-profits) have well-defined control rights, they have strong incentive to invest in innovations, but may over-emphasize cost control at the expense of

noncontractible quality. By contrast, a government-owned provider lacks clear control rights to implement changes, and this constraint softens incentives for innovations. The property rights model predicts that private owners achieve lower costs, but quality may be higher or lower. Many other theories (e.g., soft budget constraints, politicized resource allocation) also predict that private for-profit providers will generally achieve lower costs for a given service than their government counterparts."[37]

Finally, private non-profit provision of health care is theoretically very different than for-profit provision, as the organization is not obliged to primarily pursue profit. The central tenants of non-profits can vary more widely, as they chose to or are forced by regulation, structure, or mission to strive for certain goals. This lack of focus on profits can mean higher costs but better quality than for-profits. The NBER expounds, "Theories frequently posit that not-for-profit firms have an objective function different from that of profit maximization. Examples include maximizing quality, quantity and/or prestige instead of, or in addition to, maximizing net revenue; helping to fulfill demand for local public goods or meet unmet need in the community or maximizing the well-being of specific important constituencies, such as the medical staff or consumers…Since most models of not-for-profits consider objectives and/or constraints that reduce emphasis on net revenue, most such models predict—or are at least consistent with—lower costs, higher net revenue, and comparable or lower quality, of for-profits compared to not-for-profits."[38]

The most important point drawn from the health care provision literature is that the type of ownership – whether it is public, private for-profit, or private non-profit – does not necessarily determine the differences in quality, cost, or efficiency among hospitals. Public or private may not play a part, and if ownership type is a variable, its effects could be minimal. In the health care market, just like in any complex domain, there are numerous elements and conditions that can have a variety of influences on individual agents or the system as a whole. It will be important to keep in mind throughout the report that whether to privatize or not cannot be definitively answered; that context and confounding variables will most likely always be present, if not more consequential. The NBER concludes, "Yet there is no strong theoretical prediction that ownership dictates differences in performance… Nor does theory suggest that any ownership differences will swamp other factors strongly predicted to shape behavior, such as market concentration or payment incentives. Rather, one of the strongest predictions of economic theory is that providers react to their market environment."[39]

3.4 Current Trends in Health Care Provision

Regardless of the effects of privatizing health care provision, it is undeniably the current tendency of the industry. State and local hospitals have been disappearing for decades, in

1975 there were 1,761 of these public hospitals, almost thirty years later 1,121 remained, a significant 36 percent drop[40]. Public hospitals are far more likely to change ownership type than for-profit or non-profit hospitals, with the most common conversion occurring from public hospitals to non-profit[41]. Among these conversions, the changes were often not very drastic, as the Reason Foundation explains, "The vast majority of these conversions were 'flips', meaning no outside private affiliation or system consolidation is involved. The government simply converts the legal status of the public hospital to nonprofit status so that it can issue revenue bonds and escape 'sunshine laws.' In some cases, the government still retains ownership title to the buildings and land, and leases these to the nonprofit entity it created to operate the hospital."[42]

While public hospitals continue to primarily privatize to non-profit provision, there has been a recent uptick in conversions to for-profit care. Changes in ownership to for-profit provision occurred about 19 percent of the time in a three-year period[43], certainly a minority of conversions but significant in the fact that for-profit care in general remains a small fraction of the industry, with only about 11% of hospitals being for-profit at the time of the study[44] (In 2012, according to the American Hospital Association, for-profit hospitals account for about 20% of community hospitals, with non-profits at about 59% and state and local government hospitals at about 21%)[45].

3.5 Methods of Privatization: Case Studies of Success

Privatization is not simply a binary; there are many ways through which a public hospital can be privatized, with varying degrees of remaining government influence. In some cases, the local government may simply sell the hospital to a for-profit or non-profit institution, maintaining no public control, while in other instances aspects of health care provision can merely be outsourced to private firms. Outlining the most common methods of privatization, explaining their nuances, and providing an example is warranted. It is important to note that the case studies of various forms of successful health care privatization are provided by the Reason Foundation, a private non-profit that is overtly ideological, with the purpose of promoting a libertarian, pro-privatization agenda[46].

