Mission Hospital's Decision to Sell to HCA

A Preliminary Report

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This preliminary report is one part of a larger study, funded by the Arnold Foundation,[1] examining what lessons can be learned from the events leading up to, and following, HCA Healthcare's 2019 purchase of the Mission Health system based in Asheville, North Carolina (NC). Findings from this portion of the research are being released as a "working draft" in order to give interested parties a preliminary look at the initial analyses.[2] Comments directed to the author (Prof. Mark Hall)[3] are welcome. Following revision, a final full report will be issued later this year.

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[1] https://www.arnoldventures.org/ . See also "About the Funder" on page 24.
[2] Other preliminary working drafts from this project are posted here:
https://hlp.law.wfu.edu/reports-and-issue-briefs/
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See also "About the Author" on page 24.

BACKGROUND AND SUMMARY

This preliminary report is one part of a larger study examining what lessons can be learned from the events leading up to, and following, HCA Healthcare's 2019 purchase of the Mission Health system based in Asheville, North Carolina (NC). Other portions will address what has transpired following the sale,[4] as well as recommendations for how other institutions and communities might address similar issues that may arise elsewhere. This portion of the report provides a brief introduction and then focuses on events leading up to the decision to sell. As a summary of this report's key points:

- HCA's management of the Mission Hospital system has proven to be much more controversial and contentious than anyone imagined. Concerns related to Mission's quality of care, scope of services, patient access to services, corporate profits, inadequate staffing, excessive physician turnover, and questionable charitable care policies have produced an avalanche of negative publicity, both locally and nationally, as well as several high-profile lawsuits and a major federal enforcement action.

- A key event that paved the way for the HCA sale was the state's decision in 2015 (effective in 2016) to terminate the antitrust oversight that had been in place for two decades as a condition for allowing Mission Hospital to merger in 1995 with its former Asheville competitor, St. Joseph's. No convincing reason can be found for why the state, having conferred monopoly power, then permitted Mission to become an unregulated monopoly. It does appear, however, that state officials and involved community members at the time failed to foresee that lifting regulatory oversight might lead to the hospital's sale to a large, out-of-state profit-driven owner.

- Key elements of Mission's decision to sell to HCA have been covered extensively by others. This report pulls together that body of work and adds additional insights from interviews with former board members and informed sources. In sum, despite the hospital's strong financial condition at the time, Mission's leaders believed that, over time, Mission would struggle to maintain its quality and scope of services as a stand-alone system. A substantial driver of this belief was Mission's failed negotiation with Blue Cross in 2017 to increase payment rates. Because Mission's leaders had already been exploring a potential sale, its board was able to approve a sale to HCA within just a few months after the failed Blue Cross negotiations.

Mission's selection of HCA rather than an in-state nonprofit system that offered similar terms has been extensively critiqued, based on concerns that its board was not fully informed or that its CEO had a conflict of interest. Key leaders involved at the time, however, explain that HCA was selected because it appeared better able to achieve operating cost efficiencies without compromising quality or service. Also, a major draw was that HCA's purchase price would be used to create a large foundation that would broadly address regional health problems. It does not appear, however, that the board anticipated HCA would pursue cost savings by making aggressive cuts in patient care staffing.

[4] Other preliminary working drafts from this project are posted here: https://hlp.law.wfu.edu/reports-and-issue-briefs/

DRAFT

I. INTRODUCTION

Mission Hospital began in 1885 when four women sold flowers on the streets of downtown Asheville to fulfill their vision of a medical facility for the sick and indigent.[5] The women's dream quickly blossomed: on October 6, 1885, "The Little Flower Mission" began in a five-room house, which cared for people regardless of their ability to pay.

From those humble roots grew what became known as Mission Health, which is now the dominant hospital system in western North Carolina (WNC). Centered on the 815-bed Mission Hospital in Asheville (which is by far the region's largest city), the system also includes five very small general hospitals (25-to-30 beds) in mostly rural surrounding counties.[6]

A century ago, Asheville's economy was driven by manufacturing, but tourism is now the area's primary economic engine. Today, Asheville is known for outdoor recreation, high quality restaurants, microbreweries, and performing and visual arts. It attracts both retirees and hipsters. It also has a significant homeless population. The broader region has characteristics that typify rural Appalachia, including significant poverty and various dimensions of poor health.

This study focuses mainly on the flagship medical campus, Mission Hospital, which accounts for almost 90 percent of hospital services for residents of Buncombe and Madison counties and about half of hospital care in the neighboring 15 counties. Although four other hospitals serve this broader geographic area, Mission is the only tertiary referral facility[7] and Level II trauma center in the entire region. As such, it provides a broad range of high-level specialized or intensive services that are not otherwise available in western North Carolina.

A decade ago, a series of events began to unfold which eventually led to Mission's Board of Trustees selling the system to HCA Healthcare (formerly known as the Hospital Corporation of America), the world's largest for-profit hospital conglomerate of almost 200 hospitals. Prior to this sale, reputable ranking agencies and health policy analysts regarded Mission as one of the very best hospitals in the county.[8] Under HCA, however, Mission has faced a barrage of criticism on multiple fronts. It seems, as one media watcher wrote, that "Mission Hospital news is always bad news since HCA took over."[9] Table 1 provides 32 examples from national publications and media outlets. Appendix A provides an exceptionally long listing of 140 negative articles about Mission, from local and regional media.

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[5] https://www.missionhealth.org/about-us/our-history

[6] These hospitals are in the towns of Marion, Highlands, Brevard, Franklin, and Spruce Pine. The Mission system also includes Ashville facilities for behavioral health, rehabilitation, skilled nursing, and outpatient surgery.

[7] Although hospital-level distinctions are imprecise, Mission claims at least some extent of "quaternary" care, which is the highest level.

[8] https://www.beckershospitalreview.com/rankings-and-ratings/truven-names-15-top-health-systems-for-2017.html
https://businessnc.com/north-carolinas-2018-best-hospitals/
https://www.commonwealthfund.org/publications/fund-reports/2004/jul/hospital-quality-ingredients-success-case-study-mission

[9] https://www.dailykos.com/stories/2024/1/13/2217259/-DKos-Asheville-Open-Thread-Mission-Hospital-news-is-always-bad-news-since-HCA-took-over

Table 1: Negative National Press about Mission Hospital Under HCA

Becker's Hospital Review	'Critically understaffed': Lawmakers, patients and staff blast HCA's takeover of Mission Health	2/12/20
Becker's Hospital Review	North Carolina AG demands answers from HCA after influx of complaints	2/26/20
New York Times	Fired in a Pandemic 'Because We Tried to Start a Union,' Workers Say	4/28/20
New York Times	Health Care Unions Find a Voice in the Pandemic	1/28/21
MedPage Today	Physicians Flee Hospital Group After HCA Takeover	2/21/21
Fortune	America's Largest Hospital Company Is Booming. So Why Is One Community Trying to Run It Out of Town?	3/31/22
NBC News	Some workers at U.S. hospital giant HCA say it puts profits above patient care	1/12/23
Becker's Hospital Review	Residents have 'lost trust' in HCA's Transylvania Regional Hospital: Report	4/13/23
MedPage Today	What's Changed Since HCA's Takeover of Mission Health?	6/20/23
STAT News	HCA Doctors Say Its Cost-Cutting is Endangering Appalachian Patients – A Warning for the Whole U.S. Health Care System	11/3/23
NBC News	State Attorney General, Doctors And Nurses Criticize HCA Over Patient Care at North Carolina's Mission Hospital	11/13/23
Medpage Today	What's Going on at Mission Health?	11/22/23
Modern Healthcare	HCA Healthcare Breached Terms of Mission Health Deal: NC AG	12/14/23
Becker's Hospital Review	North Carolina AG Sues HCA	12/14/23
Medriva	North Carolina Attorney General Sues HCA Healthcare Over Alleged Service Lapses at Mission Health	12/20/23
ABC News	At HCA hospitals, the person monitoring your heart may monitor 79 other patients, too	12/21/23
Becker's Clinical Leadership	HCA Mission Hospital Hit with Immediate Jeopardy Warning	1/12/24
HealthLeaders	Conditions at Asheville's Mission Hospital pose 'immediate jeopardy to patients' health and safety,' state investigators report | HealthLeaders Media	1/15/24
Kaiser Health News	North Carolina Report Says Asheville Hospital Threatens Patient Health - KFF Health News	1/23/24
Becker's Hospital Review	CMS notifies HCA Mission Hospital of immediate jeopardy status	2/6/24
STAT News	Medicare threatens to pull funding from HCA's embattled Mission Hospital	2/6/24
Fierce Healthcare	HCA's oft-critiqued Mission Hospital receives CMS warning	2/7/24

Medriva	Patient Safety Concerns at HCA's Mission Hospital: A Looming Threat to Medicare Funding	2/10/24
Becker's Hospital Review	Clinicians, local advocates decry Mission Hospital's immediate jeopardy correction plan	2/22/24
Newsweek	Seniors at Risk of Losing Care As Medicare Fights With Hospital	3/5/24
Becker's Hospital Review	Steps to correct immediate jeopardy at Mission have 'backslid,' nurses say	3/15/24
Health Leaders	In second blow, Feds now cite HCA's Mission Hospital (NC) for violating emergency treatment standards | HealthLeaders Media	3/18/24
Modern Healthcare	HCA Healthcare faces more Mission Health-related allegations	4/9/24
Becker's Hospital Review	Urologists retreat from HCA Mission hospital	5/22/24
Becker's Hospital Review	Urologists retreat from HCA Mission hospital	5/22/24
Baptist News Global	Faith leaders among those concerned about a North Carolina hospital that went from nonprofit to for-profit	5/23/24
MedPage Today	Urologists Flee Mission Health	5/31/24

This breadth and depth of negative press tells only part of the Mission/HCA story. Since the acquisition, HCA has completed various substantial capital investments the hospital had previously planned or undertaken to expand and improve Mission's treatment facilities. HCA also committed to keeping the system's five rural hospitals open for a decade unless doing so becomes "commercially unreasonable." Moreover, HCA brought an impressive level of prowess to Mission's management, which likely helped Mission cope more effectively with COVID-19's unprecedented challenges. And, converting Mission from nonprofit to for-profit status added substantially to the area's tax rolls. Relatedly, and most notably, the $1.5 billion proceeds from the HCA sale were used to create an exceptionally large philanthropy (called Dogwood Health Trust), which is devoted to improving population health in western NC. Nevertheless, an avalanche of discontent has buried these positive aspects of the sale to HCA.

As Tale 1 and Appendix A reflect, the overriding sentiment about Mission's sale to HCA is profoundly negative, expressed variously as regret, sadness, anger, heartbreak, or infuriation. This relentless torrent of deeply felt negative sentiment is truly unparalleled. One year after the 2019 sale, seven state and local government leaders wrote an extraordinary open letter expressing:[10]

> "... deep concern regarding the state of Mission Hospital Systems since the purchase by [HCA], … [based on reports that] have been pouring in from distressed patients, practitioners and HCA employees …. HCA has chosen to make its money by reducing charity care, eliminating medical and unit administrative staff to the detriment of patient care and safety, and sacrificing entire physician practice groups with long-standing

[10] https://www.citizen-times.com/story/opinion/2020/02/11/hcas-management-mission-health-hospital-cause-deep-concern/4721205002/

> contractual relationships by demanding significant reductions in pay. That wasn't the deal we were told about and it wasn't the deal we made as a community."

