

Legal & Policy Issues Raised by Vanguard's Proposed Purchase of the Detroit Medical Center

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Why hold a policy forum?

- Conversion raises important social issues
- Transaction represents substantial change
- Health care is intrinsically complicated
- Important to know what we don't know

Need open, healthy discussion

- What are the right questions to ask?
- What are necessary sources of expertise?
- Whose voices are not represented?
- What additional information is needed?

Model: Medical Informed Consent

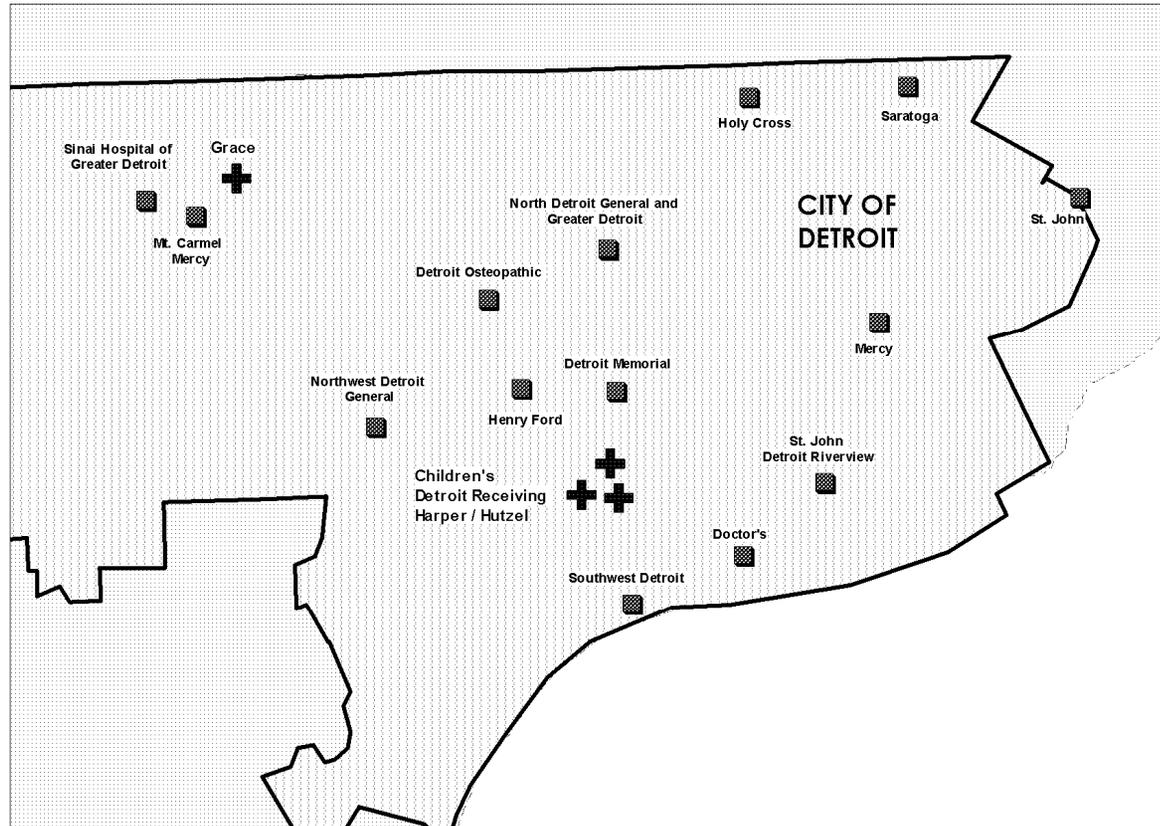
- AMA: Physician must disclose
 - The patient's diagnosis
 - The nature and purpose of the proposed treatment
 - The risks and benefits of the proposed treatment
 - Alternatives (regardless of their cost or the extent to which the treatment options are covered by health insurance)
 - The risks and benefits of the alternative treatment
 - The risks and benefits of not receiving treatment
- Policy Analogue: Comparative Institutional Analysis