3.5.1 Sale

Perhaps the most obvious option, the government can simply sell all of a hospital's assets to a private organization. While generally this implies that a private entity will be providing what was formerly public care, in some instances a state or local government may be seeking to close a hospital in dire financial straits or in an area suffering from overcapacity, and thus may sell the hospital building or land to be repurposed for some other use. Regardless, a sale immediately provides the government with a large amount

of funds, which could be used for other government departments, to retire debt, or to pay for indigent care (with a trust fund, for example)[47]. The government's terms of sale could even include specific provisions for the private entity taking on the hospital to provide a certain amount of uncompensated care or provide some other community benefit, possibly even above that of which the public hospital provided.

The sale of the Conroe Regional Medical Center in Conroe, Texas to Healthtrust is a good example of successful privatization. The government was facing rising costs of indigent care as more patients were unable to pay, in turn causing repeated tax increases. The government sold the hospital for $70 million, paying off $58.6 million in bond debt and reinvesting the remaining $11.4 million profit into the community by establishing a non-profit Community Foundation for citizen's health needs[48]. The private medical center invested $35 million into hospital improvements, and the community received more revenue in property and other taxes from the hospital, as high as $2 million in one year[49]. Access to care was not only unharmed, it was drastically improved – in one year the number of indigents cared for increased by 11.7 percent and indigent outpatient services shot up by 36 percent[50].

Finally, though a sale does generally represent the minimization of governmental control and influence and the maximization of privatization, the local government is still certainly not relinquishing all power. Through regulatory measures or specific terms of sale, the community still has influence. A good example is the use of a "first right of refusal" clause in the sale contract, ensuring that the community can check the private organization if it attempts to resell the hospital to an entity that may not have citizen's best interests at heart.

3.5.2 Public-Private Partnership

In community-wide public-private partnership, the level of government involvement in the provision of care can be substantially minimized. The local government can simply not own or operate any hospitals and instead work with private providers to ensure sufficient indigent access, purchasing the services and bed days it needs. This can help minimize costs to the government while also aiding the private providers and spreading out the burden of uncompensated care.

In Orange County, California the local government buys hospital bed days from 28 private for-profit and non-profit hospitals in the area[51]. The county negotiates contracts with the local hospitals to spend its yearly fixed indigent-care budget. Only seven public employees run this Medical Services for Indigents program, saving Orange County time and money on health care provision. Furthermore, all of the hospitals that want to qualify for receiving the county payments sign a single "Master Medical Services Agreement",

simplifying administration. The agreement allows the county to spend a fixed budget and reimburse providers based on utilization[52].

After a public hospital is closed or privatized, or in an area where there are no government hospitals but indigent care is an issue, partnering with private providers can offer an effective, efficient solution.

3.5.3 Leasing and Outsourcing

Leasing and outsourcing covers a wide range of mixed public and private provision, with the common denominator of the government maintaining ownership over the hospital assets. Public hospitals can outsource a broad assortment of services, from less important functions such as custodial work and food provision up to clinical services. And leasing is, essentially, outsourcing the entirety of the hospital, clinics, equipment, and all, to a management firm.

Leasing a hospital can allow the government to take advantage of the benefits private providers enjoy, primarily less bureaucracy in terms of employment restrictions and various regulations. In Clarksdale, Mississippi, the local government negotiated a long-term lease with Health Management Associates, garnering $30 million upfront, an immediate cash infusion akin to a sale[53]. Additionally, HMA retired $2 million of the hospital's debt, agreed to make $15 million worth of capital improvements over five years, and pays taxes into the general public fund, further boosting public revenues. The local government utilizes the interest from the $30 million principal for a trust-fund for indigent care. In some cases, the government makes indigent care part of the terms of the lease, subsidizing a fixed amount while the private provider covers the rest[54].

Outsourcing public hospital functions can be a complicated proposition, managing contracts with different private organizations providing differing services, or tying together certain services and outsourcing them to individual firms, can overcomplicate a hospital ecosystem and can end up reducing efficiency or effectiveness. Privatizing many pieces of a hospital does not necessarily lead to a cohesive organization that is able to take advantage of the benefits of private enterprise, especially as all of those components have to interface with and be managed under public ownership. But identifying certain services where large cost-savings or quality improvements can be gained by benefitting from the specialization of outside firms can be very successful. For example, Nassau County Medical Center in New York had difficulty attracting and paying for orthopedic surgeons, so it contracted out to the private Musculoskeletal Institute, saving nearly $1 million in salaries and benefits and actually garnering about $1 million yearly in additional billing[55]. Outsourcing can cut costs and improve quality, but generally at a relatively smaller scale than through other privatization methods.