Similar concerns have led several area municipalities or government agencies to sue HCA Mission for damages resulting from alleged overpricing and for costs incurred in how HCA has managed its emergency room.[11] The state's Attorney General has also sued based on documented inadequacies in cancer care and emergency care.[12]

Equally astounding is a public letter signed in late 2023 by more than 100 area physicians, including a former board member and nine former clinical chiefs at Mission, which constitutes essentially an "open revolt" against HCA by a significant portion of the medical community.[13] Additional portions of this remarkable missive are quoted elsewhere in this report, but the core sentiment is that:

> "Many of the for-profit-driven changes that HCA has wrought, despite advocacy and protests from multiple sectors, have gutted the heart and soul of our community healthcare system, … [which has been] a backbone of this community for decades. ... [W]e have seen little to no interest on their part in working with physicians or community leaders across multiple sectors to address quality-related problems ...."[13]

Public distress has been so deep and wide that over 60 area clergy and religious leaders felt "compelled to speak out" in a public letter to say:

> "HCA must bear responsibility for creating the conditions that have led to dangerous situations that are only now becoming public. ... Our community deserves to have accessible, quality, patient-centered healthcare. At present HCA is not providing such care in a reliable way. HCA is not meeting the commitments that they made to this entire region when they purchased Mission Health." [14]

In short, the entire community, on multiple levels, is up in arms about what has happened to its hospital. As summarized by one well-credentialed reporter:

> "… five years of HCA management has resulted in documented chronic understaffing; hundreds of physician and nurse departures; higher healthcare prices; plunging employee morale that led to the formation of a nurses' labor union; multiple lawsuits against HCA-Mission by local citizens, the cities of Asheville and Brevard, Buncombe County, and the

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[11] https://www.bpr.org/2022-07-29/acity-of-asheville-and-buncombe-county-file-lawsuit-against-hca-healthcare
https://wallacegraham.com/news/HCA%252FMission%2520Hit%2520With%2520Anti-trust%2520Lawsuit%252C%2520Accused%2520Of%2520Exorbitant%2520Prices%252C%2520Declining%2520Quality
https://www.citizen-times.com/story/news/2022/07/28/buncombe-asheville-filed-class-action-lawsuit-against-hca-healthcare-mission-health/10171852002/
https://wlos.com/news/local/brevard-hca-mission-health-hospital-scheme-transylvania-regional-lawsuit-western-north-carolina-buncombe-macon-madison-mcdowell-mitchell-yancey

[12] https://ncdoj.gov/attorney-general-josh-stein-sues-hca-healthcare/

[13] https://avlwatchdog.org/50-doctors-including-a-former-board-member-publicly-decry-hcas-management-of-mission-hospital-system/

[14] https://www.citizen-times.com/story/opinion/2024/02/04/hca-healthcare-immediate-jeopardy-incidents-harm-nc-health-care/72428692007/

> state's attorney general; heartbreaking stories by patients and family members of substandard care — all culminating with the determination in December [2023] by state inspectors that patients seeking care at the once-proud Mission Hospital were in "immediate jeopardy" of serious injury, harm, impairment, or death."[15]

This research project undertakes a thorough and robust examination of the underlying bases for these pervasive critical reactions. The goal of this project is not to pass final judgment on what led to Mission's decision to sell to HCA and how HCA has subsequently managed Mission. Instead, this project aims to identify and provide clarity on what others can learn from what transpired in Asheville, NC. These lessons can inform communities facing similar health policy concerns about how best to evaluate their options. These lessons can also inform lawmakers and public policy officials seeking to improve the functioning of hospital markets through review of proposed transactions or improved oversight of hospitals with considerable market power.

This [interim report] provides with an account of the key events that led to the decision to sell Mission Hospital to HCA.

II. METHODOLOGY

This research is based on extensive document and literature review (including media reports),[16] as well as interviews with three dozen "key informants." These interview sources are North Carolina professionals, mostly from Asheville and surrounding counties, well-placed to have insightful knowledge about the questions studied. Sixteen were at some point managers or board members at Mission Hospital, six are government officials (former or current), and five work with health care public policy issues in various ways.

Potential interview sources were identified in a variety of ways including their affiliations with key institutions,[17] and respondent-driven referrals. Efforts were made to include well-placed sources who were both favorable and unfavorable, as well as those in a position to evaluate competing perspectives. Unavoidably, this is somewhat of a "convenience sample" because a dozen or so who were approached did not respond or agree to participate. However, recruitment of informed sources continued until reasonable "saturation" was reached, meaning that substantial new information was no longer emerging. Documentary and interview information was analyzed using qualitative methods that are standard for this type of research. "Triangulation" is one such method, by which information from one type of source (interview, documentary, or data) is cross-checked with information from other types to determine whether either confirmation or inconsistency exists.

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[15] https://avlwatchdog.org/former-mission-board-member-we-had-hoped-that-hca-would-be-a-better-corporate-citizen/
For a similar account by a different publication, see https://www.citizen-times.com/story/news/local/2022/12/27/hca-mission-health-had-year-of-lawsuits-staff-patient-complaints/69754830007/.

[16] For readability, this report cites publicly available information mainly just by website URL links.

[17] To avoid any possible appearance of bias, no sources were identified through the nurse's union or its representatives.

III. PRECIPITATING EVENTS

A. Mission's Merger with St. Joseph's

The key event that brought Mission Hospital to market prominence was its state-sanctioned merger with St. Joseph's Hospital in 1995. Mission and St. Joseph's were effectively the only two hospitals serving Asheville. Previously, these two competing facilities were located on the same street, but various factors led them to conclude that merging would be a net benefit to both systems and the community at large.[18] As the smaller of the two, St. Joe's (as it was known) was struggling financially. Administrators at both hospitals felt that the need to compete for the loyalty of local physicians gave physicians too much sway over hospital management. At the same time, local business leaders were concerned that the emergence of managed care contracting by health insurers would make it more difficult for them to select a health plan that satisfied all of their workers, particularly if either hospital was excluded from a managed care network.

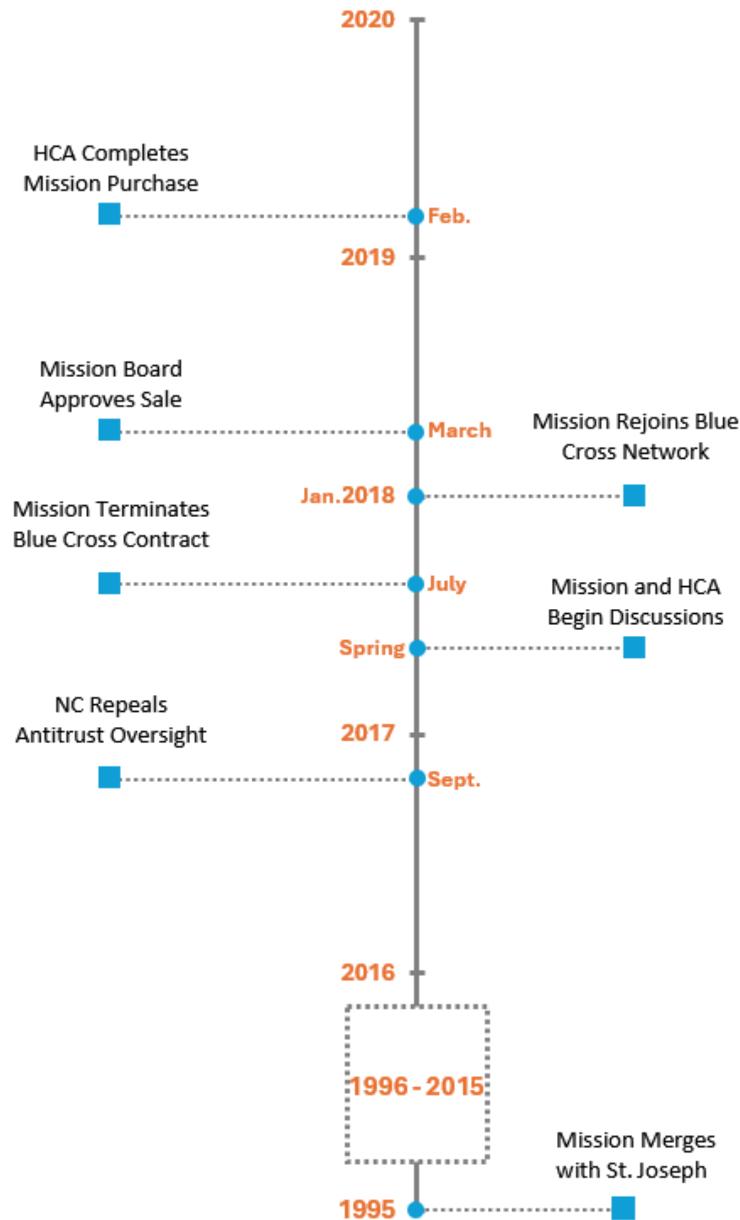
Before the 1990s, federal or state antitrust law would often block an attempted consolidation of the only two hospitals in a market to avoid the creation of a health care monopoly. But in 1992, a U.S. Supreme Court decision[19] paved the way for a state to immunize health care activity from federal antitrust scrutiny by adopting a regulatory regime that came to be known as a "certificate of public advantage," or COPA for short.[20] Soon after the Supreme Court's 1992 ruling, 19 states, including North Carolina, enacted COPA laws that allowed a state's secretary of health and attorney general to approve hospital mergers, subject to regulatory oversight.[21]

North Carolina's 1993 COPA law laid the groundwork for the 1995 merger between Mission Health and St. Joe's. Under the terms of the state's antitrust oversight, Mission/St. Joseph could merge only if the enterprise adhered indefinitely to a set of market and operational constraints. Mission was to keep its costs and profits in line with general medical inflation and similar regional hospitals and to limit the number of physicians it could employ or have under contract. This antitrust oversight also prescribed the composition of the hospital's board, and it required reasonable behavior in negotiating with managed care insurers.

Mission is the only NC hospital to have received a COPA. The state's antitrust oversight of Mission. continued for two decades, until the state legislature in 2015 repealed the governing statute, effective October 2016.[22] In essence, then, the state, having initially allowed Mission Hospital to become a carefully regulated monopoly, decided two decades later to permit it to continue indefinitely as an *unregulated* monopoly.

[18] https://www.urban.org/sites/default/files/publication/42226/2000111-Certificates-of-Public-Advantage.pdf
[19] FTC v. Ticor Title Ins. Co., 504 U.S. 621 (1992). See also Patrick v. Burget, 486 U.S. 94, 100 (1988).
[20] https://lawecommons.luc.edu/lclr/vol8/iss3/14/
[21] https://www.urban.org/sites/default/files/publication/42226/2000111-Certificates-of-Public-Advantage.pdf
[22] Originally, this repeal was slated to take effect January 2018, but for reasons that remain uncovered, the repeal date was accelerated by 15 months.

Figure 1: Timeline of Key Events Leading up to HCA's Purchase



A mere two years after lifting state antitrust oversight, HCA purchased Mission Hospital, thus putting what one observer called a "prepackaged monopoly" into the unregulated hands of the world's largest for-profit hospital corporation. As one esteemed health policy analyst recaps, North Carolina "created a monopoly but then abandoned the regulation that governed the monopoly, and now the monopoly is free to exert its market power."[23]

Certainly, on the surface of things it appears puzzling, if not dumbfounding, that thoughtful public policy or community-focused enterprise management would produce this result. Accordingly, how this decision

[23] https://www.modernhealthcare.com/article/20180407/NEWS/180409936/hca-may-see-fellow-market-leader-in-mission-health

making came about is a key focus of this first portion of the research study. We begin with the state's decision to terminate its antitrust oversight. We then examine the ensuing decision to sell the hospital system to HCA.