Diagnosing Detroit's Problems – Exodus of Hospitals

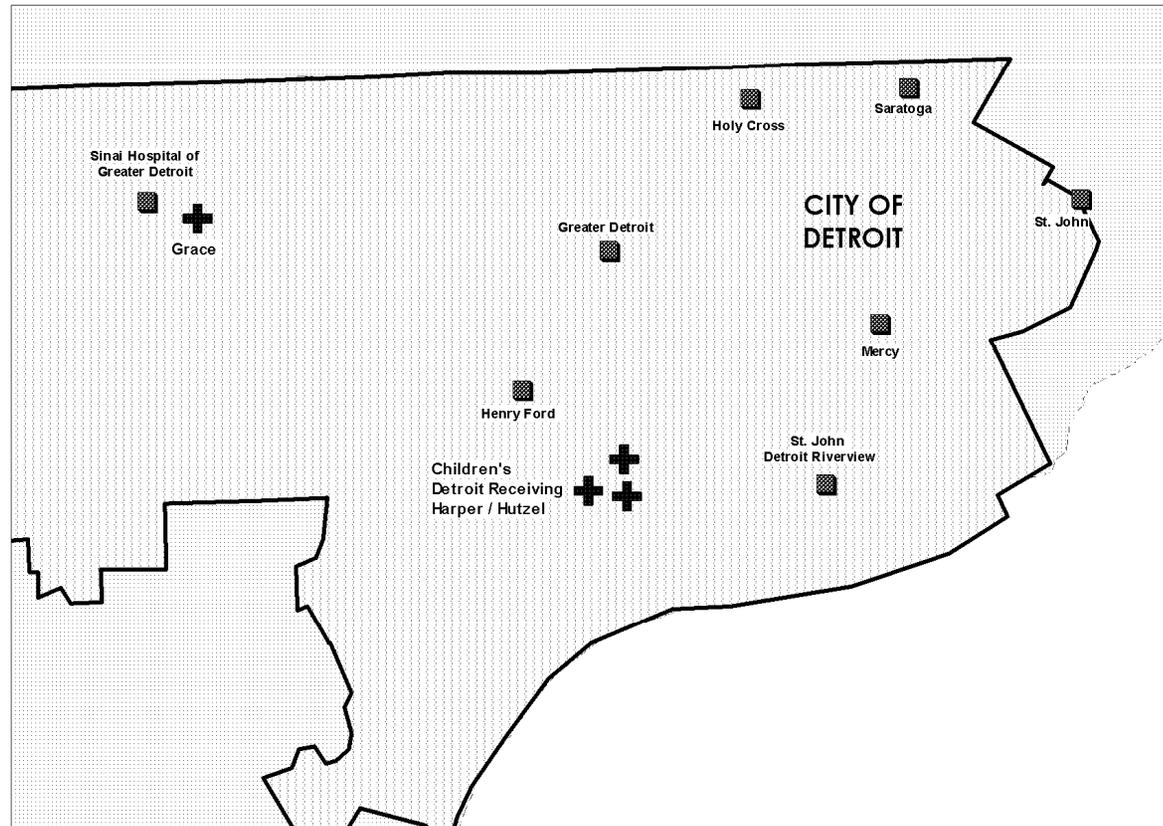
- There has been a serious exodus of hospitals from Detroit in the past 25 years
- Next three slides are taken from DMC-Vanguard PowerPoint presentation to State Attorney General's Office
- “A New Partnership for Detroit”

