

Our Mission:

We
improve health
one patient at a time
in a friendly and professional culture
committed to superior quality and safety.

KOOTENAI HOSPITAL DISTRICT SPECIAL BOARD MEETING

December 6, 2022 • 12:00 p.m. • Kootenai Health Resource Center and Webex

<u>TIME</u>	<u>AGENDA</u>	<u>ACTION / INFORMATION</u>
12:00 p.m.	<u>CALL TO ORDER</u>	
12:01 p.m.	<u>BOARD BUSINESS</u> <ul style="list-style-type: none">Meeting purpose, format, and timeline of events – Katie Brodie, Jon Ness	Information
12:10 p.m.	<u>SPECIAL REPORTS</u> <ul style="list-style-type: none">501(c)(3) Conversion – White Paper Review – Katie Brodie, Jon Ness, Kaufman Hall, Polsinelli Law Firm	Information
2:45 p.m.	<u>ADJOURN</u> Next Board Meeting: December 13, 2022	



KootenaiHealth



Conversion from a Public Hospital District to Nonprofit 501(c)(3) Hospital Evaluation White Paper

Fall 2022

Table of Contents

Executive Summary: Strategic Considerations.....	5
Hospital / Health System Industry and Conversion Trends.....	12
Overview of the Idaho Statutes.....	17
Merits and Considerations for Kootenai Health & Community.....	20
501(c)(3) Diligence Investigation Summary.....	27
<ul style="list-style-type: none"> • Legal and regulatory • Governance • Affiliated Partners • Contracts / Agreements • Employment • Foundation • Finance • Community Benefits 	
Appendices.....	35
<ul style="list-style-type: none"> • Supplemental Kootenai Health Background • Recap of Kootenai Health Strategic Imperatives • Supplemental Diligence Analyses 	

Introduction

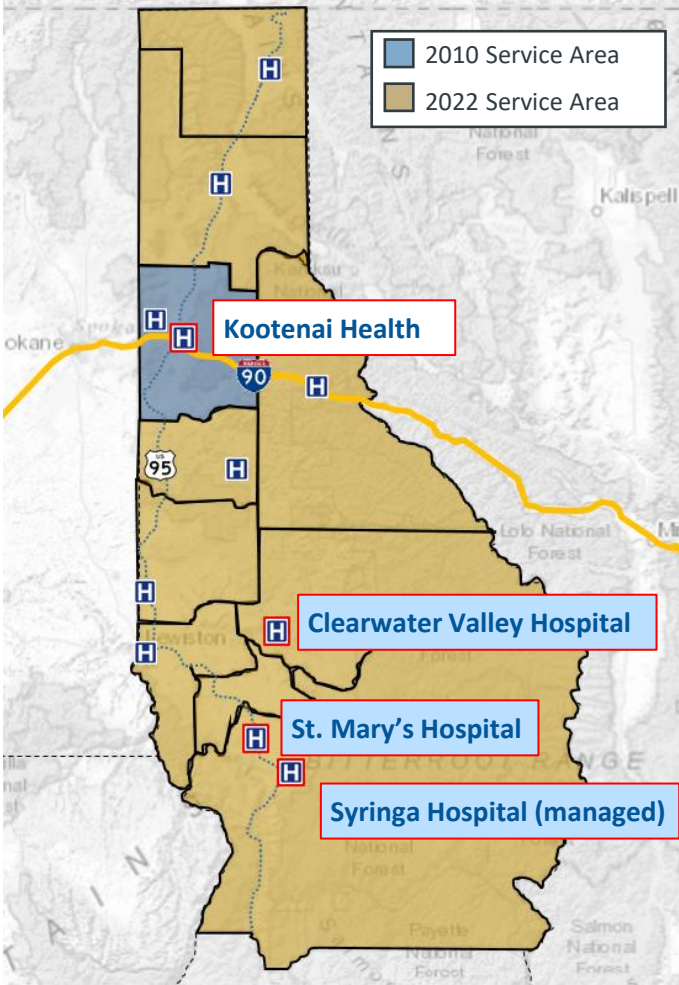
- The purpose of this document is to provide facts and circumstances related to Kootenai Health’s evaluation of converting from a public hospital district to a private 501(c)(3) by:
 - Establishing a fact-based foundation, grounded in market data and regulatory developments
 - Assessing the merits to Kootenai Health and community stakeholders
 - Considering the risks identified during the extensive due diligence process
- The white paper is a culmination of the Board-directed 501(c)(3) conversion evaluation following the unanimous approval by Idaho legislature of Adopted Statutes I.C. § 39-1358 and § 39-1359 (the “Idaho Statutes”)
- Kootenai Health (“KH”) engaged several third-party legal counsels and advisory firms to assist in the evaluation

The Kootenai Health Transformation

	2010	2022
Hospitals	1 owned	3 owned, 1 managed
Beds	246	392
Employed Specialties	Less than 10	30+
Employed Providers	Less than 50	300+
Discharges	13,000	16,000+
ER Visits	49,000	60,000+
Revenue	\$282M	\$800M+
Employees	1,800	4,000+
Outpatient Services	Ambulatory Surgery Center, Urgent Care Clinics, Infusion Centers, Endoscopy Center, Hand Surgery Center, Wound Care Center, Advanced Imaging, Retail Pharmacy	
Capital Investments	<i>More than \$350M in strategic investment since 2012 funded by operations, Kootenai Health Foundation contributions (~\$30M), and debt, with no property taxes levied since 1995</i>	

Kootenai Health is the only full service hospital in North Idaho providing Emergency Medicine, Level II Trauma, Intensive Care, and Behavioral Health services. The next two largest hospitals, (St. Joseph Regional Medical Center and NW Specialty Hospital) are owned by out-of-state, for-profit corporations

Kootenai Health Service Area



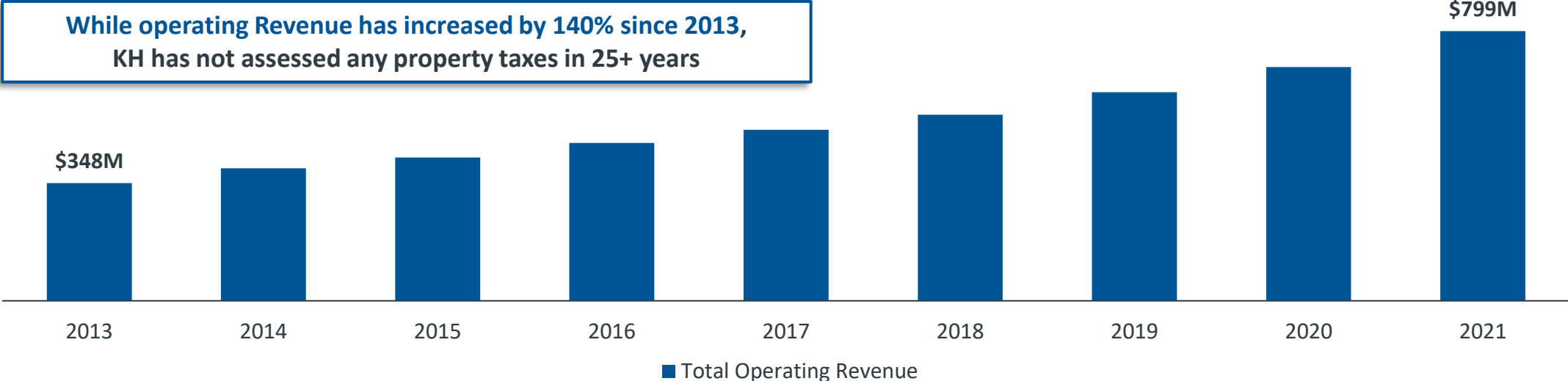
Kootenai Health owned or managed hospitals (blue highlight indicates new hospital since 2010)

A Decade of Major Investments in Growth

Strategic Growth Initiatives and Financial Impact
(\$350M+ in Strategic Capital Investments 2013-2021)

2013-2015	2016-2018	2019-2023
<p><u>MFP 1 – East Expansion \$57M</u></p> <ul style="list-style-type: none"> • 1E: Birthing Center, NICU • 2E: 32-bed Ortho/Neuro Unit • 3E: Shelled out space 	<p><u>MFP 2 – MOR/ED Expansion \$45M</u></p> <ul style="list-style-type: none"> • Expanded ED and added 11 treatment rooms • Expanded Pre-Op/PACU space and added 3 operating rooms <p><u>Post Falls Medical Park Expansion \$11M</u></p> <ul style="list-style-type: none"> • Expanded primary and specialty care presence, expanded radiology and ancillary services <p><u>MFP 3 – 3E Inpatient Unit Build Out \$12M</u></p> <ul style="list-style-type: none"> • Added 32-bed inpatient unit 	<p><u>MFP 4 – MOR / Heart Center Expansion \$40M</u></p> <ul style="list-style-type: none"> • Expanding MOR to add 2 additional operating rooms (2023) • Adding additional Cath Lab and EP Lab (2023) <p><u>Epic CareConnect EHR \$65M</u></p> <ul style="list-style-type: none"> • Implemented Epic across Kootenai Health, Kootenai Clinic, KOS, and KOI

While operating Revenue has increased by 140% since 2013, KH has not assessed any property taxes in 25+ years



Executive Summary: Strategic Considerations

Why Now?

KEY ELEMENT	IMPLICATIONS
Healthcare is Rapidly Evolving	<ul style="list-style-type: none">• Industry trends are accelerating the need for hospital organizations such as KH to evolve. Certain trends are driven by care shifts to outpatient and home-based therapies• The need for a nimble governance structure is more important than ever to react to the quickly changing market environment and competitor actions, all of whom have more nimble governance• As competitors enter the market, KH is disadvantaged by public disclosure and open meeting requirements – As a result, KH cannot progress key initiatives as rapidly as needed
Hospitals Face Significant Financial Challenges	<ul style="list-style-type: none">• Hospitals, including KH, are facing the worst financial losses since 2000 due to rising labor and other inflationary expenses that disproportionately impact their cost structure• Historical cash balances have eroded and are no longer providing a “safety net”• Rising interest rates increased the cost of capital, limiting hospitals’ ability to invest
Rapid Population Growth in Our Community	<ul style="list-style-type: none">• Idaho remains one of the U.S.’s most underserved states, among the lowest bed-to-population and physician-to-patient ratios in the nation• Kootenai County is one of the fastest growing counties in the country, requiring KH to grow alongside it – something the existing Hospital District structure may inhibit, as discussed herein• As the community ages and population grows, the high demands on KH will only increase over time
Legislation Now Provides a Pathway	<ul style="list-style-type: none">• On July 1, 2021, legislation was passed unanimously by those present in the Senate and House to afford District Hospitals the same options county hospitals have had since 1986• Only ~20 hospitals across the United States are District Hospitals of 300+ beds today, following a trend of others executing similar conversions

How Could a Conversion Be Better for Our Patients and Community?