B. Terminating "COPA" Antitrust Oversight

Given the critical role that the cessation of NC's antitrust oversight played in Mission's subsequent sale to HCA, this section devotes substantial attention to the various reasons for the state to approve Mission become essentially an unregulated monopoly. Extensive interviews with both state officials and Mission leaders and administrators fail to uncover any convincing reason. Interviews also reveal a lack of clear understanding of the driving rationale for regulation or the potential consequences of its repeal. It continues to be unclear, though, whether Mission's leadership contemplated the hospital's sale at the time they sought regulatory relief.

Legislators' Reasons

Legislative leaders chiefly responsible for the state's repeal of its "certificate of public advantage" (COPA) law did not respond to requests for research interviews. Thus, the thinking that drove this decision to terminate antitrust oversight of a state-created monopoly remains somewhat inscrutable. Several notable points emerge, however, based on observations. First, the decision was not politically controversial: it received broad bipartisan support.[24] Second, there is no indication the decision received significant deliberation or debate, either publicly or within the legislature.[25] Several legislators were interviewed who voted for, but did not lead, the repeal. Almost a decade after the repeal, they could not recall clearly what the rationale was from that time. Some had difficulty distinguishing COPA from a different but similar-sounding regulatory process known as "certificate of need" or CON regulation. For anyone not expert in the field, this failure to differentiate specialized regulatory regimes is understandable, especially considering that the two topics were addressed jointly at the time by legislative study committees and by proposed legislation, in which the CON issues took the top billing.[26]

When reminded of COPA's distinct purpose, the only rationale for repeal that interviewees could conjure was a vague sense that, over the two decades since the Mission/St. Joe's merger, "times had changed" in such a way that it was felt that antitrust oversight had "outlived its useful life."[27]

One key change in the times was the emergence of managed care health insurance, which imposed more competitive discipline on health care markets. As for serving its purpose, Mission could point to the fact that it consistently had been a well-performing institution that met or exceeded all of the regulatory

[24] https://www.citizen-times.com/story/news/2015/09/29/nc-dissolves-anti-monopoly-rules-mission-health/73042066/
[25] https://www.citizen-times.com/story/news/2015/09/29/nc-dissolves-anti-monopoly-rules-mission-health/73042066/
[26] https://www.ncleg.gov/Documents/146/
https://webservices.ncleg.gov/ViewDocSiteFile/43458
[27] https://www.citizen-times.com/story/elections/2015/06/19/ron-paulus-mission-health-certificate-of-public-advantage/28975401/
https://www.citizen-times.com/story/news/2015/09/29/nc-dissolves-anti-monopoly-rules-mission-health/73042066/

requirements and that, as discussed in [a subsequent section],[28] Mission stood out as one of the most well-regarded hospitals in the country both for high quality and good value.

A sense (whether right or wrong) that a compelling reason for antitrust oversight no longer existed does not answer, however, why it was important, or even advisable, to eliminate this oversight. It was this oversight, after all, that, along with pressure from insurers, led to such good performance results. Several sources suggested that raw political lobbying was probably at play. Or perhaps the driver was a more principled instinct that, absent an obvious need for regulation, less regulation is preferred, even if the regulation is not especially burdensome. As one academic analyst summarized,

> "... Mission Health's motivation to alter, weaken, or repeal the COPA [law] to escape the constraints of state supervision over its unfettered market power outweighed the state's commitment to maintain ongoing oversight. ... [N]othing changed to eliminate the need for oversight of Mission Health's monopoly, except the state's political commitment to it.[29]

Hospital's Reasons

In theory, it is possible that antitrust oversight was at least somewhat burdensome. Based on extensive review, however, there are few or no indications of such burdens. Both regulators and hospital leadership during the COPA period said oversight was not especially burdensome, either for the state or for Mission Hospital. Both "sides" agreed that the regulatory process was a cooperative one that set achievable goals and made reasonable adjustments as needs arose.[30] As summarized by a prior extensive study,

> "The Mission COPA has operated with low administrative or transactional costs, considerable flexibility to reconcile competing statutory objectives and reasonable speed of decisionmaking. The oversight agencies seem to have proceeded by ... emphasizing private negotiation with the regulated providers ... rather than through administrative decision [or] judicial challenges .... The state agencies have repeatedly found that Mission was in compliance with the cost and [profit] margin caps, offering suggestive and indirect indications of good value for insurers and patients."[31]

Mission's CEO at the time thought (in the words of one industry reporter) that the caps on profits and costs "were never a concern because [Mission] wasn't close to hitting them."[32] In a 2011 statement, Mission actually extolled the many benefits of antitrust oversight as follows: "The results of the COPA – high quality care delivered at low cost – have been touted by national leaders as a constructive and

[28] https://hlp.law.wfu.edu/wp-content/uploads/sites/11/2024/02/HCA-Mission-Quality-Ratings-working-draft-WFU-1.pdf
[29] https://www.milbank.org/wp-content/uploads/2019/01/MMF-North-Carolina-COPA-Repeal-Issue-Brief-FINAL.pdf
[30] https://mountainx.com/files/copareport.pdf
https://www.urban.org/sites/default/files/publication/42226/2000111-Certificates-of-Public-Advantage.pdf
[31] https://www.urban.org/sites/default/files/publication/42226/2000111-Certificates-of-Public-Advantage.pdf
[32] https://www.modernhealthcare.com/article/20180407/NEWS/180409936/hca-may-see-fellow-market-leader-in-mission-health

effective way to achieve community benefit . . . .” A respected health economist hired by Mission in 2011 to respond to criticisms of its regulatory status described the merits of state oversight as follows:[33]

> “In the case of the Mission COPA, there are three key elements that drive its reasonably strong success as a proxy for competitive forces: (1) good benchmarking based on reasonably comparable hospital systems, (2) regular updating by continued checking against competitive benchmark systems, and (3) assessing the general performance of the markets in which [Mission Health] operates. Benchmarking against comparable hospital systems allows the regulator to ensure that the COPA [antitrust oversight] is continuing to hold [Mission] to competitive standards without restricting its ability to stay up to date with competitive trends. . . .
>
> The State actively monitors and adjusts the COPA’s Cost and Margin Caps ... to take account of new situations or to avoid unnecessary distortions. ... [I]t is fortunate that the State has monitored and updated the Mission COPA with large and small amendments over its 15 years of oversight. ... The evidence I have reviewed clearly indicates that [Mission Health’s] performance under the COPA has been a good approximation of competitive outcomes with no evidence of the regulatory distortions [postulated by critics].”

A senior Mission administrator described the oversight period as allowing the hospital “to do what [it] wanted” but at the same time “protect the community from someone abusing the monopoly power we had.” A former board member from the business community who, initially, was opposed to the kind of government intrusion COPA oversight represented, changed his view based on experience. He came to realize that, considering market realities, it “makes sense to be regulated” and that antitrust oversight was “the right thing to do.”

Regarding the possibility that COPA oversight might at some point become unnecessary, a former senior administrator at Mission commented that the thought never occurred to him because “we were given a monopoly,” and “I didn’t think it would ever be without strings attached.” He expected that state oversight could and would be modified from time to time to address significant concerns (as it was), but that some version would remain in place because “we needed something to hold our successors’ feet to the fire, as ours were being” held. In sum, this former Mission executive said “it’s beyond me” why the state would terminate COPA. Its terms “weren’t onerous to keep up with,” and, “by 2015, there was probably *more* of a need for it than” when he was at Mission based on market developments.

Several other former Mission leaders echoed that COPA compliance was not onerous, and that “by and large, [it] worked pretty well.” This was true to such an extent that some initially skeptical board members came to embrace antitrust oversight. Several skeptics explained that state oversight helped management focus on increasing value for the community by maintaining or improving quality while restraining costs. One very experienced board leader from that time said that they “never found [oversight] to be a hindrance, in all of [their] years.” Instead, antitrust oversight “made us focus on costs, ... [so] we took a harder look at them than other [nonprofit] hospital boards I’ve been on.” Another former board leader noted that the oversight did not hamper strategic initiatives such as purchasing smaller regional hospitals.

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[33] Thomas McCarthy, Economist's Report on the Mission Health Certificate of Public Advantage, (NERA Economic Consulting, 2011). See also https://webservices.ncleg.gov/ViewDocSiteFile/43426

Because the oversight was felt to work well with little or no obstruction, several Mission leaders simply could not remember what, if any, reasons were being articulated for its repeal.

Obstructing Hospital Initiatives

Mission's antitrust oversight was seen as somewhat controversial in only two respects. First, rival hospitals in the area felt the COPA regime gave Mission Hospital an unfair advantage in the market. Second, Mission felt that COPA restrictions on the hospital employing or contracting with physicians hindered its ability to form highly integrated delivery structures, such as "accountable care organizations," that were increasingly becoming more favored by modern market conditions and public policy.[34] These concerns led to an in-depth legislative study and public policy debate in 2011,[35] which resulted in a moderate, state-sanctioned increase in the number of physicians Mission could employ or have under contract.

Based on this adjustment, well-informed subjects were hard pressed to identify any compelling reasons to repeal antitrust oversight altogether, beyond very general deregulatory sentiments. The only substantive reason for repealing antitrust oversight given at the time was the utterly vague assessment that, "[o]ver time, the additional flexibility and reduced costs ... will create important opportunities for Mission Health to adapt and respond to rapidly changing market conditions, and support the quality and availability of healthcare throughout the region."[36]

At first blush, eliminating the COPA regime might have been seen, paradoxically, as a way to appease the continuing criticism from Mission's rivals, that it had having a favored market position.[37] But simple reflection reveals that argument is hardly compelling since Mission surely would have been seen as more threatening *without*, rather than *with*, regulatory oversight.

Looking back, some interview sources thought that even the loosened restrictions on physician affiliations might have been too tight, so wanting to loosen them more might have been "a nudge" for repeal, but no specifics were cited.[38] Almost none of this study's interview subjects thought that the oversight limits were hampering Mission to any extent, much less a substantial extent. Also, the revised limits on physician contracting were generally consistent with the strictures of existing antitrust law.

On balance, more than one source felt that Mission's management was not entirely candid about the true reasons for seeking repeal. Several referred to Mission's CEO as, in hindsight, "dissembling,"

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[34] Mission's CEO at the time said that "physician employment [by Mission] is directly tied to ... ensuring that high quality, highly coordinated care is able to meet the region's population health needs for the decades to come." https://www.citizen-times.com/story/elections/2015/06/19/ron-paulus-mission-health-certificate-of-public-advantage/28975401/ Ironically, as discussed in [a forthcoming section], the subsequent sale to HCA quickly unwound many or most of Mission's previous efforts to more tightly integrate the hospital with area physicians.

[35] https://mountainx.com/files/copareport.pdf
https://www.urban.org/sites/default/files/publication/42226/2000111-Certificates-of-Public-Advantage.pdf

[36] https://www.citizen-times.com/story/news/2015/09/29/nc-dissolves-anti-monopoly-rules-mission-health/73042066/

[37] https://www.carolinajournal.com/opinion/scrapping-the-certificate-of-public-advantage/
https://www.blueridgenow.com/story/news/2011/10/21/house-committee-hears-heated-discussions-on-missions-copa-agreement/28282440007/

[38] Of note, a number of key specialty or primary care areas were not subject to these limits on physician contracting.