How the non-profit hospital model has failed the city of Detroit

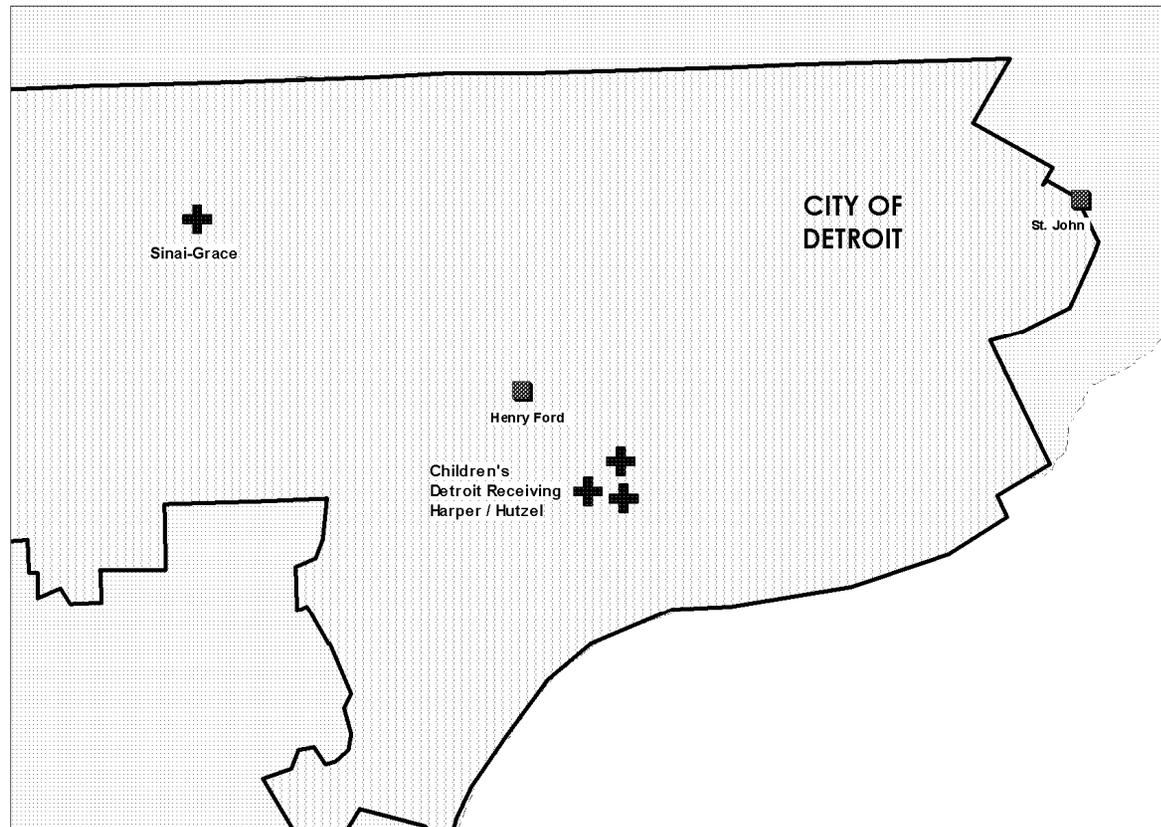
1987: 19 Hospitals in City Safety Net

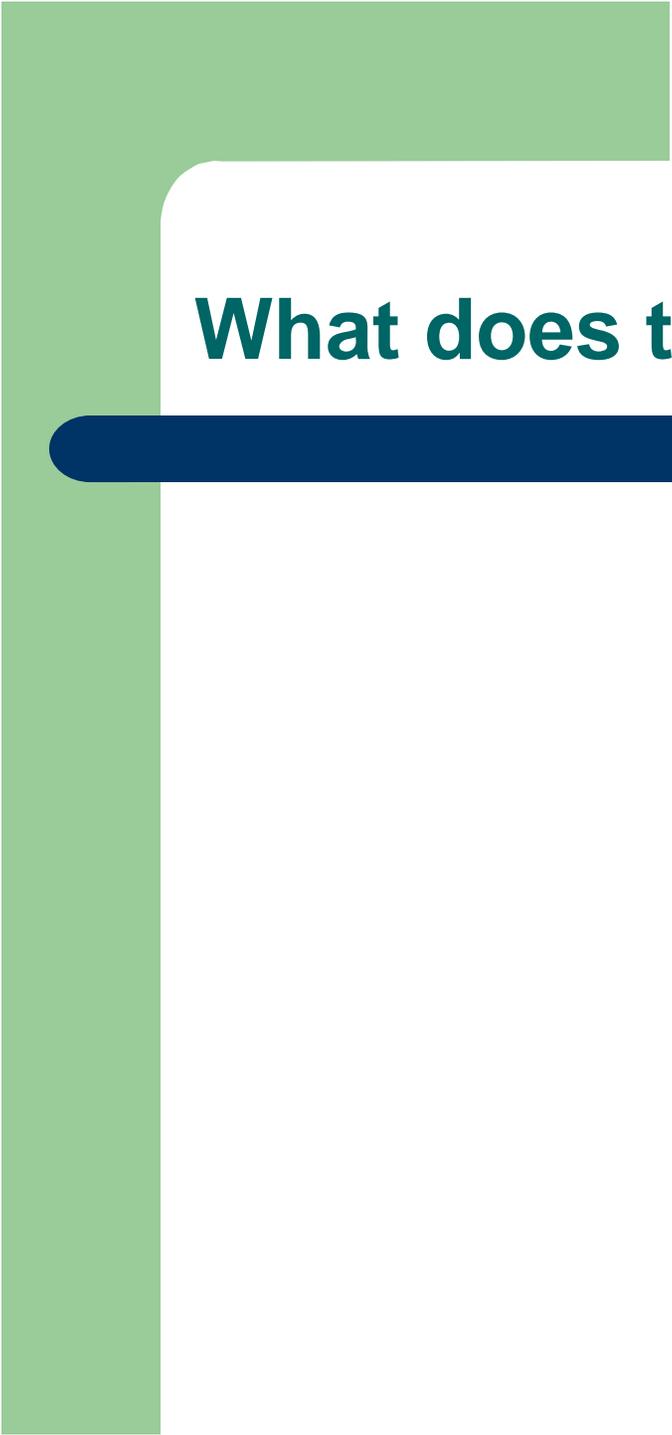


1995
12 Safety Net Hospitals in Detroit
4 Run by DMC



2009
6 Safety Net Hospitals in Detroit
4 Run by DMC



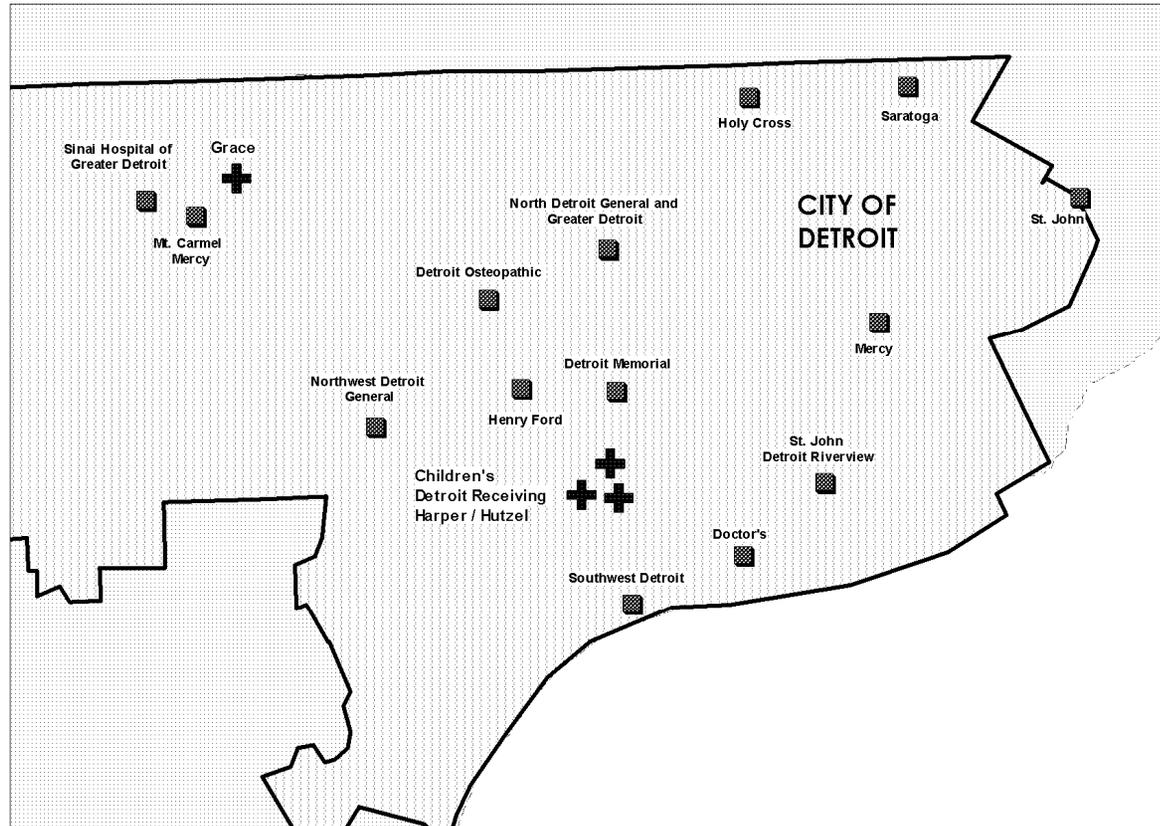


What does this exodus demonstrate?



How the non-profit hospital model has failed the city of Detroit

1987: 19 Hospitals in City Safety Net

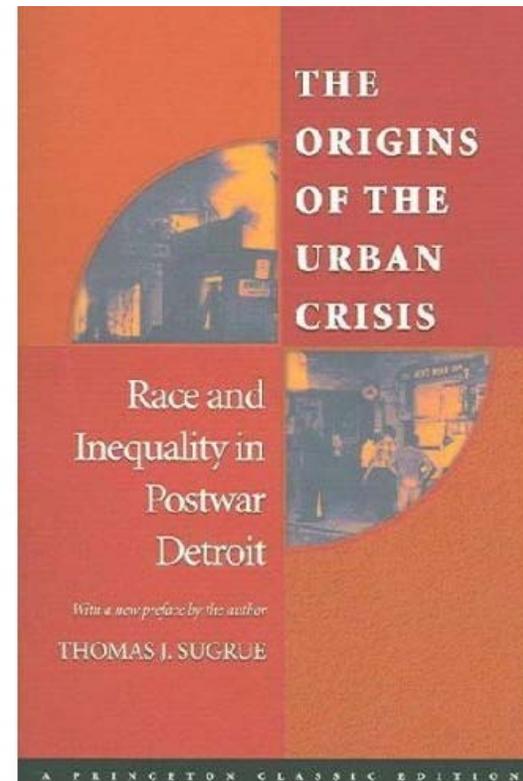


What does this exodus demonstrate?

- DMC-Vanguard Claim:
 - “How the Non-Profit Hospital Model has Failed the City of Detroit”
- Blaming non-profits is a **false narrative**
- Exodus proves that markets work
 - hospital follow the money \$\$\$\$
 - non-profits mimic for-profits (with a lag)
- Public policy must be guided by true narratives
 - need better understandings of Detroit’s social and economic problems

Hospital exodus is linked to deeper social and economic forces

- Thomas Sugrue
 - Urban deindustrialization
 - Employment discrimination
 - Housing segregation
- Need to avoid overly simplistic explanations