KEY ELEMENT	IMPLICATIONS
<p>Critical Provider for North Idaho</p>	<ul style="list-style-type: none"> • KH’s clinical offering and geographic positioning has outgrown the District Hospital model; KH is the comprehensive regional health system for patients across all of North Idaho (regardless of ability to pay), and the patient base has broadened beyond Kootenai County • During the COVID-19 pandemic in 2021 , Washington stopped accepting critical care patients from North Idaho, which reinforced KH’s role as a “safety net” provider for our patients and communities
<p>Ongoing Community Benefit</p>	<ul style="list-style-type: none"> • KH provides \$230+ million in subsidized community benefit annually through numerous programs such as charity care, subsidized community services (e.g., Idaho Crisis Center), medical transportation services, free health screenings, and support groups • Community benefit programs would be continued with potential to expand community partnerships • All KH excess revenue would continue to be reinvested into the community’s healthcare needs or set aside in reserve for future investment
<p>Long-Term Viability for an Economic Engine</p>	<ul style="list-style-type: none"> • KH will be better positioned to execute on various strategic and operational initiatives that support the organization’s long-term viability • KH generates significant economic value for its community, estimated at \$500 million¹ • KH is the largest employer in the county with more than 4,000 employees and \$354 million¹ in payroll and payroll taxes to the community annually • Long-term viability protects North Idaho’s access to critical healthcare services
<p>Access to New Capabilities</p>	<ul style="list-style-type: none"> • KH will be better positioned to develop new capabilities in partnership with healthcare organizations

Note 1: Fiscal Year 2021, Source: Idaho Department of Labor Economic Multiplier

What Are the Benefits for Kootenai Health?

KEY ELEMENT	IMPLICATIONS
<p>Nimble, More Durable Governance Structure</p>	<ul style="list-style-type: none"> • Enables governance continuity and longer-term strategic planning focus without the limitations of a two-year election cycle • Streamlines process to seat experienced, qualified individuals from a broader geography, consistent with the stakeholders KH serves across North Idaho, to help navigate the growing industry complexity • Ability to convene without being subject to open meeting requirements that may otherwise hinder nimble decision-making, hinder discussion of sensitive topics, and/or require disclosure of competitively sensitive material
<p>Strategic Planning Efficiency and Effectiveness</p>	<ul style="list-style-type: none"> • By removing open meeting requirements and/or public records disclosures, supports more candid communication between management, community members, and the KH Board of Trustees, improving decision-making efficiency • Eliminates in- and out-of-state competitor access to the Board of Trustees’ deliberations and strategic decisions
<p>Financial Flexibility</p>	<ul style="list-style-type: none"> • Enhances access to capital with a more investor-friendly structure and a larger investor universe • Improve access to diversified investment opportunities prohibited by the Hospital District structure
<p>Organizational Stability</p>	<ul style="list-style-type: none"> • Supports leadership recruitment and retention efforts that have historically been influenced by the instability caused by election cycle fluctuation • Enhances physician recruitment efforts due to a more durable governance and leadership construct that is not subject to the political election cycle

What Might Kootenai Health Give Up?

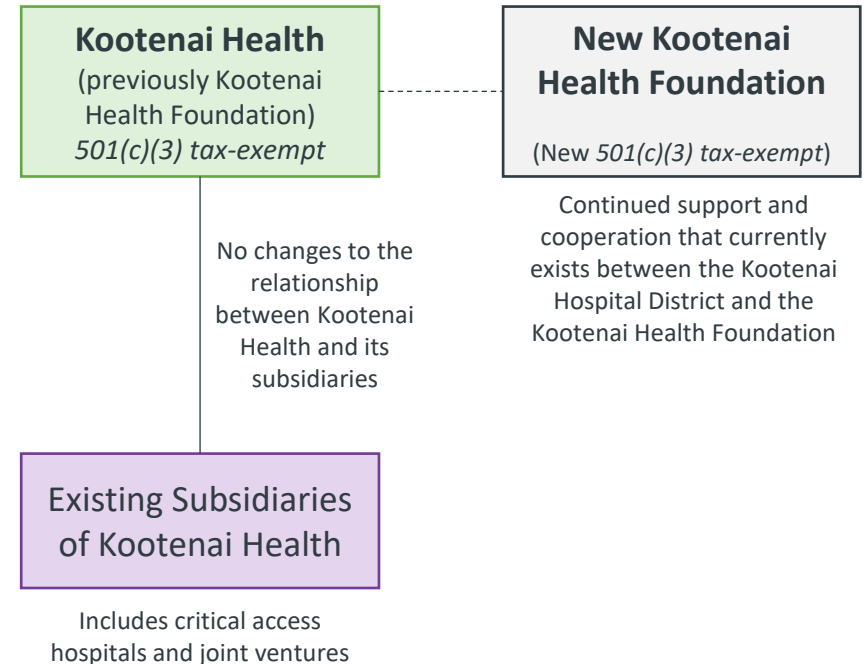
KEY ELEMENT	IMPLICATIONS
<p>Loss of Taxing Authority</p>	<ul style="list-style-type: none"> • KH would no longer have the ability to tax the residents of Kootenai County; KH has not utilized its taxing authority since 1995, but it may be necessary should industry pressures persist • Further, the taxing authority is currently limited to residents in Kootenai County, despite KH serving a broader set of patients and their respective healthcare needs
<p>Loss of Sovereign Immunity</p>	<ul style="list-style-type: none"> • KH would no longer have certain legal defenses such as those outlined in the Idaho Tort Claims Act, which include no punitive damages and shorter notice of claim requirements
<p>Loss of Eminent Domain Authority</p>	<ul style="list-style-type: none"> • KH would no longer have the ability to utilize eminent domain, which allows KH to take private property for public use for appropriate compensation
<p>Compliance with National Labor Relations Act</p>	<ul style="list-style-type: none"> • KH will be subject to compliance with the NLRA and associated processes and protocols

How Would a Conversion Happen?

KEY ELEMENT	IMPLICATIONS
<p>Nonprofit Structure Minimizes Disruption</p>	<ul style="list-style-type: none"> Structured as a conveyance, KH’s assets, liabilities, and operations would transition to the existing Kootenai Health Foundation, which is an existing private 501(c)(3) This structure provides a more efficient pathway through an aligned organization Post-conversion, the Kootenai Health Foundation could stand up a new private 501(c)(3) to continue their mission as a supporting organization – there will be no impacts to donor funds
<p>Preserves & Enables Local Governance</p>	<ul style="list-style-type: none"> Pursuant to the Idaho Statutes, the initial Board of Trustees post-conversion would be the same individuals as those currently serving The Board of Trustee’s roles, responsibilities, committee structure, term length, etc. would remain consistent with those currently in place Ability to expand Trustees beyond Kootenai County to better reflect the patients served by KH The Idaho Statutes require KH to also have members that are broadly representative of the public served Future Trustees will be elected by such members

Structural Overview (Post-Conversion)

Advances the continuation and expansion of the Kootenai Health mission to improve the health of its communities



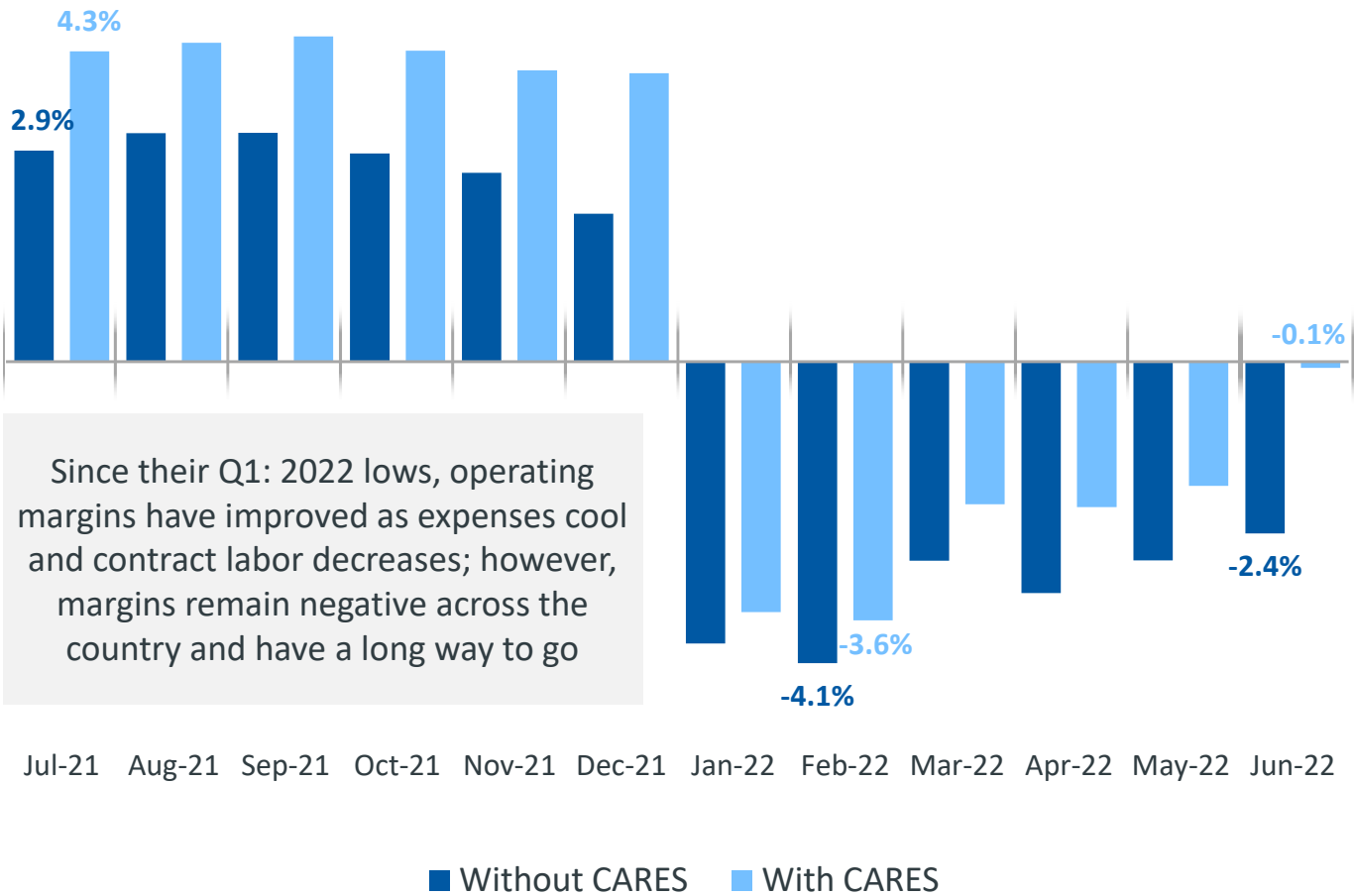
What Work Streams Are Pending Should Kootenai Health Proceed With the Conversion?