"disingenuous," and "like the Music Man, coming to town to sell us [on these ideas] and then mov[ing] on."

Genuine Reasons

The more genuine reason for repealing antitrust oversight – a reason given by several key sources and one that has the greatest resonance with subsequent events – is that transformative changes were more achievable without state oversight. Several sources noted that oversight kept Mission's management focused on meeting the COPA benchmarks, which required steady trimming of costs without harming service quality. Although this was well-achieved, in the words of one leader, "fatigue builds up" from having to trim costs "year in and year out" to meet ongoing COPA benchmarks. Although market forces also put steady pressure on costs, COPA's caps on profit margins were felt to limit Mission's ability to undertake more ambitious and transformative changes. A few sources also speculated that COPA's requirements for board membership, which built in some "checks and balances," hampered board composition changes that would have been preferred by the board's leadership or senior management in order to facilitate Mission's pursuit of strategic objectives.[39]

Perhaps the best way to gauge what motivated Mission to push for termination of antitrust oversight is to observe the steps Mission in fact took following repeal that would have been prevented or deterred by oversight. Mission did not substantially accelerate affiliation with physicians. It already employed several hundred, and contracted with many hundreds more.[40] Also, repealing antitrust oversight did not free up Mission to increase its profit margin. To the contrary, its operating profit margin remained essentially the same over the three years following repeal. Over that same period, however, Mission's operating costs per patient did increase 30 percent (from $10,871 to $14,217 per adjusted discharge, between 2016 and 2019).[41]

The most immediate action of significant magnitude following COPA repeal was Mission's decision, discussed below, not to renew its contract with Blue Cross. Blue Cross is and was, by far, the largest commercial insurer. At the same time as this cancellation, Mission sought to launch its own health insurance company, which would compete with Blue Cross. COPA oversight would have either prevented, or hampered, both of these moves.[42] Because these events happened so quickly following oversight repeal, there is good reason to believe these were part of the core motivators for Mission to seek an end to antitrust oversight.

[39] For instance, members of the medical or business communities represented on the board may have resisted certain approaches to affiliating with physicians or to negotiating with insurers. The COPA required state permission prior to any significant changes in board size or composition.
[40] https://web.archive.org/web/20140217154403/http://www.missionmd.org/physicians-practices https://web.archive.org/web/20161028052350/http://www.missionhealthpartners.org/
[41] These data are from the same source discussed in [a subsequent section, https://hlp.law.wfu.edu/wp-content/uploads/sites/11/2024/04/HCA-Mission-Financial-Performance-working-draft-WFU.pdf].
[42] https://www.milbank.org/wp-content/uploads/2019/01/MMF-North-Carolina-COPA-Repeal-Issue-Brief-FINAL.pdf . The oversight forbade "unreasonably terminat[ing]" any health plan contracts, and it required "negotiat[ing] in good faith with all health plans," including "contract[ing] with all health plans . . . offer[ing] commercially-reasonable terms" that required Mission to assume some financial risk. The state also forbade Mission from contracting with any health plan it owned or operated on more favorable terms than the health plan offered to other providers if doing so would give Mission an unfair competitive advantage.

More debatable, however, is whether the ability to sell Mission was, consciously, a core motivator. The COPA required state approval for any ownership change, and so removing that regulatory hurdle would be advantageous if the possibility of sale or merger were contemplated. Certainly, if any of Mission's leadership had contemplated selling to a for-profit firm, then repeal (or at least substantial amendment) of COPA would have been required, since the conditions for approving Mission's merger with St. Joseph's required, without exception, that Mission retain its non-profit status.

Whether, or to what extent, these factors drove Mission's efforts to seek COPA repeal remains speculative. Several well-informed sources thought that senior management's interest in pursuing the hospital's sale did not become serious until about a year following repeal, at which point the interest arose primarily because of the failed contract negotiations with Blue Cross as discussed more below. These sources also noted that Mission's management had been seeking COPA repeal for several years prior to any of these events.[43] According to a key source, Mission's CEO "began to pursue COPA repeal almost from the beginning" of his tenure in 2009.

Others, however, speculated that the possibility of more freely pursuing different hospital ownership or partnership was on senior management's mind at the time of repeal. Key support for that speculation comes from the fact that Mission's CEO was exploring a possible sale to HCA as early as April 2017[44] – just seven months after COPA was repealed, and well before the failed Blue Cross negotiation that others thought was the primary impetus for selling the hospital system.[45] On the other hand, Mission leaders at the time said that they received several expressions of interest from other hospital systems over the several preceding years, and so it was not abnormal to consider those.

Regardless of whether Mission's management envisioned an eventual hospital sale, there was wide agreement from sources that repealing antitrust oversight was essential to HCA's subsequent acquisition. It is highly doubtful state authorities would have permitted HCA's acquisition under COPA.[46] In addition to various health policy considerations, a core purpose of the COPA regime was to keep a financially struggling hospital under local control through a local merger rather than leaving no option but to sell to an out-of-state chain. But, regardless of what the state might have decided, key observers convincingly said that HCA would have been much less interested in purchasing Mission subject to antitrust oversight.[47] The obvious reason is that Mission is much more valuable to HCA as an unregulated monopoly than one that is subject to restrictions on profits.

Whether or not the sale to HCA was foresee*able*, it does not appear to have been demonstrably fore*seen* – at least by a number of state legislators and Mission board members. Several of each said that, had they anticipated such a move, they would never have supported COPA repeal. Nevertheless, the reality is that

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[43] E.g., https://carolinapublicpress.org/8643/lawmakers-delay-decision-on-missions-operating-agreement/

[44] https://avlwatchdog.org/mission-accomplished-former-ceo-ron-paulus-and-hca-discussed-takeover-options-before-board-okd-search/

[45] Also noteworthy is that, originally, COPA repeal was not scheduled to take effect until 2018, but the effective date was moved up for reasons not yet determined. A plausible explanation for this change was to permit an accelerated timeline to pursue the hospital's sale.

[46] Doing so would have required an amendment to COPA's terms, which required Mission to remain nonprofit.

[47] One health policy expert, for instance, has written that "Mission Health would have been a less desirable acquisition target, particularly by a for-profit buyer, had it continued to be subject to state supervision under the COPA over its costs, margins, health plan contracting, and physician employment." https://www.milbank.org/wp-content/uploads/2019/01/MMF-North-Carolina-COPA-Repeal-Issue-Brief-FINAL.pdf

legislators repealed the COPA laws, which allowed HCA's purchase of Mission. We turn, then, to two remaining questions: why did Mission's board decide to sell the hospital, and why to HCA?

C. Fallout with Blue Cross

The public events leading to HCA's purchase began with Mission's fall 2017 showdown with Blue Cross, which various informed sources characterized as a "self-inflicted" "fiasco" or a "botched" job that caused "pandemonium." Free of state antitrust oversight, Mission was more able to play hardball in its 2017 negotiations with Blue Cross over renewal of its three-year managed care contract. Because Mission's negotiating tactics did not succeed, it lost network status with the area's primary commercial insurer, before ultimately agreeing (after 10 weeks) to Blue Cross's initial terms. That temporary break caused a financial setback. More significant, though, was that this blow, as many interview sources explained, is what ultimately convinced Mission's Board of Trustees that it needed to sell the hospital, which it quickly did – since, by itself, the hospital demonstrably lacked the ability to negotiate more favorable terms with Blue Cross.

We will never know if Mission could have salvaged better terms from Blue Cross than it ended up with. Accounts of the negotiating breakdown differ (both published,[48] and via confidential interviews), but they share these common features. Blue Cross had decided to implement a "value-based" payment system that rewarded hospitals based on controlling costs and improving quality. Mission's senior management also strongly believed in the value-based concept, but wanted to be the leader rather than follower. To do so, Mission felt it needed a cumulative double-digit increase in Blue Cross rates over the next three years (i.e., at least 4% a year). Blue Cross, on the other hand, sought to freeze value-based reimbursement rates, at least for one year, and then structure rate increases based primarily on the hospital's performance on quality and cost metrics.

Additional details are not well documented. There are some indications that Mission would have agreed to four percent annual increases and that Blue Cross might have agreed to two percent. But, there are other assertions that, at least initially, Blue Cross offered no increase in base rates for three years, whereas Mission asked for as much as six or seven percent increases year after year. There is possibly some truth in both accounts at different points in the negotiation; nevertheless, no details are available about the specific terms of Blue Cross's value-based payment measures, or whether Mission would be advantaged or disadvantaged given its status as a very high-performing hospital (as discussed in [a forthcoming section]).[49]

The fatal break in the negotiations came in July 2017 when Mission, facing a contractual deadline, announced its intention to terminate its Blue Cross participation in three months. At that point, Blue Cross

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[48] https://chirblog.org/wp-content/uploads/2020/02/GtownCHIR_ProviderConsolidation_Asheville_Jul2019.pdf
https://www.citizen-times.com/story/news/local/2017/07/30/blue-cross-nc-mission-hospital-split-would-affect-thousands-wnc/514214001/
https://mountainx.com/blogwire/mission-health-board-members-release-op-ed-about-bcbsnc-contract/
https://www.citizen-times.com/story/opinion/2017/08/14/blue-cross-ncs-perspective-surprised-disappointed/104582580/

[49] According to one source connected with Mission, Blue Cross' "unrealistic" metrics would have required "almost a zero error rate" to earn significant increases, but another source disputed this characterization.

cut off all negotiations, as Mission had reason to know it might,[50] which made the break unavoidable (unless Mission entirely capitulated, which it eventually did). For 10 weeks, both Mission and Blue Cross struggled with the great bulk of commercially insured patients in the area suddenly being out of network, both for the hospital system and for its very large network of contracted physicians.[51]

Mission had hoped that many local businesses would switch from Blue Cross to the new insurance company that Mission had created. But that failed to happen.[52] Mission, additionally, was frustrated that the general community was not more vocally supportive of the hospital's efforts to improve its financial position.[53] In the end, Mission was forced to capitulate entirely. Beginning January, it agreed to Blue Cross's original terms,[54] which also the very same point in time when Mission's board decided to pursue either partnering with or selling the hospital to a larger system.

IV. THE DECISION TO SELL TO HCA

The other highly visible change following the state's repeal of Mission Hospital's antitrust oversight is, of course, its sale to HCA. Although not consummated until January 2019, serious pursuit of this possibility was under way by mid-2017 (and most likely earlier)[55] – at the same time that Mission embraced its aggressive negotiating stance with Blue Cross. The deliberation process accelerated during the ten-week break with Blue Cross in late 2017, and culminated in spring 2018 with the board's decision to sell Mission to HCA. Although controversy has abated over the fallout with Blue Cross, controversy still rages over both Mission's decision to sell and the choice of HCA as its purchaser.