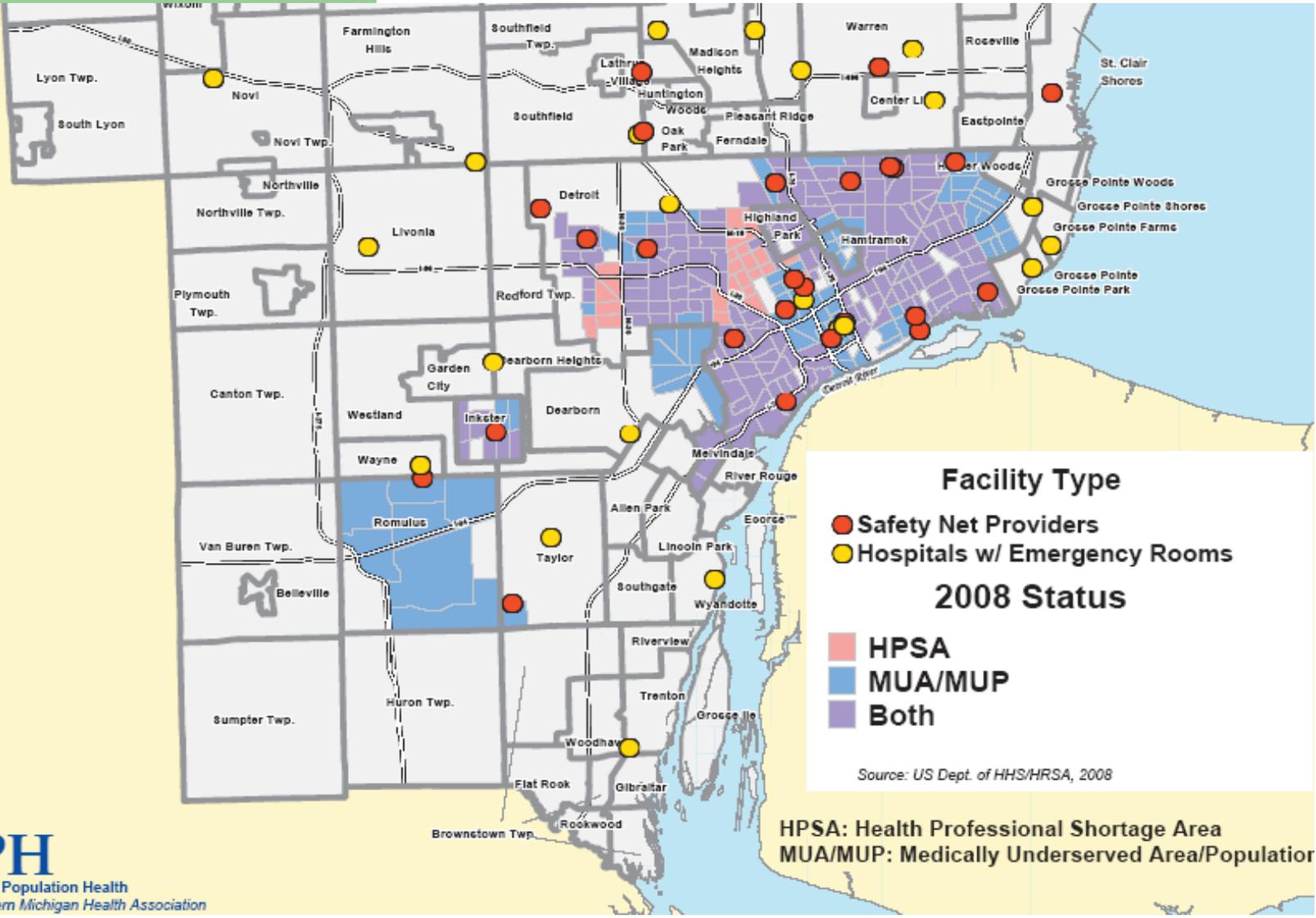
DMC problems in social context

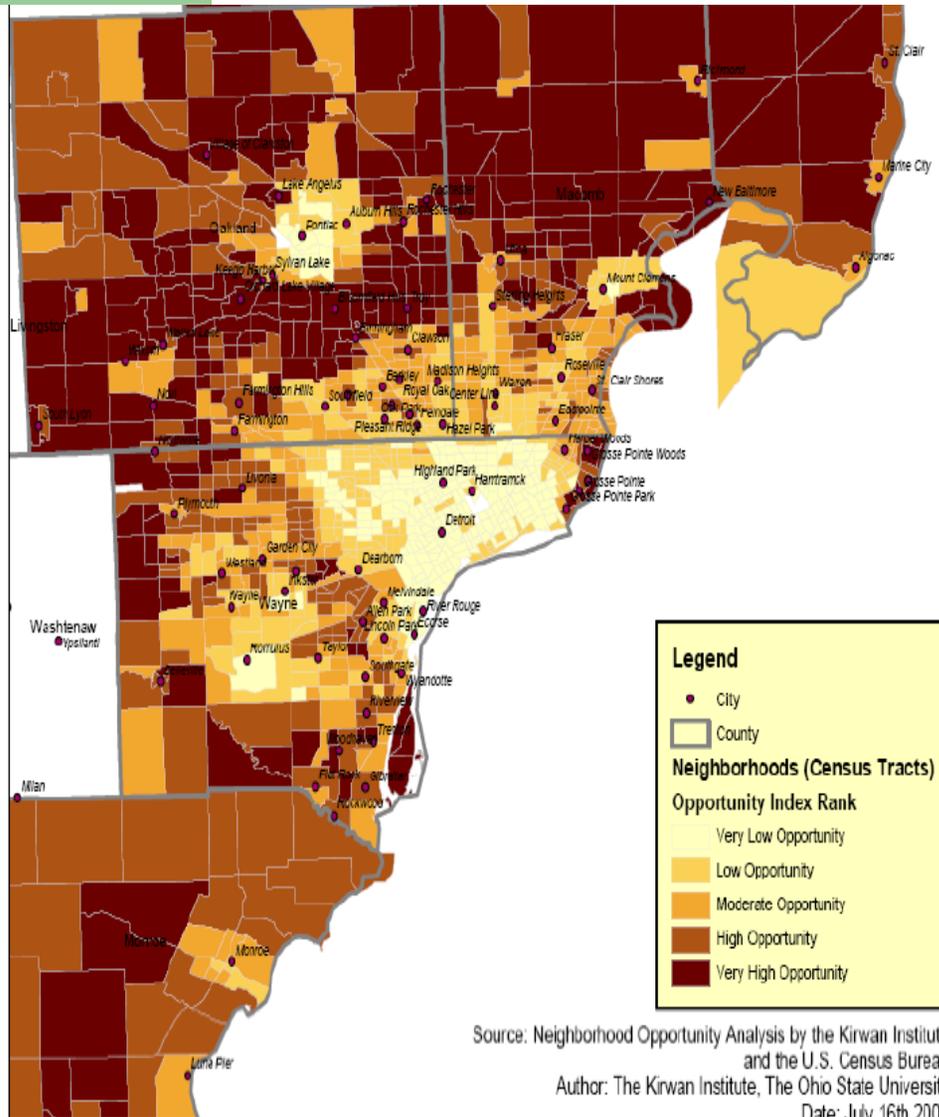
- Problems at DMC

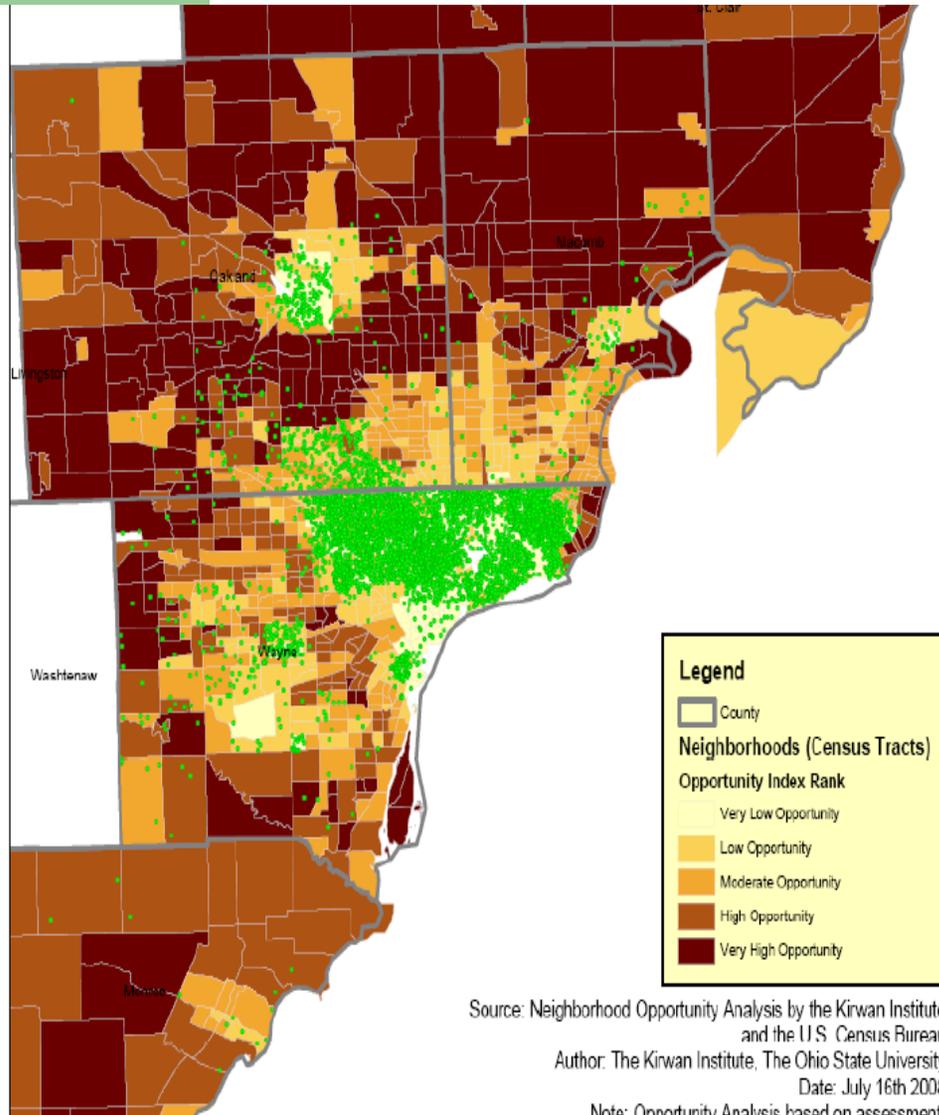
- Exodus of hospitals
- Exodus physicians
- Exodus paying patients
- Large share of uncompensated care