KEY ELEMENT	IMPLICATIONS
<p>Bondholder Transition</p>	<ul style="list-style-type: none"> • One of KH’s stakeholder groups in this potential conversion is the bond investors, of which a majority must approve the conversion – KH remains in dialogue with the investors
<p>Affiliate Partners Approval</p>	<ul style="list-style-type: none"> • KH maintains strong partnerships and joint ventures with many organizations, several of whom must approve Kootenai Health Foundation as the new partner • KH remains in dialogue with its partners
<p>Assignment of Contracts</p>	<ul style="list-style-type: none"> • KH has numerous contracts with CMS, vendors, payors, employees, providers, etc. • Many of the contracts require assignment / consent to transfer the contract to Kootenai Health Foundation
<p>Licensure Requirements</p>	<ul style="list-style-type: none"> • KH has a myriad of federal, state and local license, accreditations and permits (e.g., Medicare, Medicaid, State of Idaho hospital licenses) • Change of ownership / information filing requirements for each such license, accreditation and permit will need to be prepared and submitted to the applicable agency
<p>Other Transitional Items</p>	<ul style="list-style-type: none"> • The governing documents of Kootenai Health Foundation and other KH affiliates will need to be amended and approved to reflect the conversion • Other operationally related transition matters will need to be completed (e.g., obtaining new insurance policies and, as applicable, establishing new benefit plans for Kootenai Health Foundation)

Hospital / Health System Industry and Conversion Trends

Challenging Healthcare Industry Operating Environment

Kaufman Hall Operating Margin Index YTD by Month¹



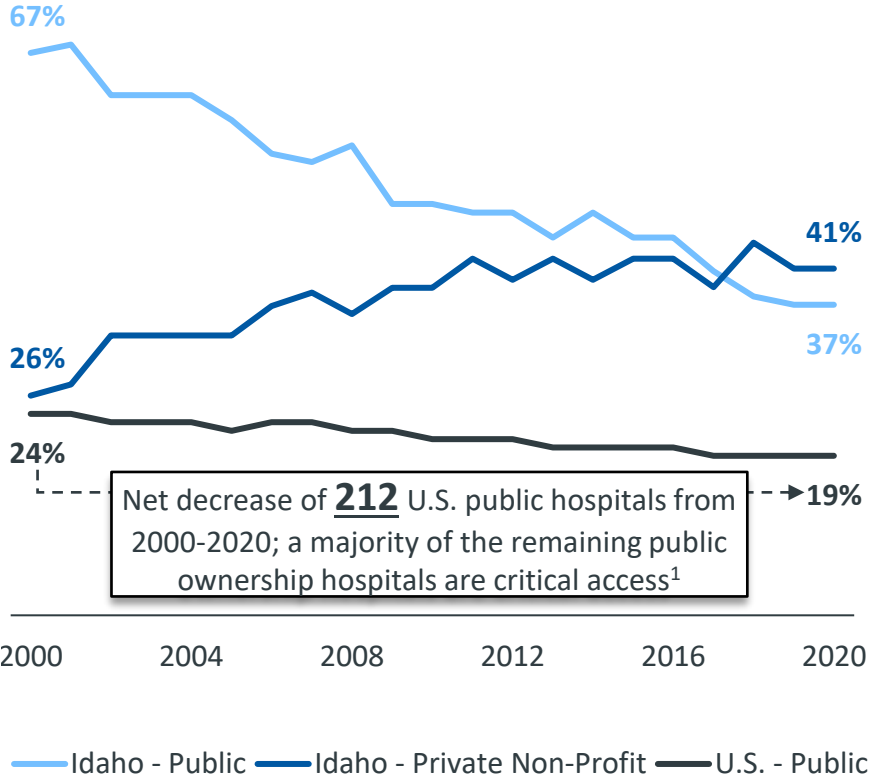
Since their Q1: 2022 lows, operating margins have improved as expenses cool and contract labor decreases; however, margins remain negative across the country and have a long way to go

- Nationwide, financial losses approached the worst levels since 2000
- Many health systems have / are expected to violate debt covenants
- Escalated labor costs are the single most important challenge (~40% increase over past two years), and appear to be structural
- No additional federal funding from is available / expected²
- Non-profit hospitals can no longer rely on cash as their “crutch” given market volatility, operating pressures, and repayment of Medicare loans

Notes: (1) The Kaufman Hall Hospital Operating Margin and Operating EBITDA Margin Indices are comprised of the national median of our dataset adjusted for allocations to hospitals from corporate, physician, and other entities. (2) KH’s CMS accelerated funds were paid back in full over the last 2 years.

Governmental Ownership Has Decreased Over Time and Now Represents ~19% of Community Hospitals Across the U.S.

Community Hospital Ownership in Idaho & United States (2000-2020)



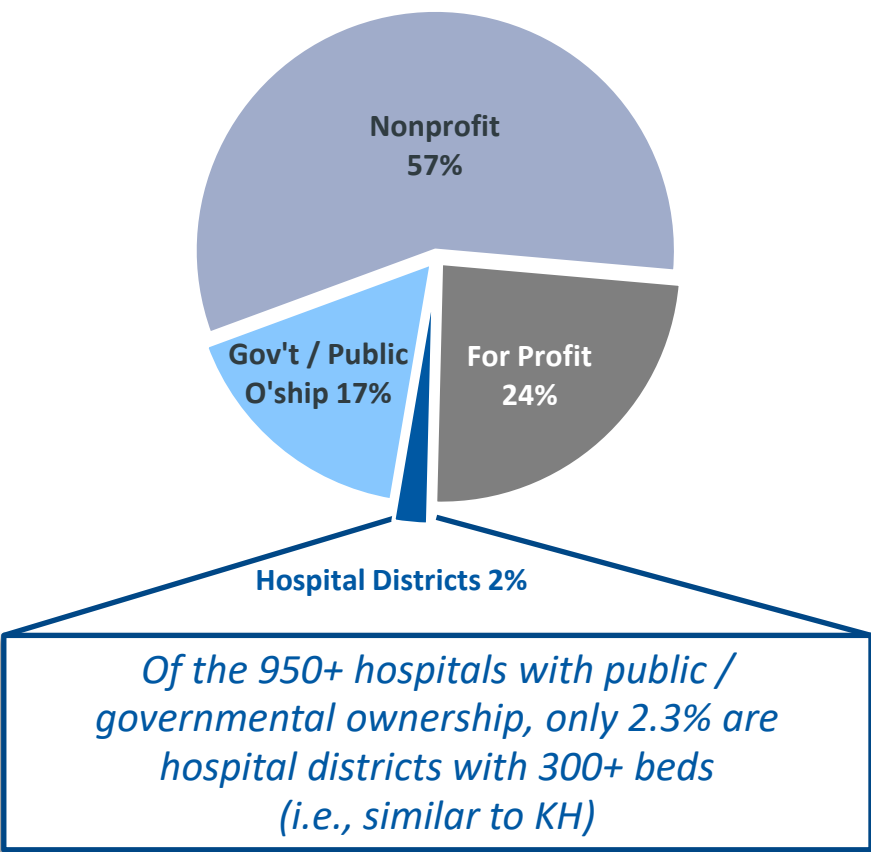
- As organizations navigate the current and future operating environment, public / governmental ownership of hospitals continues to decrease in favor of private ownership / operation
- When compared to their for-profit counterparts, a majority of hospitals converting to non-profit were larger, located in more populated areas, and in more competitive markets
- In the Pacific Northwest, there are only two government / district owned community hospitals with 300+ beds
- Select empirical outcomes from the conversions include:

6.1%	12%	No Change	Increased
Increase in Operating Margins	Reduction in Length of Stay	Uncompensated Charity Care/ Bad Debt	Operating and Financial Asset Efficiency

Sources: Kaiser Family Foundation & 2000 - 2020 AHA Annual Survey, Copyright 2021 by Health Forum, LLC. ISPOR's "Assessing the Impact of Privatizing Public Hospitals in Three American States: Implications for Universal Health Coverage" (ISPOR is the professional society for health economics and outcomes research (HEOR) globally). "The Impact of Privatization on Efficiency and Productivity: The Case of US Public Hospitals" - Journal of Health Care Finance. Definitive Healthcare.
 Note: (1) There are more than 500 critical access hospitals with governmental ownership and ~950 state/local government owned hospitals remaining.

Only 2.3% of Government Owned Hospitals Share Similar Characteristics to Kootenai Health as a District-Owned 300+ Bed Hospital

U.S. Hospitals by Ownership Type



- Government institutions are actively evaluating hospital transitions to non-profit status as:
 - The operating environment faces increasing financial pressure
 - Substantial liability loads further augment risk amid increasing interest rates
 - The largest portion of Americans since 2020 have expressed preference for reduced tax burden according to the Gallup Poll
- Several public / government owned hospitals of similar characteristics to Kootenai Health are evaluating and/or have recently executed 501(c)(3) transitions¹



Sources: Kaiser Family Foundation & 2000 - 2020 AHA Annual Survey, Gallup Poll annual taxes polling; publicly available sources
 Note: (1) Press releases and related news articles of each health system/hospital listed

Common Goals of Health Systems Pursuing Non-Profit Status



Long-Term Fiduciary Effectiveness

- Ability to make long-term commitments to the communities served
- Align stakeholders that have a higher degree of community representation
- **Enhance governance effectiveness to react nimbly in evolving and complex market environment**



Support High Quality Care Initiatives

- Promote access to resources that are otherwise more challenging to procure (e.g., raise capital)
- Enhance ability to structure provider alignment strategies
- Broaden continuum of services



Pursue Strategic Growth

- Become a more effective competitor
- **Develop services to keep care closer to home**
- **Extend services outside the primary service area**
- **Support expansion of historical “boundaries”**
- Promote partnership / joint venture development
- Preserve confidential information



Operational Efficiencies

- **Operate more efficiently**
- More easily attain economies of scale
- Promote long-term financial viability
- **Support recruitment and retention of providers and staff**
- Streamline partnership development

Source: ISPOR’s “Assessing the Impact of Privatizing Public Hospitals in Three American States: Implications for Universal Health Coverage” (ISPOR is the professional society for health economics and outcomes research (HEOR) globally), press releases.