A. Concerns about Financial Sustainability

Mission's board unanimously decided to give up the hospital's independence and local control because it became convinced that, over the long term, it could not independently afford to maintain its high quality and scope of service. The board reached this decision despite Mission's strong financial condition at the time. Over the three-to-four years prior the sale, Mission's net assets (or so-called book value) had increased almost 20 percent and its operating profits had remained a fairly steady and respectable 3 ½ to 4 ½ percent.[56] As a somewhat more forward looking metric, a hospital's bond rating is a widely used

[50] https://www.citizen-times.com/story/news/local/2017/10/11/mission-ceo-email-senior-employees-blue-cross-unethical-bullying-foe/750504001/
Blue Cross has consistently refused to negotiate with hospitals in advance of an announced contract termination, knowing that if it did so for one hospital, soon most would employ that tactic. Also, informed sources reported that Blue Cross notified Mission specifically that it would adhere to this position. As one source subsequently commented, "there is yet to be a hospital that [took this negotiating approach with Blue Cross] and improved their position." https://chirblog.org/wp-content/uploads/2020/02/GtownCHIR_ProviderConsolidation_Asheville_Jul2019.pdf
[51] https://chirblog.org/wp-content/uploads/2020/02/GtownCHIR_ProviderConsolidation_Asheville_Jul2019.pdf
[52] https://www.citizen-times.com/story/news/local/2017/07/30/blue-cross-nc-mission-hospital-split-would-affect-thousands-wnc/514214001/
https://smokymountainnews.com/archives/item/20467-mission-offers-its-own-health-care-plan
[53] https://smokymountainnews.com/archives/item/21144-mission-tightlipped-about-negotiations-with-bcbs
[54] https://chirblog.org/wp-content/uploads/2020/02/GtownCHIR_ProviderConsolidation_Asheville_Jul2019.pdf
[55] https://avlwatchdog.org/mission-accomplished-former-ceo-ron-paulus-and-hca-discussed-takeover-options-before-board-okd-search/
[56] https://www.northcarolinahealthnews.org/2020/12/13/nonprofit-mission-made-lots-of-profits-especially-for-bosses/

financial outlook for those who are evaluating whether to lend substantial sums. The year prior to the board's decision to sell, leading rating agencies gave Mission strong, AA ratings with a "stable" outlook[57] (meaning they expected this strength to continue in the medium term).

Taking a longer view, however, Mission's board reached a different conclusion, apparently based in large part on the failed Blue Cross negotiation, a "fiasco" that several informed observers thought was the "straw that broke the camel's back" of Mission's hope of remaining independent.[58] The timeline of events (shown in Figure 1 above) has led some to question whether the failed negotiation with Blue Cross was indeed the primary driver of the decision to sell, considering that Mission's leadership was exploring the hospital's sale, and in particular its sale to HCA, at the same time that Mission initiated its aggressive negotiating stance with Blue Cross, prior to that strategy's failure. Perhaps Mission's leadership was pursuing a two-pronged approach in order to be able to pivot quickly in case the Blue Cross strategy failed.[59] In any event, the financial reasons to sell gained strength after the failed negotiations.[60]

This failure is key because Blue Cross is the primary route to offsetting lower reimbursement rates received from government programs, whose payments are non-negotiable. Mission, like most other hospitals, relies on the profit it makes from commercially insured patients to offset any losses from Medicare or Medicaid,[61] and to cover the costs of treating uninsured patients. Due to age and income demographics in western North Carolina, only about a quarter of Mission's revenues come from commercial insurers, and Blue Cross is overwhelmingly the largest insurer. Therefore, Mission's inability to get Blue Cross to budge convinced the board that this "payor mix" was not financially sustainable in the long run. A consultant's report gave this fuller summary:

> "The Board identified significant challenges facing Mission, including an unfavorable payer mix heavily weighted towards Medicare and Medicaid on which Mission earns a negative margin, an aging population causing a further shift from commercial insurance to Medicare, modest rate increases from commercial payers, North Carolina's decision not to expand Medicaid resulting in a larger population of uninsured patients, ... and continually reducing operating expenses without compromising the quality of clinical

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[57] https://www.moodys.com/credit-ratings/Mission-Health-System-NC-credit-rating-802830019/reports
https://www.fitchratings.com/research/us-public-finance/fitch-rates-mission-health-system-inc-nc-series-2016-2017-bonds-aa-outlook-stable-10-08-2016
Confirming that these are strong ratings, see
https://www.beckershospitalreview.com/finance/20-health-systems-with-strong-finances.html
https://www.beckershospitalreview.com/finance/63-health-systems-with-strong-finances.html

[58] Of note, however, is that Moodys reaffirmed its strong rating once Mission rejoined Blue Cross. https://www.moodys.com/research/Moodys-affirms-Mission-Health-Systems-NC-Aa3-and-Aa3VMIG-1-Rating-Action--PR_904308169 . Also, noteworthy is that the board reached its decision without input from Mission's CFO, who retired at the end of 2017 and was not involved in either the Blue Cross negotiations or the financial analyses leading to the board's January 2018 decision.

[59] On the other hand, several subjects speculated that at least some leaders intended to pursue the hospital's sale regardless of the outcome of Blue Cross negotiations. Their theory is that, if negotiations succeeded, Mission would have even more value, but if it failed, then sale became more inevitable.

[60] See note 58, however.

[61] Hospitals do not necessarily lose money on these programs. Some break even and some make modest profits. Prior to the HCA sale, Mission typically reported relatively small losses from Medicare, but somewhat larger profits from Medicaid, such that, on balance, it made rather than lost money from these two programs.
https://tool.nashp.org/

> care. The Board unanimously agreed that continuing as an independent system was not viable, as continuous cost-cutting would ultimately undermine clinical programs, leading to diminished quality, access, and affordability, and very possibly some hospital closures."

Based on these considerations, Mission's leaders thought that the system would financially struggle to stay afloat without major changes, perhaps necessitating the closure of some of its services or rural hospitals. But some voiced more dire concerns that, over time, Mission as a whole may not survive at all, under the assumption that major insurers would continue to resist increasing payment rates.[62]

Joining or partnering with a larger hospital system offered Mission a potential lifeline for two reasons. First, a larger system could have more negotiating clout with Blue Cross than Mission had on its own.[63] Second, a larger system could bring economies of scale, which offered the prospect of trimming hospital costs through purchasing discounts and "home office" administrative efficiencies.

B. The Envisioned Path to Financial Sustainability

Based on various considerations,[64] Mission's board invited proposals from HCA and Novant Health, a North Carolina-based system. Both offered similar or equivalent price terms,[65] but the Board unanimously selected HCA. Full reasons for favoring HCA have not been given,[66] but one that stands out from public statements is HCA's ability, based on its sheer size, to reduce costs through purchasing discounts and administrative cost savings.[67] In a formal letter to the Attorney General's office,[68] Mission's attorney said that the board was especially impressed by "a set of projections prepared by HCA ... demonstrat[ing] what HCA believed it could achieve in expected cost savings, particularly from corporate office synergies." In addition, Mission said it was impressed with HCA's "ability to procure supplies at more favorable prices than Mission, due entirely to is sheer size and volume of purchases."

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[62] https://www.citizen-times.com/story/news/local/2018/04/21/boyle-column-former-mission-ceo-bob-burgin-offers-views-proposed-sale-hca/535732002/
https://www.citizen-times.com/story/news/local/2018/03/31/boyle-column-mission-may-surprised-hca-deal-and-newfound-devotion-stock-market/474299002/

[63] On the other hand, it would be difficult to improve on the market clout that Mission already had (and still has) as the dominant hospital system in its market. Although a larger system that also has market power in other locations could, in theory, attempt to leverage that in the Asheville area, doing so could well run afoul of antitrust laws. https://sourceonhealthcare.org/market-consolidation/cross-market-systems/.

[64] Other potential "suitors" were thought to either lack sufficient financial strength or to be at too great a risk of being denied regulatory permission based on antitrust considerations.

[65] https://web.archive.org/web/20220802234818/https://avlwatchdog.org/wp-content/uploads/2022/08/Charles-Ayscue-CON-APPL-Novant-Hlth.pdf
In addition to the purchase price, HCA also committed to completing a range of capital improvement projects that were already planned or under way.

[66] Some knowledgeable sources commented that HCA's presentation to the board was much more polished -- "like a Broadway show" rather than a "high school musical" in the words of one participant. Outside critics, however, attribute this to their impression that Mission's management gave HCA special "coaching" prior to the presentation. A key executive at the time, however, has written that "more favorable options [were] available to Mission at the time that HCA was chosen as the buyer." https://avlwatchdog.org/mission-sale-wasnt-good-for-hca-either-a-former-top-exec-argues-for-a-return-to-local-control-nonprofit-status/

[67] https://www.northcarolinahealthnews.org/2018/07/25/missions-leaders-chose-to-dance-with-hca/

[68] https://www.scribd.com/document/563249268/HCA-008156-Inquiry-on-HCA-Health-Midwest-deal

Other Mission leaders echoed these sentiments. The board's chair wrote the public at large that:[69]

> "The reason [for choosing HCA] is simple: HCA has significant economies of scale and concomitant expertise unavailable to Mission Health that will result in very significant cost savings and care enhancements. ... HCA buys volumes of products, equipment and services at prices far below what Mission alone (or any similar system) ever could. While its clinical staffing is very similar to Mission's, it has significant, demonstrated efficiencies in finance, information technology and other "back-office" functions."

Of note, however, is that explanations from Mission's leadership never give any hint that HCA might substantially cut patient-care staffing or compromise quality. Suggesting to the contrary, the passage just quoted assures that HCA's "clinical staffing is very similar to Mission's." Also, Mission's webpage of FAQs at the time stated that "we do not anticipate significant changes [in staffing] beyond what we typically experience or that otherwise would be required."[70]

Based on these assurances, several sources in the community now say they feel "lied to," both in the fact that the hospital was "not really failing," and in the assertion that significant staffing cuts would not happen. The resulting widespread anger from having been given these false impressions is on vivid display in an extraordinary open letter that seven state and local government leaders wrote one year after the sale:[71]

> "During the negotiations and public discussions leading up to the sale, Mission officials were repeatedly asked, "If Mission is losing money, how will HCA make money by purchasing Mission?" The only answer we ever received was that HCA would make money through more efficient purchasing power and staff reductions in redundant back office, administrative positions. It is clear now that this was a lie. Instead, HCA has chosen to make its money by reducing charity care, eliminating medical and unit administrative staff to the detriment of patient care and safety, and sacrificing entire physician practice groups with long-standing contractual relationships by demanding significant reductions in pay. That wasn't the deal we were told about and it wasn't the deal we made as a community."

C. Maintaining a Charitable Mission

An obvious compromise in choosing HCA for its sheer size and administrative prowess is that HCA is avowedly organized and operated for profit; thus, it does not inherently have the commitment to community benefit and social welfare expected of a charitable institution. One can be skeptical of whether non-profit hospitals in the modern era are truly charitable, but differences in institutional mission and operational tenor nevertheless can be expected. And, certainly, to most observers, including ones with

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[69] https://www.citizen-times.com/story/opinion/2018/07/13/mission-health-hca-board-made-right-decision-hca-merger/780893002/

[70] https://www.northcarolinahealthnews.org/2018/07/25/missions-leaders-chose-to-dance-with-hca/
https://web.archive.org/web/20180331010545/https://missionhealthforward.org/faqs
https://web.archive.org/web/20180409082221/https://missionhealthforward.org/faqs/

[71] https://www.citizen-times.com/story/opinion/2020/02/11/hcas-management-mission-health-hospital-cause-deep-concern/4721205002/

health care savvy, it came as an astounding surprise that a hospital explicitly named for its charitable "mission" would sell to the world's largest for-profit health care corporation.[72]

Various features of the deal aim to address this concern, however. First, as discussed in [in section __],[73] under HCA, Mission adopted a charity care policy that the board believed was as good, or better, than what the system previously had.[74] Based on this, Mission expected that "[j]oining HCA Healthcare would not change how Mission approaches patient care or treatment of the uninsured in any way."