- Small economic margins
- Difficulties accessing credit

- Broader Detroit context

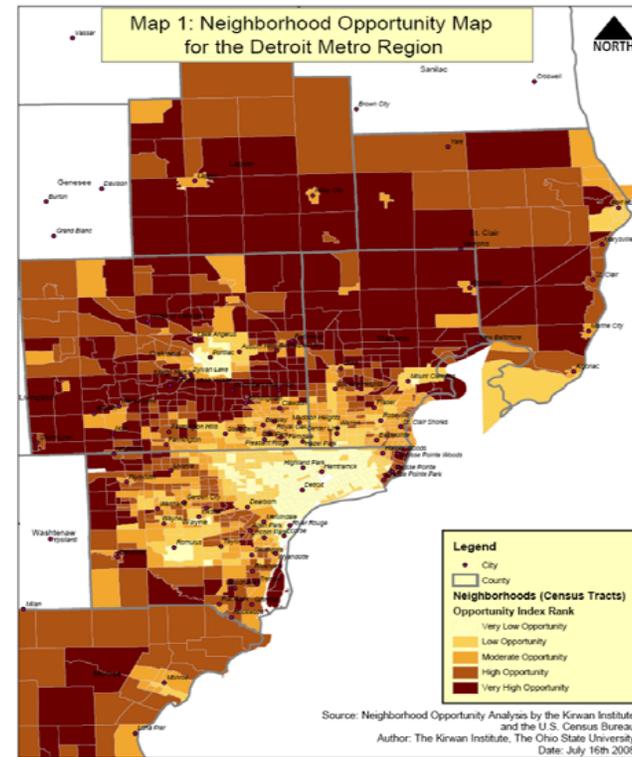
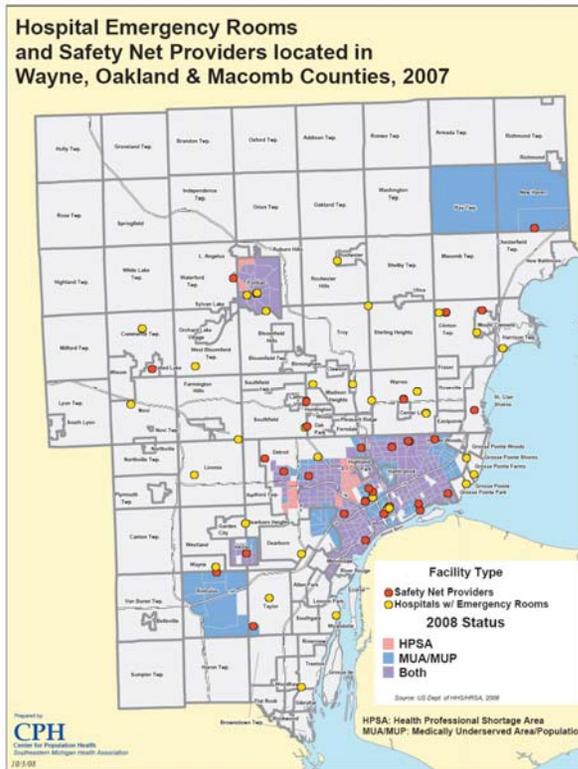
- Poverty
- Limited economic opportunity
- Racial inequality
- Segregation
- Health disparities