Overview of the Idaho Statutes

Background on the Idaho Statute



Statement of Purpose

This joint legislation updates statute to allow **district hospitals the same options already available to county hospitals (since 1986)** to lease or convey property to a qualified nonprofit for the continuity of service in the community. It **provides options for district hospitals to enable them to address current and future fiscal challenges.**

The Idaho Statutes became effective on July 1, 2022 following:

- ✓ Idaho House of Representatives: unanimous approval¹
- ✓ Idaho Senate: unanimous approval²
- ✓ Signed by President of the Idaho House and the Governor of Idaho

2022

FEB. 10

Law introduced to Idaho Senate Health & Welfare Committee (ISHWC)

FEB. 23

Approved in the Idaho House of Representatives (69 – 0 – 1)¹

MAR 16

Approved in the Idaho Senate (34 – 0 – 1)²

MAR 18

Signed by Speaker of the Idaho House

MAR 21

Signed by President of the Idaho Senate

MAR 24

Signed into law by Governor of Idaho

JULY 1

Law became effective

Acting in the best interest of their constituents, the elected Representatives and Senators of Kootenai County and North Idaho joined their fellow legislators in unanimously passing the Idaho Statutes. Additionally, the elected Governor, acting on behalf of Idaho constituents, signed the act into law.

Source: Idaho Legislature | Notes: (1) one Representative was absent during the vote with no record of abstention; (2) one Senator was absent and excused from the vote with no record of abstention

Summary of Select Key Elements in the Idaho Statutes

The elected board of trustees of a hospital district may convey or lease hospital district real property, facilities, and the personal property and equipment therein subject to the following conditions:

- The conveyance or lease shall be to a nonprofit corporation.
- The governing body of the nonprofit corporation must be composed initially of the incumbent trustees of the hospital district board of trustees as individuals.
- The articles of incorporation must provide for a membership of the corporation (the “Member(s)”) that is: (i) broadly representative of the public it serves; or (ii) a single nonprofit corporate member having articles of incorporation that provide for a membership of the corporation that is broadly representative of the public it serves.
- The articles must further provide for the selection of the governing body by the Members or exclusively by a parent corporation that itself is the Member, with voting power, and not by the governing body itself, except to fill a vacancy for an unexpired term.
- The Idaho Statutes provide that the Members would appoint individuals to serve on the Kootenai Health Foundation (dba Kootenai Health) Board of Trustees.
- The Foundation (dba Kootenai Health) must continue to provide care for indigent patients and receive any person falling sick or maimed within the hospital district.
- The conveyance or lease agreement must provide for the transfer of patients, staff, and employees and for the continuing administration of any trusts or bequests or maintenance of records pertaining to the existing hospital district.

Source: Idaho Statutes

Merits and Considerations for Kootenai Health & Community

Select Merits and Strategic Benefits for Kootenai Health

- 1 **Create more flexibility** to meet the growing needs of North Idahoans
- 2 **Strengthen governance** through greater continuity, enhanced nimbleness, longer-term commitments, and broader community representation
- 3 **Streamline strategic opportunities** by protecting competitively sensitive information
- 4 **Increase financial flexibility** to support long-term strategic objectives

Create More Flexibility to Meet the Growing Needs of North Idahoans

Advance Comprehensive Regional Hospital Development

- Extension beyond Kootenai County **allows KH to more effectively serve a greater population base, which enables the development of specialty care programs**
- **Certainty of governance allows for longer-term commitments** with timelines that may extend beyond election cycles

Supports Execution of Growth Opportunities

- Enables a more efficient analysis of, and execution against, competitively sensitive information that support growth strategy
 - For example, the cost for a new facility development could significantly increase if others believe KH to be a future participant
 - While certain mechanisms exist to preserve confidentiality, they can be cumbersome
- KH serves a population that extends beyond Kootenai County, who are not subject to potential future tax levies; **the ability to support community healthcare needs and growth without exposure to changes in political / election dynamics enables KH to more efficiently serve the community**

Third Party Partnerships

- Streamlines ability to develop relationships with parties that may otherwise be reluctant to partner with governmental organizations subject to public records requirements
- Enhance development of partnership vehicles such as joint ventures, provider / management services agreements, etc. with physicians who may be hesitant to partner with a public institution
- Reduced administrative requirements incumbent in governmental providers supports opportunity to develop alignment structures with third-party payors advancing initiatives to control / decrease the cost of care

2

Develop a More Nimble Governance Structure to Better Serve the Growing Community

Following any contemplated conversion, **Kootenai Health would remain a locally governed organization comprised of representatives from the expanded communities it serves.** The initial Board of Trustees post-conversion would be the same people currently serving on the Hospital District Board of Trustees.


Governance Certainty	Promotes certainty of governance to enable execution of longer-term initiatives that extend beyond election cycles
Nimble Leadership	Increases ability to react to evolving market realities without being subject to open meeting requirements and/or public records disclosures
Diversify Perspectives	Opportunity to expand geography from which the Board of Trustees reside, consistent with the broadening of KH’s service area, and the size of the Board of Trustees
Improve Governance	Streamline process to seat experienced, qualified Trustees

3

Streamline Strategic Execution by Enhancing Board Communications & Protecting Competitively Sensitive Information


EXAMPLE

IMPLICATIONS OF NOT CONVERTING

 Many strategic initiatives require analysis and review of competitively sensitive information



Communication between management and the Board of Trustees may be limited to preserve competitive details

 Disclosure of *plans* to execute a material expenditure could increase pricing in the market that knows KH is a “buyer”



KH may not pursue key growth objectives due to escalating capital requirements that make the project unviable, despite it addressing community health needs

 Certain strategic partners may be hesitant to align with KH due to public records requirements



The community may not have access to certain healthcare innovations or services as partners seek to preserve their competitively sensitive information

4

Increase Financial Flexibility to Support Long-Term Financial Viability to Better Serve the Community and Stakeholders



The aforementioned opportunities translate to sustaining, if not improving, KH's overall financial health when compared to the status quo, while supporting the organization's strategic objectives to become the comprehensive regional health system for all of North Idaho and beyond. Select opportunities include, but are not limited to the following:

- ✓ Execute strategic initiatives more effectively
- ✓ Pursue contracting strategies that are otherwise challenged as a public organization
- ✓ Enhance staff and provider alignment
- ✓ Redesign care to more optimally position services across the community KH serves
- ✓ Operate more efficiently
- ✓ Enhance payor relations to better support their members and employers
- ✓ Execute long-term investments that may be challenged in a short-term election cycle
- ✓ Diversify investment options to access stronger returns

Potential Capital Structure Benefits



When compared to KH's existing structure, investors could prefer a private 501(c)(3) entity as it is the standard organizational structure with not-for-profit health systems

Similarly, private companies typically have more flexibility to align long-term organizational viability with long-term capital support

Strategic Considerations for the Community

1

Elimination of taxing authority. While KH has not utilized this ability since 1995, other similarly situated health systems have done so (e.g., Evergreen Health in Kirkland, WA generates \$28 million of tax revenue). Further, taxes are limited to residents in Kootenai County, despite KH serving a broader set of stakeholders and their respective healthcare needs.

2

Elimination of sovereign immunity. As a public hospital district, KH currently enjoys certain protections such as those outlined in the Idaho Tort Claims Act. Examples of key protections include no punitive damages allowed against KH, etc.

3

Elimination of eminent domain. As a public hospital district, KH has the ability to utilize eminent domain, which allows KH to take private property for public use for appropriate compensation. As a private institution, KH would no longer have this ability.

4

Promote long-term viability of local healthcare. Enabling the aforementioned benefits will support KH's long-term success as a healthcare system serving the community of greater Kootenai County.

501(c)(3) Diligence Investigation Summary

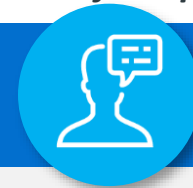
Overview of the Evaluation Process

Kootenai Health investigated and evaluated the merits & considerations of the potential conversion across numerous work streams



Work Streams to Address Key Diligence Questions

1 Legal & Regulatory	What is the optimal structural approach and the related considerations?
2 Governance	What is the go-forward governance construct?
3 Affiliated Partners	How will a conversion impact our strategic partnerships?
4 Contracts / Agreements	What are the impacts on our contracts and the related remedies?
5 Employment	How will staff and employment practices be impacted?
6 Foundation	What are the implications for the Kootenai Health Foundation?
7 Finance	How does a conversion impact the financial structure / profile?
8 Community	How does a conversion impact our ability to serve the community?