Second, the Attorney General required HCA to make various assurances about maintaining core services throughout the region for at least 10 years.[75] Most impressively, though, is that the $1.5 billion purchase price was used to create what, for a time, was the country's largest per capita community foundation, devoted to improving health throughout western North Carolina.[76] There is good reason to believe (as discussed in Appendix B) that Mission's CEO at the time was especially interested in this foundation's creation, with the thought that he might lead it. Also, several long-time hospital board members were initially appointed to the foundation's board.

Using the proceeds of a nonprofit hospital sale to create an independent charitable foundation typically occurs only when a for-profit entity makes the purchase. If another nonprofit makes the purchase, that is more often done simply through a merger of assets, whereby one nonprofit absorbs the other. Thus, a distinct advantage of selling to a for-profit is to "unlock" the value stored in the nonprofit so that those assets can be devoted to similar charitable purposes.

A sale to a for-profit entity is not the only means, however, to achieve that goal. Sometimes an acquiring nonprofit pays a purchase price just like a for-profit acquirer. In fact, that is precisely what transpired in Wilmington, NC two years after HCA's acquisition of Mission. There, Novant – the rejected suitor for Mission – purchased the county's hospital for $2 million.[77] To address community concerns about giving up local control, county officials required that over half of this purchase price be placed in an independent foundation very similar to the one created by HCA's purchase.[78]

D. Indications of a Tainted Deliberative Process

Thus, it appears at least possible that Mission's board might have struck a similar deal with an in-state nonprofit rather than an out-of-state for-profit. That possibility calls for more careful investigation into

[72] https://www.citizen-times.com/story/news/local/2018/04/21/boyle-column-former-mission-ceo-bob-burgin-offers-views-proposed-sale-hca/535732002/
https://www.citizen-times.com/story/opinion/2018/03/24/editorial-who-profit-missions-impending-merger/451201002/
[73] https://hlp.law.wfu.edu/wp-content/uploads/sites/11/2024/01/HCA-Mission-Charity-Care-working-draft-WFU.pdf
[74] https://web.archive.org/web/20180331010545/https://missionhealthforward.org/faqs
[75] https://www.searchwnc.org/overview-transaction. Another example is Kaiser Permanente's 2017 purchase of Group Health Cooperative (in Puget Sound), which created a community foundation with $1.8 billion in assets.
https://inatai.org/about/
https://dogwoodhealthtrust.org/wp-content/uploads/2023/12/DHT-HCACompliance1123-3.pdf
[76] https://dogwoodhealthtrust.org/
[77] https://www.northcarolinahealthnews.org/2020/11/27/mission-sale-good-for-wnc-or-just-hca/
https://www.northcarolinahealthnews.org/2020/07/14/novant-unc-win-bid-for-new-hanover-regional/
[78] Due to that county's smaller geographic footprint, this resulted in a substantially larger per capita foundation than the one created by HCA's purchase of Mission.

why the board nevertheless unanimously preferred HCA. Presumably, the board believed that, on the whole, HCA would do a better job running Mission Hospital than Novant. Because the deliberative process is not public, it is impossible to know the exact basis on which the board may have reached this conclusion. Some well-placed sources, however, relate that Novant's presentation to the board was distinctly inferior.

Assessing that possibility is necessarily speculative, but there is a credible indication why it might have occurred. Extensive investigative journalism has revealed a range of evidence that, from the outset, Mission's senior management treated HCA more favorably than other contenders.[79] This version of events is not presented with the intent of claiming any legal improprieties. Instead, it is meant to convey a plausible account of how Mission's board received information that would lead it to conclude that HCA was the better choice.

When Mission's leadership began to explore the possibility of a sale in 2017, and throughout the process, it devoted significant attention to HCA, using a consultant who had prior and concurrent business dealings both with HCA and with Mission's CEO. Concerns about these and other potential conflicts of interest[80] caused the Attorney General's office to investigate. Based on information obtained, the staff attorney in charge composed an internal document (in October 2018) summarizing that the Attorney General's office had "great concerns about how HCA was selected to be the entity that purchased Mission … [and] about how the negotiations [unfolded]."[81] The document then recited the following "facts as we currently understand them":

> 1. Phil Green, a longtime friend and associate of [Mission CEO] Dr. Paulus's, also has a prior business relationship with HCA. … Mr. Green's prior relationship with HCA was never disclosed to the Mission board ….
>
> 2. Over the next few months, Mr. Green and Dr. Paulus steered the process by which other bidders were identified. … Mission's board formed a Strategic Planning Committee. Although Dr. Paulus was not a member of that committee, he participated in it as if he were. …
>
> 3. A regional system was initially included in the bidding. We have learned that that potential partner wanted Dr. Paulus's role to be Chief Information Officer. Later, that partner was dropped from consideration on grounds that appear pretextual to us. ... Reading his email exchanges with HCA, an outside observer could conclude that … Dr. Paulus coached HCA behind the scenes on how to best present its case to the Mission Board.

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[79] https://tribpapers.com/archive/2021/11/community/asheville-watchdog-investigating-hca-mission-hospital/30545/
https://avlwatchdog.org/attorney-generals-office-had-great-concerns-mission-hca-deal-was-rigged-from-the-beginning/
https://avlwatchdog.org/mission-accomplished-former-ceo-ron-paulus-and-hca-discussed-takeover-options-before-board-okd-search/
https://www.northcarolinahealthnews.org/2020/11/26/a-done-deal-how-mission-health-wooed-hca/
https://avlwatchdog.org/year-in-review-rigged-from-the-beginning/

[80] See Appendix B.

[81] https://avlwatchdog.org/attorney-generals-office-had-great-concerns-mission-hca-deal-was-rigged-from-the-beginning/

> 4. … Neither the board nor its advisors seems to have given any thought to the fact that certain transaction partners offered Dr. Paulus greater scope for [professional] advancement [following the sale] versus others or versus no transaction at all. … In our opinion, Dr. Paulus's conduct violated the Mission conflict of interest policy, which requires an officer or board member with even a potential conflict to not merely recuse himself from voting on the matter, but also from advocating for an outcome. Dr. Paulus offered to recuse himself, but was advised that it was unnecessary. The rationale was that since all of the potential partners wanted Dr. Paulus to continue in some capacity, therefore he had no conflict of interest. …
>
> 5. HCA stated that it could make the system profitable by virtue of its low supply chain pricing and back-office efficiencies. The Board seems to have accepted that proposition uncritically.
>
> 6. In the end, an outside observer could conclude that HCA rose to the top among a limited number of bidders because the deck had been stacked in its favor from the beginning by Dr. Paulus and Mr. Green. …

Several of these concerns and perceived facts have been contested; therefore, it is not settled that this document is 100 percent accurate, nor do we know for sure if there are any additional facts relevant to the integrity of this process.[82] Nevertheless, it is clear that the hospital's CEO was a key leader of the process and that the board did not retain outside expert advice independent from management, as is often strongly advised and done in these situations.[83] Appendix B provides additional discussion of Mission's CEO.

Also significant is the timeline shown in Figure 1 above that led to the board's decision. Recall that the board decided to sell the hospital in early 2018, which was in the immediate wake of the "botched" Blue Cross negotiation. The financial strains this caused likely created a sense of urgency in reaching a decision. Once senior management and board membership had decided on a sale, Mission's leadership added another layer of urgency to quickly sell Mission rather than wait to see whether the hospital could weather the climate at the time. According to participants in the deliberations, the prevailing sentiment was that Mission "had to strike while iron was hot," since the "handwriting was on the wall" and it was unsure "how long a runway" the hospital had before it went "in the gutter."

Few board members were available to interview (owing in part to nondisclosure agreements), but among those who were, only two expressed any regret over the decision that was made. For one, that regret was

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[82] For instance, one possible reason Mission's leadership may have focused on HCA first was to obtain an initial offer that it could use to better leverage competing bids from others, and, indeed, it appears (as mentioned above) that the only other competing bid the board considered essentially matched HCA's offer.

[83] One former Mission administrator commented that failure to do so is "highly unusual," as have two other experts who spoke with reporters about the situation.
https://avlwatchdog.org/mission-accomplished-former-ceo-ron-paulus-and-hca-discussed-takeover-options-before-board-okd-search/
https://www.statnews.com/2023/11/30/hca-mission-hospital-cost-cutting-appalachia/.
See also Jill R. Horwitz, State Oversight of Hospital Conversions: Preserving Trust or Protecting Health? (2002), https://www.hks.harvard.edu/centers/cpl/publications/state-oversight-hospital-conversions-preserving-trust-or-protecting-health

less about the wrong decision being made than about it being made with too great a sense of urgency and maybe even undue "panic," considering Mission's underlying financial strength.[84] Indeed, deliberations with the full board proceeded rapidly, which left little time for doubts or division to emerge. Also, some key figures who turned out to be strongly opposed to the decision felt they were kept "in the dark" until the decision was announced,[85] and others who were skeptical were said to be "picked off one by one" prior to full board deliberations.

Several informed observers noted that, following the 2016 repeal of state antitrust oversight, the board composition changed in a manner that brought in new members, some of whom, despite being well-placed in the community, had little or no experience with hospital management or health care finance and thus were more "naïve" or less prepared to ask the right kinds of detailed questions than board members who came "up through the ranks." Therefore, as one participant explained, by the time skeptics in management or in communication with the board were notified, "it was too late," and the "die was already cast" because the choice of HCA was presented "as a predetermined" decision. An industry consultant familiar with the parties involved also agreed that Mission's senior leaders "orchestrated" the board's choice of HCA.[86]

In any event, once an initial decision of this magnitude is made, there is natural reluctance to reconsider or retract. When the Attorney General required the board to deliberate again after presenting his concerns about the process leading to its decision, the board unanimously reaffirmed its decision.

This apparent unanimity cloaks some unsettledness that interviews revealed. Informed observers noted that, although no board members involved are openly expressing regret,[87] none are vocally expressing wholehearted support for the decision, and at least one has said things "obviously have not" turned out as hoped.[88] Privately, one board member interviewed said they "absolutely regret the decision" and some sources close to other board members said that several have also expressed "deep" or "severe" regrets and "are very unhappy with the outcome." Some other board members, however, believe the decision was the right one at the time based on the information available, but that Mission found itself in "a bad place at the wrong time." Two key leaders at the time note that there is a tendency to compare current conditions with the "way things used to be," without failing to appreciate that conditions could not remain the same and that similar changes would have happened regardless of who was in charge.

It should not be surprising that a decision as complex and consequential as this would leave behind a cloudy and fractured picture of exactly what motivated it and what various alternatives might have produced. Nevertheless, what happened, happened. Having set this stage as best as is now possible, this investigation turns to a set of issues that hopefully can be addressed more clearly: what exactly has transpired following HCA's acquisition of Mission.

[84] Another insider noted that it would have been wise to see how the new Blue Cross contract actually played out, considering that Blue Cross reportedly no longer insists on the similar contract terms.

[85] One such figure was the hospital's chief financial officer.