3.5.4 Joint Operating Agreements and Joint Ventures

Joint ventures and joint operating agreements allow a considerable amount of government influence, with voting power on the board of directors of the legal body managing the hospital, while harnessing the expertise and efficiencies of the private sector. A joint operating agreement has the government and its private associates jointly run the hospital, with the government maintaining ownership of the assets. With a joint venture, the public and private partners both transfer their assets to a new organization that manages the venture, with board members proportioned to the value of assets transferred (commonly an even split)[56].

The state of Oklahoma and a private, for-profit health care provider came together for a significant joint venture. The public and private partners each got to appoint five members to the governing committee, and each contributed hospital assets[57]. This privatization provides great benefits to the state. The operation of multiple hospitals in close proximity can be consolidated, improving efficiency. The state receives cash up-front and in the long-run, with the private partner first paying $40 million to Oklahoma's University Hospital Authority, with rent to the state at $9 million annually and with a sizeable portion of the profits going to the state as well. Furthermore, the state is protected from excessive indigent care costs by a cap on its subsidy of $26.5 million, with the private partner having to be at risk to provide indigent care at minimum of 120 percent of the government's cap[58]. The joint venture also improves access, increasing the amount of indigent care. Additionally, the government still wields a large amount of power, with the terms of the venture not just having half of the governing committee be appointed by the government, but giving the public half the ability to unilaterally fire the CEO if the CEO performs below certain metrics. Joint ventures and joint operating agreements, though a somewhat complex mix of private and public enterprise, allow for the government to receive lots of revenue immediately and in the long-run, can drastically boost efficiency and quality from utilizing the strengths of both the public and private sectors, and still provide for plenty of government control.

3.5.5 The Cost of Public Provision and the Benefits of Privatization

Arguments for privatization do not only extol the advantages of the private sphere, they often include heavy criticisms of public health care provision. There is some evidence that public hospitals are less cost efficient, with the state of Illinois' Commission on Government Forecasting and Accountability finding in a comprehensive report on government privatization that nationally the cost of a stay in a government hospital was approximately 24 percent higher than at a private, for-profit hospital, with an average cost of $7,400 compared to $5,972[59]. According to the Reason Foundation, this could be

explained by, “Slow government decision making, cumbersome procurement and personnel regulations, lack of a marketing orientation, multi-layered management, and excessive benefit costs – each constrain public hospitals from competing effectively in the rapidly changing health-care marketplace. Most of these problems are difficult to correct due to union opposition and internal resistance.”[60] Proponents of privatization argue that public hospitals are run less efficiently, with numerous stakeholders with conflicting interesting involved, and that administrators tend to micromanage and can even be more concerned with inputs (the interests of public employees) than providing the best, most efficient care, possibly even leading to fraud or abuse from a tangled, complex bureaucracy. The Reason Foundation also argues that regulation hamstrings public hospitals and severely increases costs, “Health regulations in the United States amount to a net ‘hidden tax’ of some $169 billion annually. These added costs translate into some 22,000 deaths annually, mostly from higher costs that restrict access to care. Excessive health care regulations and unfunded mandates compound the challenges facing public hospitals.”[61] Furthermore, political geographic boundaries like city, county, district, and even state have nothing to do with optimal hospital services in the health care industry, further adding to costs. As Reason elaborates, “It is simply more efficient for local government to obtain services from a regional integrated care network than from a stand-alone public hospital. The network will attempt to treat indigents in primary care (outpatient) centers close to home and then refer patients to the regional hospital only when necessary.”[62] Finally, advocates of privatization claim that public hospitals are much less likely to and are slower in acquiring technological upgrades, greatly damaging the quality and efficiency of public care. Public hospitals can’t access equity markets and face more obstacles in putting up sufficient funds for major technological investments, they can be beholden to stakeholders like public workers who may fight labor-saving measures, and government hospitals may even have incentives against new technology as public provision often relies on the volume of procedures, which technology can reduce with decreases in both duplication and unnecessary testing[63]. The beneficial effects of technological innovation on private care are likely substantial and possibly affect the entire health care industry for the better, trailblazing, exerting pressure on non-profit and even public hospitals to upgrade, and showing other spillover effects.