Working Group Participants Consist of Numerous Subject Matter Experts

Participant	Role
Kootenai Health management	Mission and vision alignment
Polsinelli	Legal: transaction advisory & diligence
Kaufman Hall	Advisor: process management and capital markets support
Special Counsels / Advisors	
Dorsey Whitney	Transaction structure, legal and regulatory impacts
Witherspoon Kelley	Employment matters & general counsel support
Davis Wright Tremaine	Benefits
Stoel Rives	Legal: foundation advisory & diligence
Chapman and Cutler	Bond advisory

Legal and Regulatory Review: Identified the Preferred Conversion Structure

Primary Elements of Diligence Review

- Legal structure
- Licensure and Permits
- Medicare / Medicaid
- Medical Staff and Credentialing
- Tax ID and Provider Numbers
- Clinically Integrated Network
- Payor Contracting
- Billing and Collections
- 340(b) Program

Key Conclusions and Findings

- **Conveying the assets and liabilities from the Kootenai Hospital District to the Kootenai Health Foundation is the optimal structure** to support a smooth, expeditious transition that preserves the organization's nonprofit status
- The Idaho Statutes require that the “new” Kootenai Health organization have Members (in addition to the Board) that will have certain limited responsibilities, including the **selection of the Board of Trustees**
- **Once implemented, the conveyance structure should enable continuity of governance and operations**
- However, KH will have to complete all applicable regulatory filings, approvals and processes and include certain commitments, which are consistent with the manner KH operates – this process is involved and will take time to complete
- Subsidiary, affiliated partner and other key agreements will require amendment or consent to assignment / transfer as a result of the conversion
- **The articles of incorporation / bylaws will ensure commitment to care for indigent patients and receive any person falling sick or maimed**

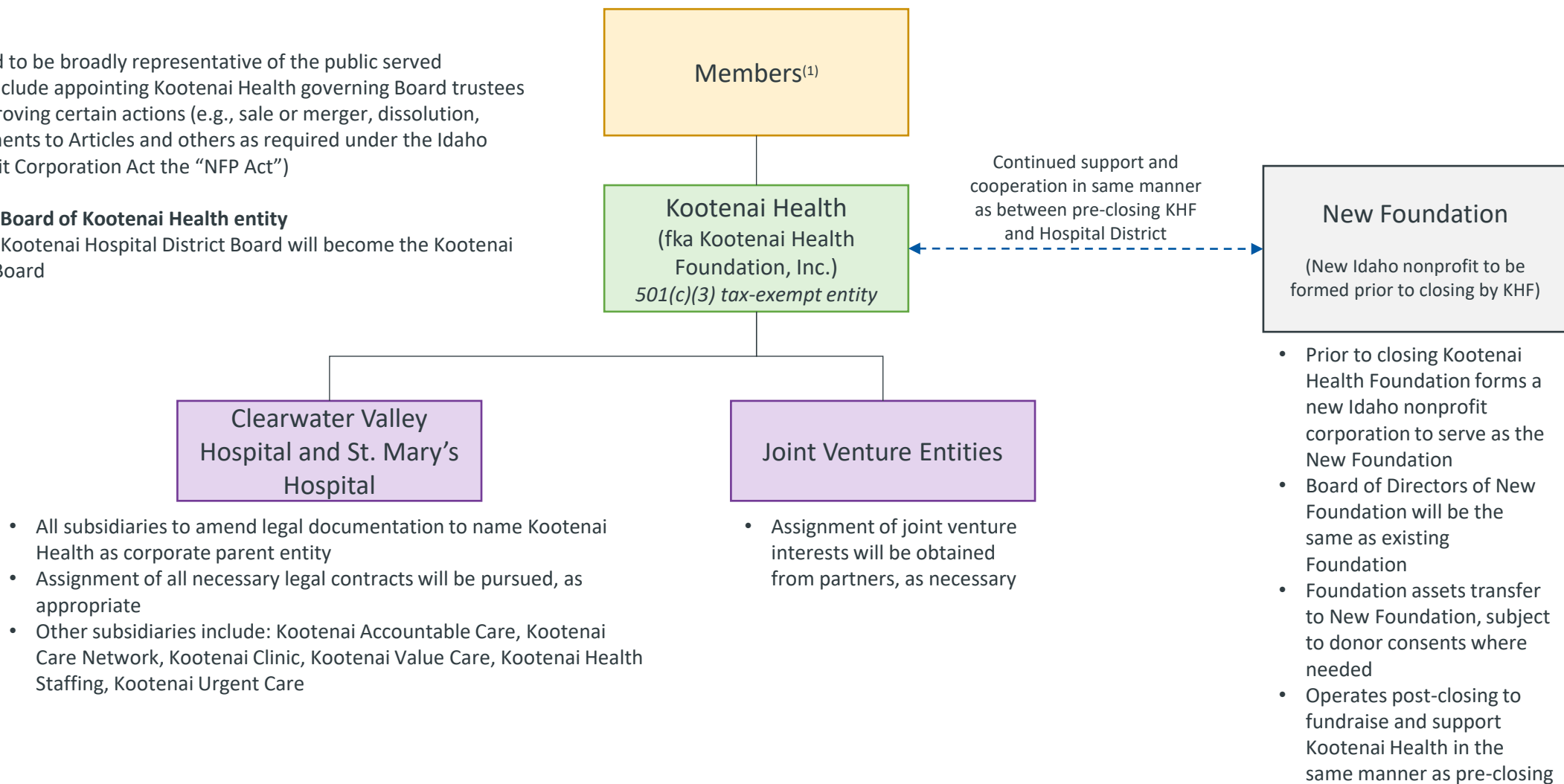
Contemplated Future Legal State for Kootenai Health

Members

- Required to be broadly representative of the public served
- Duties include appointing Kootenai Health governing Board trustees and approving certain actions (e.g., sale or merger, dissolution, amendments to Articles and others as required under the Idaho Nonprofit Corporation Act the “NFP Act”)

Governing Board of Kootenai Health entity

- Existing Kootenai Hospital District Board will become the Kootenai Health Board



Note: (1) The Idaho Statutes require Kootenai Health to have Member(s) that are broadly representative of the public served

Governance Review: Duties and Responsibilities

Primary Elements of Diligence Review

- Idaho Statute requirements
- Board selection, composition, and responsibility
- Board term structure and position
- Governance committee implications
- Subsidiary board impacts
- Implications to Kootenai Health Foundation

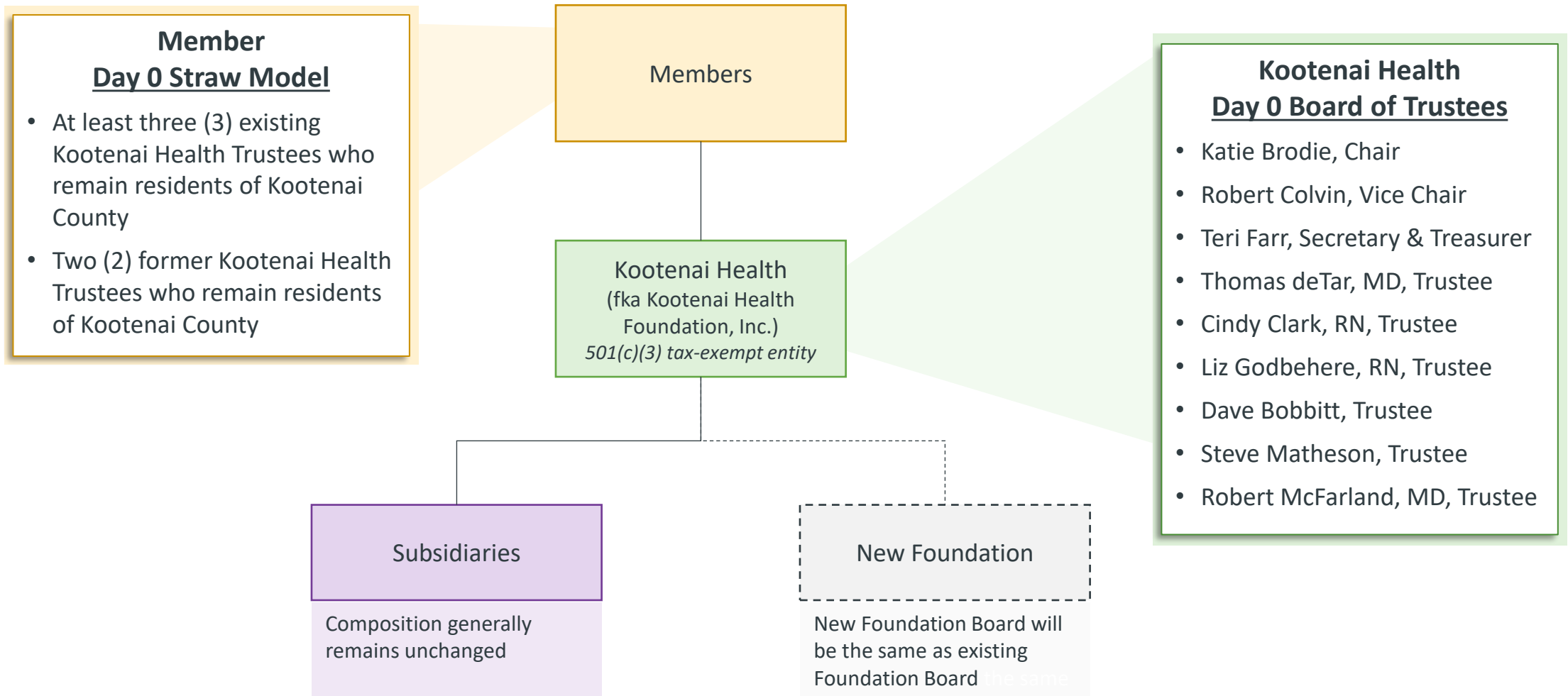
Key Conclusions and Findings

- The contemplated structure requires that the new Kootenai Health have Member(s) that (1) are broadly representative of the public served and (2) are **responsible for selecting the KH Trustees**
 - The contemplated composition of the Members, the KH Board, and other entities is outlined herein
 - The Member's role shall apply to selecting future KH Trustees
- Per the Idaho Statutes, **the initial trustees must be the then-existing KH Trustees**, but this may adjust over time as the organization deems appropriate (subject to the approval of the Members)
- The **KH Trustees will maintain the existing scope of responsibilities and duties** (i.e., ultimate authority and responsibility for operations, assets, liabilities, etc.)
- In discharging their duties following the conversion, the KH Trustees must comply with the requirements of the Idaho Nonprofit Corporation Act, requirements of the Internal Revenue Service applicable to tax-exempt hospitals, as well as other requirements as may be imposed by Idaho law
- **Subsidiary boards will remain in place** and generally maintain delegated responsibilities that are in place today
- The existing committee structure will remain in place, as applicable
- **The Foundation's legal documents will be amended** to accomplish the above

Idaho Statute Requirements

- Pursuant to the Idaho Statutes, the existing Kootenai Hospital Board will serve as the new / initial Board for the Kootenai Health Foundation
- The Kootenai Health Foundation's articles of incorporation / bylaws will be amended to ensure:
 - The Kootenai Health Foundation has Members (apart from Board membership) that are broadly representative of the public it serves
 - **Board Trustees shall not serve more than two (2) consecutive terms of three (3) years** (but Board terms can be staggered)
- Through the articles of incorporation / bylaws, the Board will ensure **commitment to care for indigent patients** and receive any person falling sick or maimed within the district served by the hospital

Governance Review: Composition Model



Post-Conversion Implications: Purpose and Role of Members and Hospital District

Member

Primary Purpose	Appoint future trustees to the Kootenai Health Board
Additional Approvals	Take other actions required by the NFP Act, including: <ul style="list-style-type: none"> • Amending the Articles • Dissolution • Sale or merger
Member Selection	Initial Members determined by District Trustees prior to effective date (and will be set forth in governing documents) Members interests will be non-transferable. Upon resignation, removal or termination of a Member, such interests will revert to Kootenai Health. Kootenai Health would then designate a new Member who is representative of the community served and who complies with other membership criteria set forth in the governing documents.