[86] https://www.statnews.com/2023/11/30/hca-mission-hospital-cost-cutting-appalachia/

[87] https://avlwatchdog.org/opinion-heres-why-asheville-watchdog-reporters-knocked-on-the-doors-of-mission-board-members/

[88] https://avlwatchdog.org/former-mission-board-member-we-had-hoped-that-hca-would-be-a-better-corporate-citizen/

About the Author and Funder

Mark A. Hall is one of the nation's leading scholars of health law and public policy, with three decades of experience leading social science studies funded by competitive research grants from the federal government and a range of major national foundations and respected "think tanks." An elected member of the prestigious National Academy of Medicine, he regularly publishes in, and conducts peer review for, leading medical and health policy academic journals. Prof. Hall regularly consults with public policy and government officials, including federal and state lawmakers and regulators.

In its efforts to improve health care markets, the funder, Arnold Ventures, supports a certain amount of "impact litigation," as do other public policy groups. Some of that support goes to a public interest law firm that is currently suing HCA Mission on antitrust issues. This research team and Wake Forest University have no connection with that litigation. Also, Arnold Ventures has no control over, or even input into, how this research is conducted or how information gleaned is analyzed or reported. Instead, this is entirely independent academic research, conducted using accepted social science methods.

APPENDIX A: LOCAL AND REGIONAL NEGATIVE PRESS ABOUT MISSION HOSPITAL UNDER HCA

Carolina Public Press	Elected Officials Blast HCA for First Year's Performance at Mission	2/11/20
Asheville Citizen Times	Patient Care to Staff Safety: Concerns Over HCA's Management of Mission Run Deep	2/11/20
Mountain Xpress	Mission Criticized on Staff Shortages, Patient Care	2/12/20
Asheville Citizen Times	Attorney General Josh Stein Asks HCA to Answer Concerns About Care, Billing	2/26/20
NC Health News	Attorney General Josh Stien to HCA: 'I Want Answers'	2/27/20
Asheville Watchdog	Pandemic Put Pause on Mission Troubles	5/13/20
Asheville Citizen Times	Patient Criticisms and HCA's Response: What to Know About Mission Charity Care	5/24/20
Carolina Public Press	Working for HCA: Asheville Nurses Protest Conditions at Mission Hospital, Win Ruling on Forming Union	8/5/20
Asheville Citizen Times	Mission Health to Stop Primary Care Services in Biltmore Park, Candler	9/16/20
Carolina Public Press	Asheville Nurses Union Vote Unprecedented in NC	9/17/20
Mountain Xpress	Mission Nurses Overwhelmingly Approve Unionization	9/17/20
Asheville Watchdog	A Done Deal: How Mission Health Wooed HCA	10/19/20
Asheville Watchdog	Mission Sale: Good for WNC, or Just HCA?	10/22/20
Asheville Citizen Times	Critically Understaffed': Asheville Crowd Vents Frustrations with Mission Health and HCA	11/13/20
Asheville Watchdog	Nonprofit Mission Made Lots of Profits. Especially for Bosses.	12/9/20
Carolina Public Press	Irate crowd voices frustrations with medical services in Cashiers	12/29/20
ABC 13	Clinics Closed, Dozens of Doctors Leave Mission Health Since HCA Takeover	2/23/21
ABC 13	Two Years After Sale to HCA, Care and Cost Concerns Raised with Mission Hospital	2/24/21
Asheville Watchdog	Profits Are Up at HCA. Ratings Are Down at Mission.	4/30/21

ABC 13	What Changes Have Been Made Since Medicare Threatened to Cut Mission Hospital's Contract?	5/5/21
Asheville Citizen Times	Mission Departures: Concerns Mount as Doctors Leave HCA; Physicians Citing More Work, Less Pay	5/16/21
Blue Ridge Public Radio	Quality of Care Concerns Rise at Mission Hospital	5/21/21
Mountain Xpress	Patients, Staff Challenge Quality of Care at Mission Hospital Under HCA Management	5/28/21
ABC 13	A Concerning Number,' Attorney General Describes Recent Mission Healht Complaints Filed	6/8/21
Carolina Public Press	HCA Takeover Reframing Primary Care in WNC, Could Threaten Regional Hospitals	7/19/21
Blue Ridge Public Radio	Suit Claims HCA/Mission Health Using Monopoly to Charge More, Provide Less	8/11/21
NC Health News	Local Residents Sue HCA, Alleging Overcharging at Mission Hospital	8/15/21
Mountain Xpress	Wellness in Brief: Lawsuit Alleges Mission Health Monopoly	8/27/21
ABC 13	Healthcare in WNC Is More Expensive Because of Mission Health	9/16/21
Asheville Citizen Times	AG Stein Received 290 Complaints About HCA/Mission in Asheville; a Mom Tells Her Story	9/20/21
ABC 13	Mission Hospital Nurses Rally Again, Alleging Short-Staffing Causing Patient Care Concerns	10/21/21
Blue Ridge Public Radio	Mission Nurses Rally for Staffing Solutions, Calling Current Staff Levels 'Unsafe'	10/21/21
Asheville Watchdog	Pandemic Is Financial Bonanza for HCA	10/25/21
ABC 13	Mission Health Responds to Quality of Care Complaints Under HCA	12/14/21
Asheville Citizen Times	NC Treasurer Files Interest in HCA Anti-Trust Suit; Plaintiffs Reiterate Concerns	12/15/21
Mountain Xpress	Buncombe County Detainee Dies After Being Transported to Mission Hospital	1/26/22
NC Health News	Attorney General's Office Had 'Great Concerns' Mission-HCA Deal Was Rigged 'From the Beginning'	3/20/22
Asheville Watchdog	How Many Doctors Have Left Mission? HCA Won't Say	3/23/22
Blue Ridge Public Radio	Mission Health Fined by NC Department of Labor for Failing to Report an Employee's COVID-19 Death	3/23/22

ABC 13	OSHA Cites Mission Hospital Following Complaint From Nurses Union	3/23/22
Blue Ridge Public Radio	Mission Nurses Overburdened, Patients Suffer	4/4/22
Asheville Watchdog	Angered and Dissatisfied, Some Mission Patients Seek Healthcare Elsewhere	4/15/22
Asheville Citizen Times	Mission Nurse on HCA Fallout During Merger Hearing: 'Shocked and Horrified'	4/16/22
Asheville Citizen Times	Opinion: How to Remedy Mission, Restore Great Health Care in Our Area? Competition	4/17/22
Asheville Citizen Times	AG Stein Hears WNC Leaders on Mision Sale Fallout, Says He's Eying Merger Law Changes	4/28/22
ABC 13	Community Leaders, Members Air Mission/HCA Complaints During Roundtable Hosted by AG Stein	4/29/22
Mountain Xpress	Asheville Mission Hospital Nurses to Rally for Recruitment, Retention, and Patient Safety	6/1/22
Blue Ridge Public Radio	'We Need Action' Brevard Mayor Explains HCA Healthcare Lawsuit	6/8/22
Asheville Citizen Times	2 NC Officials Backing Asheville HCA Lawsuit Call New Brevard Case 'Serious,' 'Courageous'	6/14/22
Carolina Public Press	Why Small NC Mountain City is Taking on Nation's Largest Hospital System	6/14/22
Mountain Xpress	RN Rallies a Common Sight at Mission Hospital	7/5/22
Mountain Xpress	Asheville City Council and Buncombe Couty Board of Commissioners File Class Action Lawsuit Against HCA Healthcare, Inc.	7/28/22
Asheville Watchdog	Novant Offer for Mission Matched HCA Bid, Former Top Exec Says	8/2/22
Asheville Citizen Times	Madison County May Join 3 Other entities in HCA Class-Action Lawsuit, Court Filing Shows	8/5/22
Asheville Citizen Times	Mission Lawsuit Merger: Asheville, Buncombe, Brevard Try to Team Up in Class Action Case	8/5/22
Mountain Xpress	City, County File Class-Action Lawsuit Against HCA/Mission	8/15/22
Mountain Xpress	Nurses at Mission Hospital to Hold Aug. 25 Rally for Patient Safety, Speak Out Against Chronic Short Staffing	8/24/22
Asheville Citizen-Times	HCA Mission Health had year of lawsuits, staff, patient complaints	12/27/22

Asheville Watchdog	Attorney General's Office 'Very Concerned' About Changes at Mission Cancer Center	5/9/23
NC Health News	Doctors' Lawsuit: HCA Healthcare and TeamHealth Overcharged Patients	6/19/23
Asheville Citizen Times	Unsealed HCA Healthcare/Mission Lawsuit Reveals 'Humiliating' Job Performance System	6/19/23
Asheville Citizen Times	NC Attorney General Issues Warning to HCA for Employing Only 1 General Cancer Doctor	6/22/23
Mountain Xpress	North Carolina Attorney General Threatens HCA with Litigation	6/22/23
Asheville Citizen Times	NC Attorney General's Office Reprimands Mission Hospital Independent Monitor	6/23/23
Mountain Xpress	Mission Cancer Center Struggles to Recruit and Retain Oncologists, HCA Executive Tells AG	6/27/23
Asheville Citizen Times	Answer Man: How Many Chaplains Work at Mission Hospital? Are They Cutting Back?	7/3/23
Asheville Citizen Times	Mission Hospital Owner HCA Discloses Data Breach at Multiple Hospitals Across WNC	7/11/23
Asheville Citizen Times	Patients Arrive at Mission Hospital in Ambulances, Then the Waiting Begins	7/25/23
Asheville Citizen Times	HCA Executive Responds to Attorney General Over Claim of Mission Cancer Care Understaffing	8/3/23
ABC 13	Mission Health Counted Among 5 NC Hospitals for High Number of Lawsuits Against Patients, Report Shows	8/16/23
Mountain Xpress	Mission Patients Endangered by Emergency Department Transfer Procedures, Nurses Say	8/24/23
Asheville Citizen Times	HCA Data Breach Class Action Lawsuit May Include 11 Million; Mission Patients Notified	8/29/23
Asheville Watchdog	Citing 'System Failures,' Messino to Stop Providing Acute Leukemia Chemotherapy at Mission	9/21/23
Mountain Xpress	Messino Cancer Centers To Stop Providing Acute Leukemia Chemotherapy at Mission	9/22/23
ABC 13	Concerns Grow Over Loss of More Cancer Services at Asheville's Mission Hospital	9/26/23
Asheville Citizen Times	NC Attorney General Reprimands HCA/Mission Health for Providing Inadequate Cancer Services	9/29/23
Asheville Watchdog	Mission to Lose Last Remaining Medical Oncologist	10/6/23