Different problems – same patterns



Poverty: Michigan v Detroit

Resident income below the poverty level 2007:

Detroit: 33.8%

Whole state: 14.0%

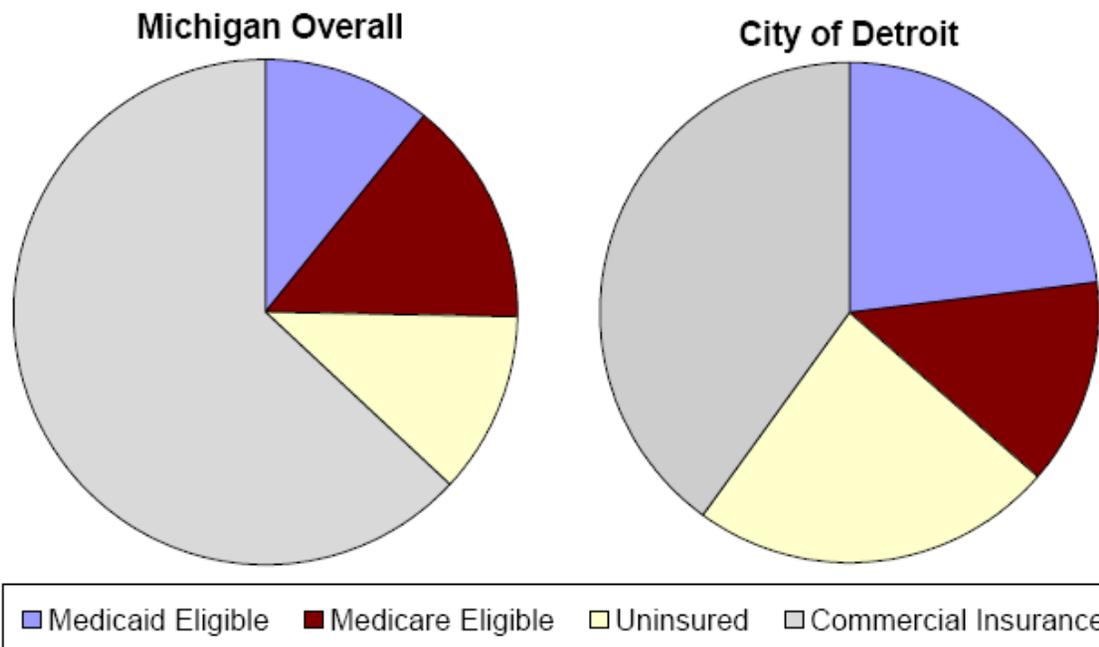
Residents income below 50% poverty level 2007:

Detroit: 18.6%

Whole state: 6.5%

Payer Mix: Michigan v Detroit

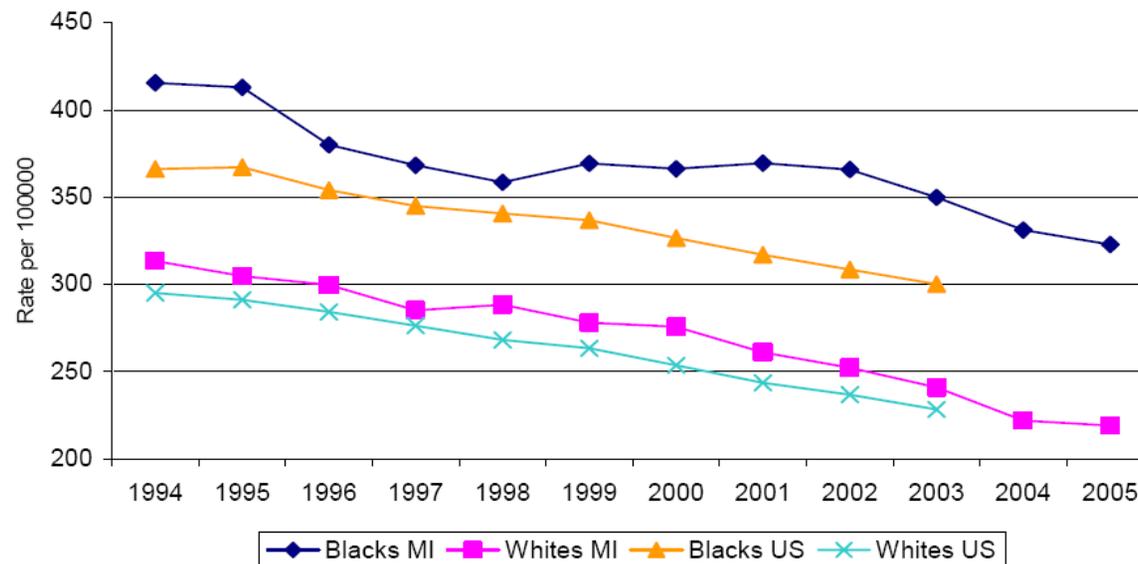
Figure 3. Insurance Coverage Breakdown for Michigan and the City of Detroit.