3.5.6 The Price of Privatization

The private sphere’s competitive affect on health care provision can be both good and bad, in some cases driving innovation, efficiency, and healthy cost cutting, while in other instances causing firms to cut corners that can be vital to a community or to the quality of patient care. In extreme cases, private providers may participate in widespread fraud and abuse to maximize profits by bilking the government, insurers, or patients. The private, for-profit Hospital Corporation of America (the largest private hospital chain in the country) was under federal investigation for years and eventually pled guilty to 14

felonies and paid over $2 billion in fraud settlements for systematically defrauding the government – and a few years later in 2006 Tenet Healthcare Corporation, the second largest for-profit hospital chain in the country, settled for nearly $1 billion for also defrauding the government[64]. These two instances show that private providers may attempt to abuse the system and milk the government, but the quality of and access to care can also be at risk. Private hospitals have been shown to perform unnecessary procedures to boost revenues, including dangerous open-heart bypass surgeries on patients who did not require them[65]. Competition among hospitals can drive prices down to a point where subsidizing indigent patients from the revenues of paying patients becomes impossible, and in a region with multiple hospitals each may attempt to be a free rider, shifting indigent patients to other facilities or even denying them outright and claiming they can simply go to a different hospital[66]. Finally, a focus on revenue and maintaining competitive can harm the goals of community benefit and access, as Schlesinger et al. elaborates, "The growth of a competitive ethos may, in a subtle but pervasive manner, alter the extent to which a healthcare institution assumes a fiduciary responsibility to the community… 'To compete effectively on price, a hospital is well advised to do as little teaching as possible, limit its patient mix to as few Medicaid patients and unsponsored cases as possible, avoid offering services that are regular losers, and ship as many high-intensity, high-risk patients as possible into the referral centers. This is what is happening now in many areas . . . any hospital CEO who doesn't do all he can to fend off as many general assistance patients as he can . . . just isn't being 'businesslike' and will be so judged by his board of trustees' (Kinzer 1984, 8-10)."[67]

3.5.7 Privatizing to Non-Profit Status

While the case studies discussed along with each method of privatization were primarily focused on private for-profit conversions, changing a public hospital to a non-profit one entails many of the same benefits and is accomplished through the same means. Non-profits can in some ways be seen as a happy medium between public and private for-profit status, with the advantages the private sphere affords and priorities less focused on profit or the goals of government stakeholders and more on benefitting the community. But just as non-profits share in the benefits of the private sphere, they also suffer from similar drawbacks – though a non-profit is theoretically less concerned with profits than a for-profit, revenue is still crucial as the institution likely sees its self-preservation as vital. And some evidence suggests there is significant convergence between for-profit and non-profit health care providers[68].

The Kaiser Family Foundation commissioned the Economic and Social Research Institute to conduct an exhaustive analysis of the privatization of public hospitals to non-profit ownership[69]. As with the Reason Foundation, it is important to note the potential biases of the Kaiser Foundation – it was once affiliated with and had an ownership stake in

Kaiser Permanente (a large private, non-profit health care provider), though it no longer does[70]. The comprehensive report looked at many hospital conversions, and focused on five successes with non-profits in particular. Though in each of the five cases privatization was pursued in a different way and to varying extents, as in the Reason report, cost savings were seen essentially across the board. Perhaps more telling to the explicit purpose of non-profit health care provision, however, the research strongly emphasized community benefit over cost efficiency and discussed it in more detail and nuance than the Reason report. Generally, the amount of access, indigent care, and quality was maintained, if not improved[71].

3.6 For-Profit, Non-Profit, and Public Provision: Comparative Analysis

While theory and specific case studies are informative and form the foundation of a thorough analysis, broader studies can help quantify and generalize the costs and benefits of privatization. However, there are numerous studies attempting to measure the differences between public, for-profit, and non-profit provision, and their results are often conflicting. These studies are often from peer-reviewed academic journals, and while they should be less biased than an institution with an agenda, their biases may also be less clear.