Hospital District

Legal Entity	Following the effective date, the Hospital District would remain in place, but would not have any assets, liabilities, or significant ongoing role. There will be, however, certain administrative actions that the Hospital District will need to undertake following the effective date, including: <ul style="list-style-type: none"> • File final cost-report • Make certain post-effective date regulatory filings • Financial audit and other post-effective date matters (e.g., consents requiring District signature) <p>To assist with these matters, Kootenai Health Foundation may provide transition services to the hospital district</p> <p>The County Commissioners may evaluate the optimal approach for the hospital district over time, including, if needed, filling any Trustee vacancies</p>
Reversion	Pursuant to the Idaho Statutes, should KH cease to be used as a non-profit hospital, ownership reverts back to the Kootenai Hospital District
Dissolution	By public vote or, following 2 years of inactivity, by the vote of the County Commissioners

Appendices

Supplemental Kootenai Health Background

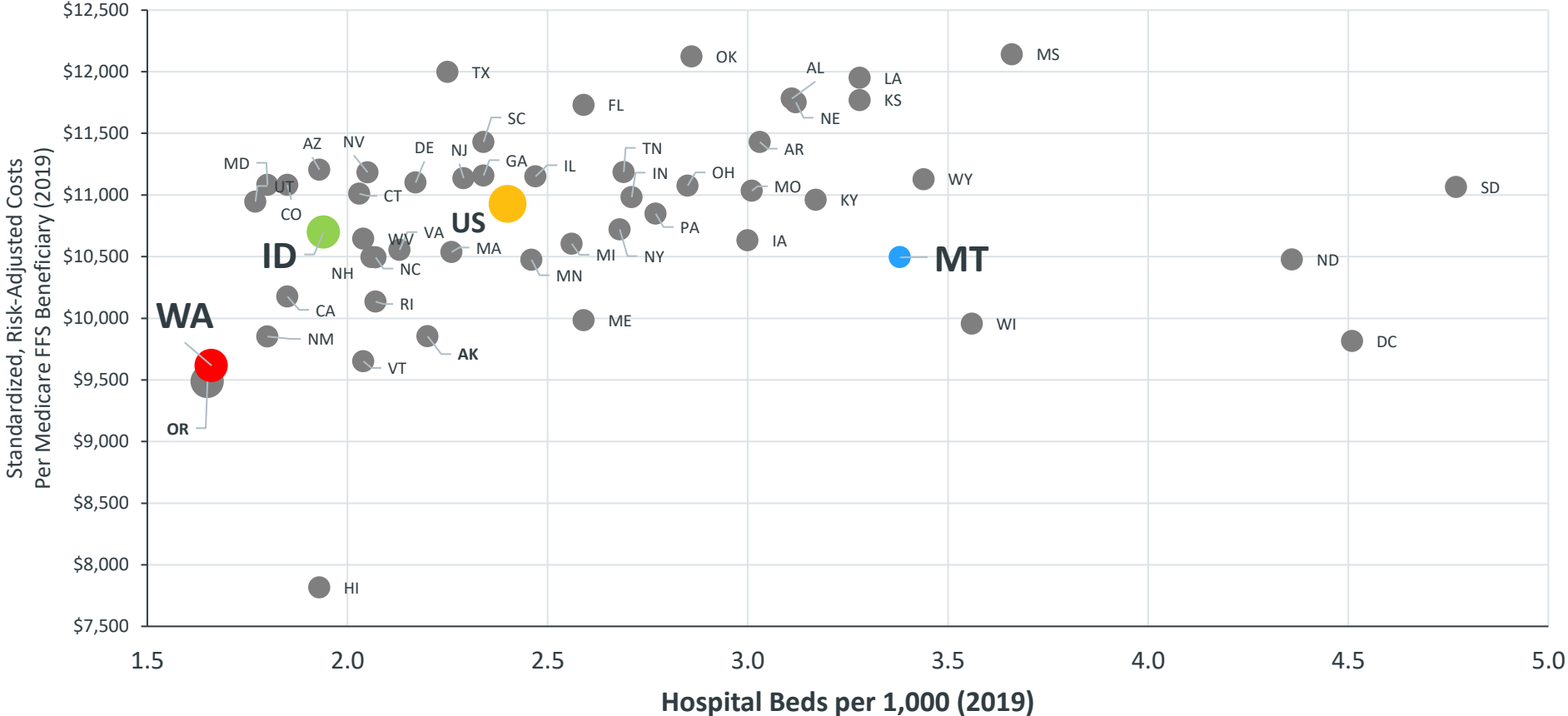
Kootenai Health Continues to Advance the Quality of Care and Service for Patients in North Idaho

 <p>MAGNET RECOGNIZED AMERICAN NURSES CREDENTIALING CENTER</p>	<ul style="list-style-type: none"> • Maintained Nursing Excellence Magnet Award designation since 2006 • Roughly only 10% of hospitals in the country are Magnet certified
 <p>CMS CENTERS FOR MEDICARE & MEDICAID SERVICES 5Star OVERALL RATED</p>	<ul style="list-style-type: none"> • Currently rated as a 5-star hospital by CMS for quality, patient safety, and service • Roughly only 10% of hospitals in the country are rated 5-stars
 <p>LEAPFROG HOSPITAL SAFETY GRADE</p>	<ul style="list-style-type: none"> • Earned Leapfrog A hospital safety rating for excellent quality and patient safety
 <p>GALLUP GREAT WORKPLACE AWARD</p>	<ul style="list-style-type: none"> • Earned the Gallup Great Workplace Award for employee experience and culture 5 times in the past 6 years
 <p>S&P Global Ratings</p>	<ul style="list-style-type: none"> • S&P Global Ratings affirmed its 'A' long-term rating¹ • Per S&P, “The region's population growth, with in-migration accelerating during the pandemic, and management's extensive long-term strategy have helped generate solid patient volumes and historically stable operating earnings, as KH continues to grow into a regional referral center”¹

Source: S&P credit report dated 10/14/2022

Idaho and Washington Have Far Fewer Beds per 1,000 Compared to Other States and the National Average

Hospital Beds Per 1,000, Healthcare Costs* Per Medicare FFS Beneficiary as of 2019



* Standardized and risk-adjusted by CMS

Sources: [1] 2019 AHA Annual Survey. Population data from Annual Population Estimates by State, U.S. Census Bureau [2] "50-State Scan of State Certificate-of-Need Programs," published by National Academy for State Health Policy in May 2020. Triggering activities either new health care facility and / or change in bed capacity. [3] CMS Geographic Variation Public Use File (2019)

Recap of Kootenai Health Strategic Imperatives

The Rapidly Expanding Community Requires Kootenai Health to Grow Alongside It

Over the past decade, the **population of Kootenai County has grown by over 30,000 residents**, and is **one of the fastest growing counties in the country**

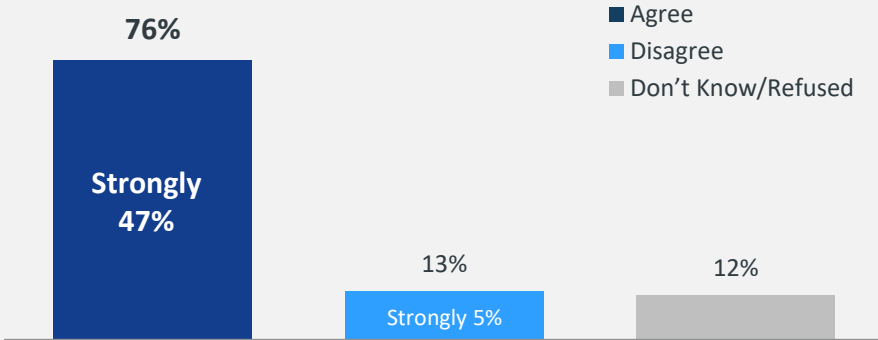
In October of 2021, an independent consumer perception survey was conducted and confirmed that **Kootenai Health needs to grow and improve access**

Key survey findings include:

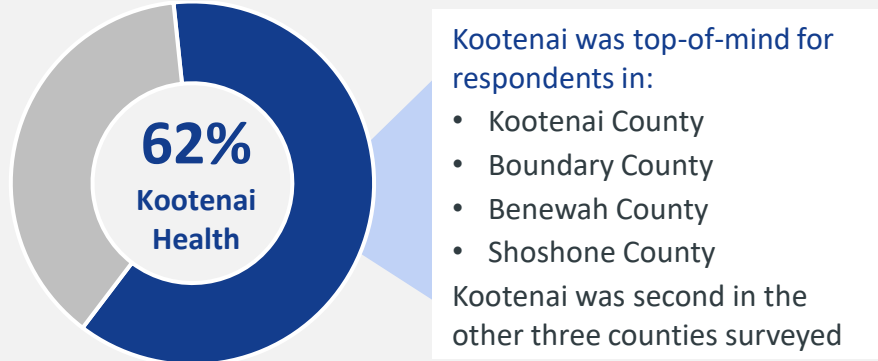
- The community recognizes Kootenai Health’s **need to grow to better support the community**
- Kootenai Health has **strong brand awareness** in the region
- Kootenai Health enjoys a **strong, positive image** in the region
- North Idahoans are **very likely to use Kootenai Health services**

Sources: October 2021 GSSG Consumer Perception Survey. ESRI Business Analyst.

Kootenai Health needs to grow to meet the needs of the area’s population



When thinking of a hospital, which one comes to mind first?