Asheville Citizen Times	Mission Hospital Ambulance Patient Wait Times Lengthen While Buncombe Mulls Solutions	10/11/23
Asheville Citizen Times	NC AG Stein Considers 'Civil Investigative Demand' Against HCA/Mission's Cancer Care	10/12/23
Mountain Xpress	State AG Has Been Investigating Mission Hospital, But Some Question If It's Enough	10/13/23
Asheville Watchdog	50 Doctors, Including a Former Board Member, Publicly Decry HCA's Management of Mission Hospital System	10/19/23
ABC 13	Doctors, Patients Voice Outrage at HCA, Mission Over Lack of Quality Health Care During Public Meeting	10/19/23
ABC 13	Limited Power of Mission Hospital's Independent Monitor Has Doctors, Patients Seeking Accountability Elsewhere	10/20/23
Asheville Citizen Times	Mission Hospital Patients Staff, Decry Poor Care to HCA Healthcare Independent Monitor	10/23/23
Mountain Xpress	HCA's Independent Monitor Faces Tense Public Meeting	10/26/23
Asheville Watchdog	Former Mission Chief of Staff: 'I Truly Felt Like It Was a Moral Injury' to Work for Hospital	10/27/23
Asheville Watchdog	North Carolina AG Sends Investigative Demand for 41 Sets of Documents From HCA and Mission Hospital	10/27/23
Asheville Citizen Times	North Carolina Attorney General Issues Investigative Demand Against Mission Hospital	10/27/23
Mountain Xpress	Opinion: Is There Anything We Can Do About Mission and HCA?	10/31/23
ABC 45	NC Attorney General Alleges HCA Violated Terms of Mission Purchase Contract	10/31/23
Asheville Citizen Times	NC Attorney General: HCA Healthcare Failed to Comply with Mission Purchase Contract	10/31/23
Asheville Citizen Times	McDowell EMS Director: Mission CEO Patrick 'Disconnected' From Emergency Department Issues	11/2/23
ABC 13	Mission Health Under Scrutiny: Community Voices Concerns, Physicians Send Mixed Messages	11/2/23
Asheville Citizen Times	Mission Health Physicians Mount Response to Doctors Critical of Hospital	11/3/23
Asheville Watchdog	Messino Cancer Centers Founder: 'HCA Has Sold the People of Western North Carolina a Lemon'	11/10/23
Asheville Citizen Times	County to Mission: 'ER Situation Unsafe, Unsustainable;' New Ambulance Wait Time Policy	11/13/23

Asheville Watchdog	State Inspectors Visit Mission Hospital Following Nurses' Complaints	11/14/23
Asheville Citizen Times	Pending Mission Hospital Bylaws, Policies Threaten to Punish Doctors Who Speak Out	11/15/23
Asheville Watchdog	Doctors Practicing at Mission Reject Proposed Bylaws and Policies by a Single Vote	11/16/23
Asheville Citizen Times	Mission Hospital Doctors Oppose Silencing Governing Documents In Nail-Biting Vote	11/16/23
Asheville Watchdog	As State Inspects Mission for CMS, Hospital Makes Changes to Emergency Department	11/22/23
Mountain Xpress	As State Inspects Mission for CMS, Hospital Makes Changes to Emergency Department	11/22/23
Asheville Watchdog	Mission Changes Patient Transfer Process Following Watchdog Report on Nurses' Complaints	11/30/23
Asheville Citizen Times	Lawsuit: Mission Hospital Negligent Post-Op Care Led to Patient Death	12/7/23
Asheville Citizen Times	Court: Mission Hospital Owes Ex-Employee $5k for 'Emotional Distress' But Has Not Paid	12/13/23
Mountain Xpress	Mission Hospital Nurses to Hold Rally Today for Patient Safety, Demand HCA Address Unsafe Staffing	12/13/23
Mountain Xpress	Attorney General Josh Stein Sues HCA Healthcare	12/14/23
Carolina Public Press	HCA Sued by NC Attorney General For Not Providing Promised Care	12/14/23
Mountain Xpress	Mission Hospital Nurses Applaud Attorney General Josh Stein for Lawsuit Against HCA	12/14/23
Blue Ridge Public Radio	N.C. Attorney General Josh Stein Sues HCA Healthcare Over Alleged Breach of Mission Health Deal	12/14/23
Asheville Citizen Times	NC Attorney General Can Now Sue Mission Hospital for Violating Compliance Agreement	12/14/23
ABC 13	NC Attorney General Stein Announces Lawsuit Against HCA Healthcare	12/14/23
Asheville Citizen Times	NC Attorney General Josh Stein Sues HCA Healthcare and Mission Hospital	12/15/23
ABC 13	How the Lawsuit Against HCA Could Impact Health Care in the Mountains	12/18/23
ABC 13	McDowell County EMS Extends Its Pause on Non-Emergency Transfers to Mission Hospital	12/20/23

Asheville Watchdog	Year in Review: Mission Nurses' Complaints to State Set the Stage for Investigations, Lawsuit	12/26/23
Asheville Watchdog	'I Was Beginning to Feel Like I Was on a Sinking Ship,' Says Former Mission Hospitalist	1/2/24
Asheville Watchdog	After AG's Lawsuit, Dogwood Opens Applications for HCA Purchase Monitor	1/4/24
Asheville Watchdog	Wrongful Death Suit Filed Against HCA, Mission Alleges Catastrophic Medical Error, Other Missteps	1/10/24
Asheville Watchdog	Conditions at Asheville's Mission Hospital Pose 'Immediate Jeopardy to Patients' Health and Safety,' State Investigators Report	1/11/24
Daily Kos	DKos Asheville Open Thread: Misison Hospital News is Always Bad News Since HCA Took Over	1/13/24
Asheville Citizen Times	NC investigators cite 9 'Immediate Jeopardy' incidents at Mission Hospital	1/15/24
Asheville Watchdog	Draft report says charity care has declined 'extensively' at Mission after HCA takeover • Asheville Watchdog	1/22/24
Asheville Watchdog	'It doesn't have to be this way:' Watchdog event panelists decry HCA, call for improved care at Mission Health	1/24/24
Asheville Citizen Times	Opinion: HCA immediate jeopardy incidents could be disaster for WNC health care	2/4/24
Blue Ridge Public Radio	Elected officials call on HCA to sell Mission Health System in wake of 'immediate jeopardy' designation	2/6/24
Asheville Citizen Times	Federal government declares 'immediate jeopardy' situation at Mission Hospital	2/6/24
NC Health News	Feds cite Asheville's Mission Hospital for 'immediate jeopardy,' HCA division president tells staff	2/6/24
Asheville Citizen Times	3 patients died at Mission Hospital due to missteps, federal government report reveals	2/15/24
ABC 13	Report reveals patient safety issues, including patient death in hallway at Mission Health	2/15/24
Asheville Watchdog	The patient was subsequently found unresponsive in a hallway bed': CMS report on Mission Hospital details deaths of patients, significant delays in care	2/15/24
Asheville Watchdog	Doctors, advocates blast Mission's plan to correct immediate jeopardy, call for hospital to increase staff • Asheville Watchdog	2/21/24
Carolina Public Press	Mission Hospital fixes from HCA have NC advocates skeptical	2/22/24

ABC 13	Former Mission Health doctor describes 'slow-speed train crash' that led to state lawsuit	2/23/24
Asheville Watchdog	CMS details fifth patient death at Mission	3/1/24
Asheville Watchdog	Former Mission chaplain: "The moral injury that is happening there daily is staggering"	3/1/24
Asheville Watchdog	Mission Hospital still at risk of losing federal funding	3/8/24
Carolina Public Press	What HCA has told feds it's doing to fix staffing issues at Mission Hospital. Why nurses say it's not happening.	3/21/24
Asheville Watchdog	She had appendicitis. It took 12 hours, trips to two hospitals, and a needless pregnancy test before emergency surgery at Mission Hospital	4/9/24
Carolina Public Press	Web of Mission Health litigation grows. Buncombe seeks to join attorney general's case against HCA.	4/15/24

APPENDIX B: MISSION HEALTH'S CEO DURING THE LEAD-UP TO HCA's PURCHASE

The story of Mission Hospital's sale to HCA cannot be told without specific attention to the CEO at the time, Ron Paulus, M.D. Just about every interview of relevance mentioned him in some fashion, and some gave him considerable focus in describing what unfolded.

Dr. Paulus appears to leave indelible impressions on many who meet him. Described in various ways, he is said to be highly charismatic, sometimes perhaps approaching messianic. Mission's board chose Dr. Paulus as CEO in 2010, in part to repair frayed relationships with the local medical community. Equipped with training both as an MD and an MBA (from Wharton), Dr. Paulus came from a nonprofit physician-led integrated-delivery health system (Geisinger).[89] During his tenure at Mission, he devoted a great deal of effort and energy to establishing similarly strong connections with area physicians, with the goal of fostering more performance-based payment methods and population-focused health promotion. His leadership helped Mission Health achieve repeated recognition as the best hospital in the state and one of the very best hospital systems in the country.[90]

Dr. Paulus' devotion to the principles of integrated finance and delivery of health care[91] poses somewhat of a puzzle for why he would have favored joining HCA rather than another health care system. As discussed in [a forthcoming section], HCA does not follow an integrated-delivery business strategy centered on performance-based payment. Indeed, with Mission, HCA quickly dismantled, or allowed to crumble, much of the hospital-physician integration that Dr. Paulus so laboriously built. It is possible that Mission felt its other suitors would not have behaved much differently, but that seems unlikely. Therefore, it merits some consideration what other attributes of HCA would, in Dr. Paulus' mind, offset this sacrifice.

Some have postulated venal motives, pointing to Dr. Paulus' employment by HCA following the acquisition, and the substantial "golden parachute" that he reportedly received with the sale.[92] He worked for HCA for less than two years, however, which is not unusual following a change in ownership, in order to assist with the transition. Also, it is not unusual to pay the CEO a bonus at the end of a successful leadership. It remains unsettled, however, whether or not HCA's purchase produced a substantially larger severance payout than might have occurred if Mission had partnered with another nonprofit organization.[93]

In any event, another possible reason to favor HCA that would be consistent with laudable principles is the creation of a large independent foundation, focused on improving social determinants of health.

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[89] https://www.commonwealthfund.org/publications/journal-article/2008/sep/continuous-innovation-health-care-implications-geisinger

[90] See [subsequent section, https://hlp.law.wfu.edu/wp-content/uploads/sites/11/2024/02/HCA-Mission-Quality-Ratings-working-draft-WFU-1.pdf]

[91] https://www.researchgate.net/scientific-contributions/Ronald-A-Paulus-35309583

[92] See https://avlwatchdog.org/a-done-deal-how-mission-health-wooed-hca/
https://avlwatchdog.org/attorney-generals-office-had-great-concerns-mission-hca-deal-was-rigged-from-the-beginning/
https://avlwatchdog.org/mission-accomplished-former-ceo-ron-paulus-and-hca-discussed-takeover-options-before-board-okd-search/

[93] Although the specifics are not available, sources suggest that severance terms might have differed if the transaction were structured as a partnership or merger of assets rather than as an outright sale.

Although (as noted [above]) the same might have resulted from a nonprofit purchaser, Dr. Paulus might have thought that such foundations often are smaller and less ambitious and remain more closely tied to the hospital's objectives.

A third explanation offered by several who knew Dr. Paulus well is that he primarily wanted to see Mission put in the best financial hands possible, and HCA made a convincing case for its ability to make the deepest cost cuts. Under this account, Dr. Paulus had tired of the incessant cost trimming required first by COPA oversight and then by the inability to negotiate substantial payment increases from Blue Cross. If he was not going to be able to generate enough surplus to make more transformational changes to how Mission operates, then he was not interested in continuing as CEO, according to this account. Some also thought that perhaps he felt bitter about the lack of support from community or business leaders during the Blue Cross showdown. Rather than simply leaving, an attractive exist strategy (according to this view) was selling the hospital for a handsome sum to a purchaser with the wherewithal to execute Mission's capital improvement plans, fund an ambitious foundation of eye-popping proportions, and accomplish painful but necessary belt-tightening while maintaining quality of care and service to the community.

It may have appeared that HCA fit that bill better than others. [The full report] examines whether or not this wishful thinking worked out as well as hoped.