A number of older studies found that for-profit hospitals did indeed respond to market conditions – and in a way that is detrimental to accessible health care provision. "Investor-owned facilities are more sensitive to financial incentives than are their nonprofit and public counterparts and are, thus, more likely to restrict access to care directly or indirectly. In particular, proprietary facilities are more likely to locate in areas with high per capita incomes, a limited number of Medicaid patients, and broad insurance coverage. Also, investor-owned facilities are significantly less likely to offer services that are unprofitable, but which generate widespread community benefits. Finally, proprietary institutions are significantly less likely to offer services to low-income patients at a reduced charge and provide, on average, less uncompensated care.[72]" However, those studies are over 20 years old, and had significant methodological shortcomings[73]. Of note though were clear results from a survey given to physicians that showed that for-profit hospitals were discouraging admission of uninsured patients at much higher rates than non-profit or public, at about 50 percent, 20 percent, and 10 percent, respectively[74]. Perhaps more surprisingly, a study comparing efficiency metrics across for-profit, non-profit, and government hospitals found that for-profits were less efficient overall than government and non-profit hospitals[75]. Public hospitals were determined to be the most efficient, with non-profits not far behind. Except for the utilization of some types of input, such as labor, the for-profits were less efficient (even on measures of supply and capital utilization)[76], contradicting economic theory.

The health care industry has undergone tremendous change over the years, and thus more recent analysis is likely more valuable. In 2009, Lee et al. also found that for-profit hospitals were less technically efficient than non-profits (in a managed care environment), but unfortunately public hospitals weren't included in the study[77]. The National Bureau of Economic Research found that, for Medicare patients, government hospitals are most cost efficient, with for-profit hospitals ending up costing Medicare more[78]. Sloan et al. backs up this research, finding that if all hospitals were for-profit, Medicare would be spending tens of billions more per year than if there were no for-profit hospitals, and that for-profit hospitals are definitely charging more per capita than non-profits, with no differences in quality[79].

As economic theory would predict, a report from the National Bureau of Economic Research found that for-profit hospitals were the most profitable, with the margins of non-profit hospitals 3 percent behind and government hospitals 5.9 percent behind, but that conversions to other forms of ownership could boost profitability in either direction, with facilities becoming for-profit seeing about a 5.6 percent increase in profit rate, and for-profit hospitals that changed to non-profit or government ownership also saw profitability gains, at 4.6 percent[80]. An article by Horwitz backs up the NBER evidence, showing that for-profit hospitals tend to provide the most profitable services, with public facilities providing the least profitable and non-profits in the middle, and that for-profits are indeed more responsive to profitability changes than the other two types of ownership[81]. But profitability does not equal efficiency, accessibility, or quality of care, metrics that are likely more valuable to a government considering privatization.

Accessibility of care is a more controversial issue, for-profit providers in many areas have a clear incentive to try and avoid indigent patients, and even non-profit hospitals that ostensibly have a mission to help the community have to worry about their bottom lines and taking on too much uncompensated care. A study of 52 hospital privatizations in California, Texas, and Florida did find evidence of significantly decreased uncompensated care when public hospitals converted to for-profit ownership, and no reductions of indigent care when government hospitals became non-profit[82]. On the other hand, a study published in the same academic journal, Health Affairs, found that hospital conversions to for-profit status did not lead to less uncompensated care, arguing that if contextual and community factors are accounted for, for-profits maintain the same levels of indigent care as before the change[83]. However, this study is more limited in scope, only looking at non-profit to for-profit conversions.

The Government Accountability Office's testimony to the House of Representatives and a report from the Congressional Budget Office help settle the debate on the accessibility of care. Both show a tremendous disparity between public and private provision of uncompensated care, with Government Accountability Office testimony stating,

"Government hospitals, as a group, devoted substantially larger shares of their patient operating expenses to uncompensated care than did nonprofit and for-profit hospitals. The nonprofit hospitals' uncompensated care costs, as a percentage of patient operating expenses, were higher on average than those of the for-profit hospitals…but the differences were generally not as great as the differences between the government hospitals and both these groups.[84]" While in a few states non-profits are providing the most indigent care as a percentage of operating expenses, in zero of the states studies were for-profit hospitals taking the lead[85]. The gap between public and private was particularly pronounced in most of the states, with some like Texas having public hospitals devote 18 percent to uncompensated care while non-profits are at 6.7 percent and for-profits are at 4.8 percent[86]. The difference was small between the two private ownership types, for-profit and non-profit, in most states, with for-profits only edging non-profits in one of the states studied, California, and by a slim 0.2 percent[87]. The variation seems largely contextual, with the Congressional Budget Office explaining, "In general, the comparisons of nonprofit and for-profit hospitals yielded mixed results. CBO found that, on average, nonprofit hospitals provided higher levels of uncompensated care than did otherwise similar for-profit hospitals. Among individual hospitals, however, the provision of uncompensated care varied widely, and the distributions for nonprofit and for-profit hospitals largely overlapped.[88]" The edge non-profits have over for-profits in indigent care could be entirely based upon the fact that, on average, non-profit hospitals are located in wealthier regions with smaller numbers of the uninsured than for-profit hospitals[89]. Finally, the Congressional Budget Office acknowledges that with numerous conflicting studies, it can be difficult to see overall trends for private health care provision. "Nonprofit hospitals have been found by some researchers to be less efficient than for-profit hospitals, meaning that costs per unit of output are higher. Many other studies report that nonprofits charge lower prices or markups than do for-profits. Several studies have also concluded that for-profit hospitals appear to react more strongly than nonprofits do to the reimbursement environment by altering the mix of services they provide, by limiting increases in the wages of hospital employees, and by more aggressively coding services provided so as to increase reimbursement rates. A large number of studies have examined differences in the quality of care and health outcomes between for-profit and nonprofit hospitals but have not generally identified any consistent patterns."[90]