Overview of Kootenai Health’s Strategic Objectives

2030 Vision Statement:
One
connected team,
boldly transforming the
health care
experience, to become a
premier medical destination






Translated
Through our
Strategic
Objectives

Evolve from a regional medical center to a “premier medical destination” serving the needs of our community:

- ✓ Develop **consumer-focused competencies** to deliver the right care in the right place at the right time
- ✓ Create efficiencies and financial flexibility to **address evolving community needs**
- ✓ Build upon regional relationships to **improve patient access**
- ✓ Develop a **comprehensive regional health system for all of North Idaho (regardless of ability to pay)**
- ✓ Support **governance expertise and effectiveness**

Implications of a Conversion on Kootenai Health's Strategic Objectives

Converting to a private, 501(c)(3) organization preserves, enables, and accelerates accomplishment of our strategic objectives to better serve the growing community

Kootenai Health's Strategic Objectives	Select Efficiencies Gained / Maintained
 <p>Develop consumer-focused competencies to deliver the right care in the right place at the right time</p>	<p>▶ Streamlines ability to develop partnerships with third parties with dedicated capabilities</p>
 <p>Create efficiencies and financial flexibility to address evolving community needs</p>	<p>▶ Support the needs of a growing service area that extends beyond Kootenai County</p>
 <p>Build upon regional relationships to improve patient access</p>	<p>▶ Protect strategically competitive information, enhancing ability to form regional relationships</p>
 <p>Develop a comprehensive regional health system for all of North Idaho (regardless of ability to pay)</p>	<p>▶ Execute on strategic growth & partnerships, positioning Kootenai Health as the premier medical destination in North Idaho</p>
 <p>Support governance expertise and effectiveness</p>	<p>▶ Remain a locally governed hospital system serving the region</p>

Supplemental Diligence Analyses

Healthcare Regulatory Implications of Conversion

- There are several areas of Kootenai Health's current operations that could potentially be impacted by Kootenai Health's conversion from a public Hospital District to a private 501(c)(3) healthcare organization, including, but not limited to:
 - Licensure and Permits
 - Medicare and Medicaid Participation
 - Medical Staff and Credentialing
 - Tax ID and Provider Numbers
 - Clinically Integrated Network
 - Payor Relationships
 - Billing and Collections
 - Owned and Leased Property
- That stated, as further described herein, these items should not be barriers to consummating the conversion
- Careful, diligent planning and implementation, including ensuring that all applicable filings, consents and notices are timely made or obtained, will serve to minimize any potential disruption to the ongoing operations of Kootenai Health

Healthcare Regulatory Implications of Conversion

Primary Elements	Key Findings
Licensure and Permits	<ul style="list-style-type: none"> All federal, state, and local licenses will need to be evaluated to determine enrollment change of ownership / information filing requirements While filing requirements and prescribed notice periods must be adhered to, licensure requirements should not be a barrier to consummating the conversion
Medicare / Medicaid	<ul style="list-style-type: none"> Under Medicare rules, the conveyance of hospital assets from the Hospital District to the Kootenai Health Foundation constitutes a CHOW By accepting the Hospital District's Medicare provider agreement, the Kootenai Health Foundation will have the ability to bill Medicare for services immediately provided post-closing, and the Hospital District's provider-based billing arrangements can still be grandfathered An Idaho Medicaid provider agreement is not transferable and a new provider enrollment application will be required Provided that all Medicare and Medicaid filings are timely made, enrollment considerations should not be a barrier to the conversion
Medical Staff and Credentialing	<ul style="list-style-type: none"> Kootenai Health's template employment agreement requires prior written consent to assign the contract, although there may be alternative approaches to explore Assignment of employment agreements will not serve to reopen negotiation of terms of such agreements, but may result in amendments driven by the conversion (e.g., if the benefits were to change) Assuming the Kootenai Health Foundation assumes Kootenai Health's provider number, the medical staff and medical staff bylaws should be able to be rolled over to the Kootenai Health Foundation and providers would likely not be required to be recredentialed

Healthcare Regulatory Implications of Conversion

Primary Elements	Key Findings
Tax ID and Provider Numbers	<ul style="list-style-type: none"> The EIN will change to the Kootenai Health Foundation's EIN number because the Kootenai Health Foundation will acquire the assets of the Hospital District and, going forward, operate the hospital as part of the Kootenai Health Foundation Kootenai Health will need to update the hospital's NPPES profile to link the NPI to the Kootenai Health Foundation's EIN, rather than the Hospital District's EIN
Clinically Integrated Network	<ul style="list-style-type: none"> Contemplated conversion will not result in a change in ownership of Kootenai Accountable Care, LLC (Kootenai Care Network, LLC will remain the sole member) – notification to CMS or ACO participants <u>not</u> required Contemplated conversion will result in change of sole member of Kootenai Care Network, LLC to the Foundation The governing documents and contracts with commercial payors will need to be reviewed to confirm adherence to applicable notice / consent / approval requirements related to the conversion
Payor Contracting	<ul style="list-style-type: none"> The due diligence review will identify all applicable notice and/or consent requirements implicated by a change in ownership / control or an assignment of the payor contract from Kootenai Health to the Kootenai Health Foundation, which will need to be complied with For some payors, further (and somewhat immediate) conversations and negotiations may be required to avoid disruptions
Billing and Collections	<ul style="list-style-type: none"> As previously discussed, Kootenai Health should be able to minimize any potential interruption to billing and collections by assuring filing requirements and prescribed notice periods are met to transfer licenses and permits and to accept the current Medicare provider agreement If appropriate, interim transition services arrangements can be entered into to address maintenance of bank accounts post-effective date, facilitate collections and clarify responsibility for post-closing regulatory filing requirements

Licensure and Permits / Medicaid

HOSPITAL LICENSE

- A change of ownership requires notice and submission of a new hospital licensure application
- KH will need to notify the Idaho Department of Health and Welfare of the proposed conveyance at least thirty (30) days prior to the transfer date
- A new licensure survey may be required (but likely not). If required, depending on timing, could have cash flow implications

OTHER LICENSES, PERMITS AND CERTIFICATIONS

- All federal, state, and local licenses will need to be evaluated to determine enrollment change of ownership / information filing requirements
 - Medicare, Medicaid, Accreditation, ACGME, Laboratory, Pharmacy, Radiology, Plant Operations
 - To the extent physicians are migrated, their reassignment of benefits may also be required
- While filing requirements and prescribed notice periods must be adhered to, licensure requirements should not be a barrier to consummating the conversion

MEDICAID

- An Idaho Medicaid provider agreement is not transferable. A change of ownership (“CHOW”) will require the provider entity to complete a new provider enrollment application

Medicare

- Under Medicare rules, the conveyance of hospital assets from the Hospital District to the Kootenai Health Foundation constitutes a CHOW
 - The conveyance of the other critical access hospital subsidiary entities of the Hospital District through member substitution does **not** constitute a CHOW
- By accepting the Hospital District's Medicare provider agreement, the Kootenai Health Foundation will have the ability to bill Medicare for services immediately provided post-closing. CMS will look to the Kootenai Health Foundation for Medicare overpayments and penalties incurred by the District
 - If the Kootenai Health Foundation rejects assignment of the Hospital District's provider agreement, the Kootenai Health Foundation would be required to enroll as a new Part A provider and it would not be able to bill Medicare (not even retroactively) for any services provided between the closing date and the date that CMS approves the new application and the Kootenai Health Foundation is found to have clean accreditation survey. Such process could take many months to complete
- The Hospital District's provider-based billing arrangements can still be grandfathered, so long as the Foundation accepts assignment of the Hospital District's current Medicare provider agreement

Medical Staff and Credentialing

PROVIDER EMPLOYMENT AGREEMENTS

- Kootenai Health's template employment agreement requires prior written consent to assign the contract, unless assignment is to an entity controlled by Kootenai Health
- As such, physician consent may be required prior to assigning such contracts to the Kootenai Health Foundation, although there may be alternative approaches to explore
- Assignment or transfer of employment agreements to the Kootenai Health Foundation will not serve to reopen negotiation of terms of such agreements, but may result in amendments driven by the conversion (e.g., if the benefits were to change)

MEDICAL STAFF / MEDICAL STAFF BYLAWS / CREDENTIALING

- Assuming the Kootenai Health Foundation assumes Kootenai Health's provider number, the medical staff and medical staff bylaws should be able to be rolled over to the Kootenai Health Foundation
- In such a case, the Kootenai Health Foundation should be able to rely on the credentialing performed by Kootenai Health prior to the effective date and providers would likely not be required to be recredentialed
- The provider employment agreements and medical staff relationship should not be a barrier to consummating the conversion

Tax ID and Provider Numbers

FEDERAL TAX ID (EIN) IMPLICATIONS

- The EIN will change to the Kootenai Health Foundation's EIN number because the Kootenai Health Foundation will acquire the assets of the Hospital District and, going forward, operate the hospital as part of the Foundation

NATIONAL PROVIDER IDENTIFIER NUMBER (NPI) IMPLICATIONS

- While new NPIs will not be required, Kootenai Health will need to update the hospital's NPPES profile to link the NPI to the Kootenai Health Foundation's EIN, rather than the Hospital District's EIN
- Neither the EIN or NPIs should be a barrier to consummating the conversion

Kootenai Accountable Care and Kootenai Care Network

KOOTENAI ACCOUNTABLE CARE, LLC

- ACO participating in the Medicare Shared Savings Program (MSSP); sole member is Kootenai Care Network, LLC
- Contemplated conversion will not result in a change in ownership (Kootenai Care Network, LLC will remain the sole member) – notification to CMS or ACO participants not required

KOOTENAI CARE NETWORK, LLC

- Clinically integrated network participating in contracts with commercial payors; sole member is the Hospital District
- Contemplated conversion will result in change of sole member to the Kootenai Health Foundation
- Operating Agreement gives sole member right to approve merging, consolidating, or affiliating with any other entity without approval of Kootenai Care Network Board of Directors
- Contracts with commercial payors may contain notice / consent requirements for change of ownership

Payor Contracting

- Due diligence review of Kootenai Health and its affiliates' commercial payor arrangements, including its "key" payor arrangements (e.g., Blue Cross of Idaho, Regence Blue Shield of Idaho, Cigna, Humana, Aetna) is ongoing
- The due diligence review will identify all applicable notice and/or consent requirements implicated by a change in ownership / control or an assignment of the payor contract from Kootenai Health to the Kootenai Health Foundation
 - For example, Blue Cross of Idaho requires prior written consent to assign the contract to the Kootenai Health Foundation, while others require prior written notice (coupled with a termination right)
- Any contracts requiring consent or granting the payor a right to terminate, may require further (and somewhat immediate) conversations and negotiation with the payor
- Failure to obtain required consent, or a need to renegotiate a payor contract, could result in reimbursement and cash flow issues

Billing and Collections

- Reimbursement and cash flow issues can arise in any transactions that result in a CHOW due to:
 - Gaps in certification, enrollment and surveys with governmental payment programs
 - Failure to timely address commercial payor requirements
- As discussed previously, Kootenai Health should be able to minimize the potential risk of these issues:
 - Assure filing requirements and prescribed notice periods are met to transfer / obtain licenses and permits
 - Start Medicare / Medicaid enrollment early and accept assignment of the current Medicare provider agreement
 - Identify key commercial payor arrangements and timely provide notices or obtain consent as required.
 - Proactively engage with any key payor that requires consent to assignment or who has a termination right that is triggered by the conversion to the Kootenai Health Foundation
 - When and if appropriate, enter into interim billing and/or transition services arrangement(s) that address maintenance of bank accounts post-effective date, facilitate collections and clarify responsibility for post-closing regulatory filing requirements.