3.6.1 Meta-Analysis

A lack of general conclusions is unhelpful for a government considering action. Fortunately, meta-analysis, essentially a study of studies, can help deduce broader patterns, as a report from the National Bureau of Economics on hospital ownership and financial performance explains, "Meta-analysis applies conventional statistical methods to combine the results from independent studies that use different data and methodologies

to assess a similar research problem. Such formal statistical methods for integrating results are a staple of clinical science and have been applied successfully to many fields of economics"[91]. The NBER report focuses on the economics of health care, and finds that the financial production of hospitals is primarily dependent on factors apart from ownership type, like geography, patient demographics, and market conditions. "The diverse results in the hospital ownership and performance literature derive largely from differences in authors' underlying theoretical frameworks, assumptions about the functional form of the dependent variables, and model specifications. Methods that control for fewer factors and less appropriate functional forms tend to predict larger differences in financial performance between not-for profits and for-profits.
More specifically, studies that control for a wider range of confounding factors—including at the patient, hospital, and market levels or using panel data estimation techniques—find smaller differences in financial performance between for-profit and not-for-profit hospitals."[92] However, there is a small edge to private, for-profit hospitals in terms of profitability, drawing one lesson, backed by theory and intuition, from many articles, as the report states that there is "some consistency in findings across studies, especially for revenue and profit margins. Even though evidence to date suggests little difference in cost among all three types of hospital ownership, studies that compared revenues all found either that for-profits earn greater revenue and higher profits or that there is no difference between for-profits and not-for-profits. There is less clear evidence of a difference in revenue or net revenue between government and not-for-profit hospitals. It is not surprising that for-profits tend to earn more profit: that is their mission, and is the prediction of virtually all economic models that contrast for-profit and not-for-profit behavior. However, the conventional wisdom that for-profit hospitals would operate more efficiently (i.e., at lower cost) was not supported".[93]

If a government is concerned about increasing the profitability of a public care provider or the provider's financial viability, then for-profit conversion would seem to be the best option. But the for-profit's economic edge is likely slight, and privatization does not alter factors like geography or demographics. Regrettably, for-profit privatization does not seem to be a saving grace for a financially inviable hospital, with Collins et al. explaining that it is important for "decision makers at the hospital or community level who are contemplating conversion to move beyond the stereotypic ways in which conversions are often depicted and to recognize that the process and outcomes of conversions are influenced by institutional structures, markets, and purchasers. The findings of the study, for example, challenge conventional wisdom about the ability of for-profit purchasers, whether multi-hospital systems or individual investors, to turn around the fortunes of failing institutions in competitive markets."[94] For-profit conversion may not only be unable to save economically unsound hospitals, it can make things worse, pushing the provider to lower the standards of care or to defraud the government. Collins et al. elaborates, "The pursuit of niche markets, and questionable strategies for increasing

admissions of publicly insured patients by some of these hospitals post-conversion, should raise concerns among regulators about the potential for fraud and abuse among owners of newly converted institutions. Similarly, the failure of some of these institutions to remain accredited or Medicare-eligible post-conversion suggests a need to monitor more closely the medical care provided by financially troubled institutions."[95]