Legal Review and Due Diligence

NEXT STEPS:

- Assuming the Kootenai Health trustees approve moving forward with the conversion, leadership and advisors will complete development of a detailed project plan
 - Project plan will identify implementation tasks, including target completion dates for the various steps needed to effectuate the conversion (taking into account diversion of employee resources from day-to-day operations and other initiatives)
 - Development of plan will also include meetings with, and soliciting input from, Kootenai Health subject matter personnel to refine the plan and further detail the steps needed to consummate the reorganization
- In parallel with finalizing the plan, Kootenai Health would begin to implement certain elements of the plan, continue its diligence review and begin addressing any legal, regulatory, and operational issues pertinent to the conversion (third-party consents to be obtained, regulatory filings to be made, etc.)

Kootenai Health Board: Additional Details

The conversion to a 501(c)(3) entity allows Kootenai Health more flexibility in its governance structure in the near-term

Board Responsibility	<ul style="list-style-type: none"> • Ultimate authority and responsibility over operations, assets and liabilities of Kootenai Health entities lies with the governing Board; existing committee structure will remain in place • Subsidiary boards will remain in place and have delegated responsibilities, subject to parent Board authority • The Foundation operations and governance will be transitioned to a new 501(c)(3) entity at or shortly after closing
Board Composition	<ul style="list-style-type: none"> • Broadly representative of Kootenai County and north Idaho communities, seeking to be diverse in demographics and professional experience • The Board of Trustees may be expanded over time • The Kootenai Health CEO and medical staff president may serve ex-officio on the Board
Term Details	<ul style="list-style-type: none"> • Terms will be three (3) years and staggered such that one third (1/3) of the trustees will be elected annually • Trustees shall not serve more than two (2) consecutive terms of three (3) years
Nomination Process	<ul style="list-style-type: none"> • The Governance Committee will continue in its existing format, nominating individuals for Member approval • The Governance Committee will consider Foundation board members for Trustee nominations as appropriate • Ultimately, however, new trustees must be approved by the Members

Affiliated Partners Review

Primary Elements of Diligence Review

- Scope: KH's affiliated partner agreements
- Focus areas:
 - Change of control provisions
 - Potential financial and operational impact and disruption
- Key agreements reviewed:
 - Kootenai Outpatient Imaging
 - Kootenai Outpatient Surgery
 - InnerPacific Alliance for Cancer Care
 - Rehabilitation Hospital of the Northwest
 - Syringa General Hospital Management Agreement
 - Clearwater Valley Hospital and St. Mary's Hospital

Key Conclusions and Findings

- Conversion may “trigger” one or more rights and obligations under various joint venture agreements
- These potential triggering events may be avoided if the Foundation falls within the legal definitions of an “affiliate”, as defined in the various JV and other agreements (these definitions vary by agreement)
- Regardless of whether the conversion is or is not a triggering event, once the JV interests are transferred to the Foundation, the Foundation will be required to execute a “Joinder Agreement” agreeing to be bound by the terms of the various JV operating agreements
- KH has already initiated outreach to several JV partners – initial indications from partners are favorable
- KH will continue to work with its JV and other partners to obtain a written waiver or consent to the conversion which will help to alleviate the risk that a JV or other partner will exercise any rights potentially triggered by the conversion

Contracts and Agreements Review

Primary Elements of Diligence Review

- Scope: KH's contracts with physicians and third-parties related to high impact operational elements
- Analysis included:
 - Determination of contract assignability
 - Assessment of whether the conversion will trigger any severance, change of control or termination provisions
 - Evaluation of whether certain key terms may be impacted and/or could be subject to change
 - Foundation-related contracts and implications of conversion process

Key Conclusions and Findings

- Each of Kootenai Health's contracts (which number around 2,700) are or will be reviewed to determine assignability to the Foundation, as well as triggering of severance, change of control, or termination provisions; including:
 - Payor agreements
 - Employment / independent contractor agreements
 - Vendor agreements
 - Real estate and equipment leases
 - Financing agreements
 - Clinical services agreements
- Generally, assignment of contracts is not a barrier to consummating the conversion; however the process is labor intensive and takes time
- Process: draft form consent / waiver for transfer / assignment of contracts to the Foundation, for review and execution by contracting parties

Contracts and Agreements Review

- Payor Contracts: As discussed previously, key payors will be prioritized to minimize any potential disruption to payment or patient care
- Employment Agreement: As discussed previously:
 - Kootenai Health's template employment agreement requires prior written consent to assign the contract, unless assignment is to an entity controlled by Kootenai Health
 - As such, physician consent may be required prior to assigning such contracts to the Foundation, though there may be alternative approaches to explore to ease administrative burden
- IT Related Contracts:
 - IT related contracts (including Epic) will need to be prioritized to ensure no disruption to operations will occur
- Real Estate:
 - All owned real property will be transferred to the Foundation; all leased real property will be assigned to the Foundation
 - The above actions should not be a barrier to consummating the conversion; however, since third-parties are involved, Kootenai Health cannot control timeline

Employment Review

Primary Elements of Diligence Review

- Collective bargaining and unionization implications for non-public hospital districts
- Physician and APP contracts
- National Labor Relations Act (NLRA) and Idaho's "Right to Work" (IRTW) laws
- Benefit plan review with third-party administrators, management, and legal counsel

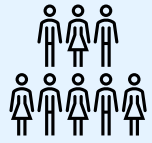
Key Conclusions and Findings

- **Requires full transition to new employer entity**, which may include [Kootenai Clinic or the 501(c)(3)]
- Physician and APP contracts may be assigned to new parent entity
- **Kootenai Health employees will have the right to unionize, potentially requiring Kootenai Health to engage in collective bargaining activities**
 - The NLRA has broad discretion to impose remedies for unfair labor practices
 - IRTW statutes allows employees to seek civil injunctive relief against any and all violators and may recover damages
- A collective bargaining agreement would convert the applicable workforce from at-will to employees who cannot be disciplined or discharged without just cause
 - This could hinder KH's ability to make independent decisions about employee wages, conditions of employment, grievance procedures, and termination

Source: Witherspoon Kelley memo dated September 26, 2022 to Kootenai Health

Employment Considerations

IMPACT



Employees will have the right to collectively bargain



CURRENT MITIGATION

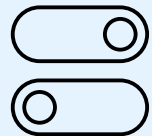
- Historically, North Idaho has not had substantial union organization activity
- Within the region, KH offers competitive compensation and benefits packages relative to organizations with union activity



Loss of Idaho Tort Claims Act protection (exemption from the NLRA)



- KH has insured the organization and its employees with adequate protection limits
- No change in insurance coverage is expected as a result of a potential transition



Requirement for benefits changes as parties transition to a non-governmental entity



- Structure enables employees to receive substantially comparable benefits to those currently in place

Sources: Witherspoon Kelley memo dated September 26, 2022 to Kootenai Health. Management.

Foundation Review

Primary Elements of Diligence Review

- Legal structure and implications
- Formation of new, standalone Foundation to preserve existing fundraising model and protection of donor funds
- Leadership and governance of New Foundation – model on existing Foundation
- Foundation contracts to be assigned to New Foundation

Key Conclusions and Findings

- Utilizing the Foundation as the 501(c)(3) is the most expeditious and lowest risk approach to establishing a tax-exempt entity for the conversion
- To accommodate using the existing Foundation as the go-forward hospital entity while maintaining the advantages of a separate foundation focused solely on fundraising and support of the hospital, the Foundation will form a new Idaho nonprofit (“New Foundation”) prior to closing
- Existing Foundation funds and operations will be transferred to New Foundation. New Foundation will operate after closing in much the same way as the current Foundation. New Foundation will ensure existing donor funds are used for the intended purposes and will continue to emphasize fundraising and building community support for Kootenai Health
- New Foundation will apply for 501(c)(3) recognition shortly after closing, expected to be a relatively simple filing and confirmed by the IRS within several months (retroactive to the formation of New Foundation)

Finance Review

Primary Elements of Diligence Review

- Key requirements in the existing bond documents and credit agreements to allow for a 501c3 conversion
- Initial due diligence process with bond counsel and borrowers' counsel
- 340b and other similar program implications

Key Conclusions and Findings

- For a conveyance, Kootenai will need consent from a majority of the bondholders
- A full tax opinion will be required from bond counsel and a 501(c)(3) opinion from KH's bond counsel; due diligence is currently underway to be able to provide those opinions
- Kootenai will also need to attest that no event of default has occurred or will occur subsequent to the transfer
 - Kootenai Health is requesting an amendment to its existing rates and charges covenant to include modernizing features and avoid an event of default for FY22; targeting response from bondholders in December 2022
- Maintaining 340b pharmacy drug pricing program status requires contractual commitment to continue providing health care services to low-income individuals who are not eligible for Medicare or Medicaid and to remain Disproportionate Share Hospital eligible

Community

Primary Elements of Diligence Review

- Detail reviewed in all preceding sections

Key Conclusions and Findings

- KH would lose its taxing authority in a conversion to 501(c)(3) although it hasn't been utilized since 1995. Further, KH issued taxes are only applied to residents in Kootenai County, despite KH serving a broader set of stakeholders and their respective healthcare needs
- KH would lose immunities such as those outlined in the Idaho Tort Claims Act, including, but not limited to, key protections that exclude punitive damages against KH, shorter statutes of limitation on claims, etc.
- KH will be subject to compliance with the NLRA and associated processes and protocols
- KH would no longer have the ability to utilize eminent domain as a private institution. This allowed KH to take private property for public use for appropriate compensation