Many state and local governments are not looking to increase the profitability of a government hospital or save a financially unfeasible public health care provider, often the goal is savings for the state along with greater efficiency, accessibility, and quality of care. A comprehensive meta-analysis of the performance of for-profit and non-profit health care providers gives a clear advantage to non-profits in achieving these goals. Rosenau & Linder looked at 149 peer-reviewed scientific studies, narrowed down from over a thousand, of the variance between for-profit and non-profit providers in an attempt to identify which ownership type is superior[96]. The 149 studies spanned decades and included 179 performance measurements on one or more of the primary performance standards for health care providers, access, cost/efficiency, quality, and uncompensated or "charity" care[97]. While the vast majority of these studies concerned hospitals, the full breadth of health care provision was incorporated, including nursing homes, psychiatric hospitals, and more. Of the studies that compared for-profits and non-profits on quality of care metrics, 59 percent found non-profits to be superior, 12 percent found for-profits providing better quality care, and the rest found no difference between the two[98]. For access to health care, non-profits were better in 67 percent of the studies, with just 3 percent in favor of for-profits, and the rest finding no difference[99]. With uncompensated care, the results were particularly clear, 67 percent of the studies reported non-profits as providing more indigent care, with none of the studies observing for-profits being superior, and with the remainder reporting no distinction[100]. Finally, on cost/efficiency, for-profits performed their comparative best, but still were only found to be superior in 23 percent of the studies, compared to non-profits being better in 50 percent and the last 27 percent observing no difference[101]. Thus, for quality, cost/efficiency, accessibility, and uncompensated care, conversion to non-profit status is likely the best choice. Rosenau & Linder provide some insight into a contentious issue, arguing that "the large number of data-based studies reporting, independently, the same results on similar performance criteria adds credibility to findings that might otherwise be viewed as anomalous or idiosyncratic. Overall, the past 22 years of research have judged the nonprofit provider more favorably than its for-profit counterpart."[102]

3.7 Conclusion

Health care provision is an incredibly complex and important industry, one that makes up an immense and growing part of the nation's economy. It is then natural that there are numerous competing stakeholders and scientific studies involved, making many claims.

As one of the NBER reports states, "Anyone setting out to assess the impact of an ownership-related policy change… immediately finds that the voluminous literature on not-for-profit, for-profit and government hospitals gives frustratingly unclear and contradictory evidence, inviting subjective and selective reference to studies that support the analysts' views."[103] Meta-analysis is helpful in attempting to isolate overarching patterns amongst the countless contending assertions and analyses, but it is far from any absolute truth and is not free from subjectivity and accumulated biases. It is crucial to keep in mind that there are an innumerable number of factors besides ownership type affecting provider performance, and that privatization can have little effect or even harm a health care provider's goals in some cases. If the change isn't for the better, than it is almost certainly for the worst, as conversion implies some costs. That being said, privatization certainly can – and has in many instances – bring tremendous improvements to health care provision.

In terms of pure profitability, for-profits likely have a slight edge, as described in the NBER economic meta-analysis, but for quality, access, uncompensated care, and even efficiency, non-profits are probably the better choice. But it is important to keep in mind the analysis from the Government Accountability Office and the Congressional Budget Office – public providers are generally supplying much more uncompensated care, and if costs are too high because of an exceedingly indigent patient demographic, privatization will not make those patients disappear. On the other hand, increased government revenues from privatization could be used to help pay for uncompensated care. Regional patient composition is just one of many elements that can affect a health care provider's performance. One last meta-analysis, which reviewed the influence of hospital ownership along with other factors on performance, helps explain some of the underlying variables causing different studies to come to different conclusions on ownership type, and provides avenues for further research. "Pooled estimates of ownership effects from this literature are sensitive to the subset of studies included and the extent of overlap among hospitals analyzed in the underlying studies. Meta-regression reveals that estimates of the relationship between hospital ownership and adverse patient outcomes differ systematically according to a study's data source, time period examined, and region covered. Studies representative of the US as a whole tend to find lower quality among FPs [for-profits] than private nonprofits. More research on ownership, such as in-depth understanding of organizational decision making and market-level dynamics across a range of economies, can contribute to a better understanding of the institutional contexts in which ownership matters for provider performance."[104]

If a government seeks to privatize a public health care provider, some form of conversion to a non-profit would likely be optimal. The method of privatization, i.e. sale, lease, joint operating agreement, etc., is highly contingent on the context, including the willingness and objectives of potential private partners, the goals of the government and its desired level of control, political feasibility, and more. Whatever path New Hampshire decides to pursue, we hope it will successfully aid and support the community.

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