Racial Disparities Heart Disease



Heart Disease Death Rates, Blacks and Whites, MI vs U.S. 1994-2005



Infant Mortality by City in Michigan

Pontiac, Detroit, Saginaw and Flint had the highest rates relative to their counties, while Battle Creek, Wyoming, Ann Arbor and Warren outperformed their counties.

Infant Mortality Rate
1996-2000 and 2000-2004 (Deaths per 1,000 Live Births)

	City 1996-2000	City 2000-2004	Percent Change	County 2000-2004	City vs. County Percent Difference 2000-2004
Ann Arbor	6.5	6.1	-6.2	7.1	-14.1
Battle Creek	6.2	6.0	-3.2	9.6	-37.5
Detroit	15.0	15.4	2.7	10.9	41.3
Flint	15.3	15.0	-2.0	11.7	28.2
Grand Rapids	9.6	10.2	6.3	8.5	20
Kalamazoo	7.9	10.5	32.9	9.2	14.1
Lansing	8.5	7.6	-10.6	7.2	5.6
Muskegon	10.1	10.1	0.0	8.7	16.1
Pontiac	15.2	14.3	-5.9	6.4	123.4
Saginaw	11.7	11.9	1.7	9.1	30.8
Traverse City	6.2	6.1	-1.6	6.2	-1.6
Warren	6.0	5.5	-8.3	5.9	-6.8
Wyoming	6.2	6.2	0.0	8.5	-27.1
Average	12.0	12.1	0.8	8.6	29.0
State	8.1	8.1			

Source: Michigan Department of Community Health

Difficulties not new at the DMC

- Wayne State Journal of Law in Society 2004 Symposium: Detroit Health Care: Code Blue or New Life?
- Peter J. Hammer, Medical Code Blue or Blue Light Special: Where is the Market for Indigent Care?, 6 J.L. Soc'y 82 (2005)

DMC 2003 crisis

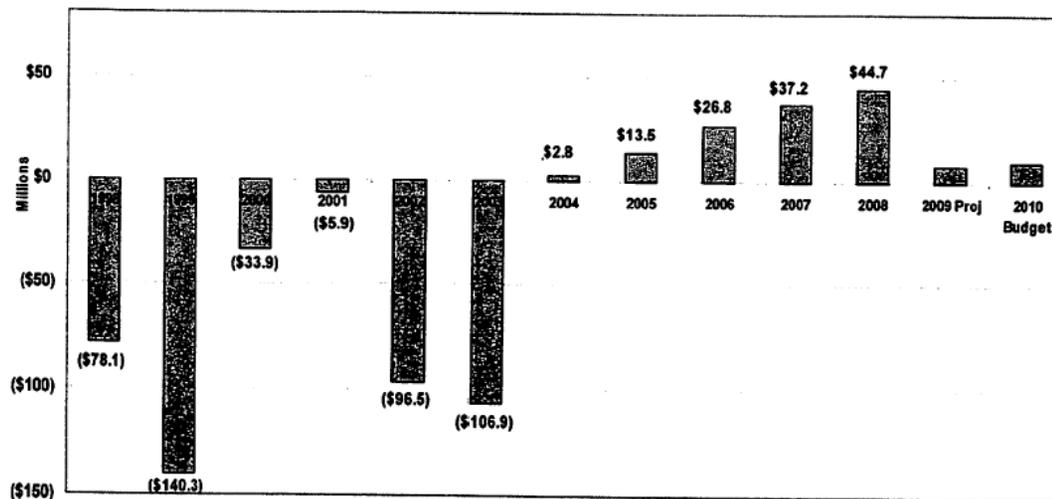
- 2003 Financial Losses - \$113 Million
- 2003 Care for Underserved - \$109 Million
- 2003 Crisis: Closure of Detroit Receiving Hospital & Hutzel Women's Hospital?
- Previous Poor DMC Financial Decisions
 - Information outsourcing to Compuware
 - OmniCare Health Plan (Medicaid Managed Care)

2003 Public Rescue of DMC

- \$50 Million Cash Infusion for DMC
 - \$\$\$ from City, County and State
- Detroit Wayne County Health Authority
- New DMC management team

Relative financial Stability 2004-09

**DMC's Operating Income
currently running at 0.5% margin**



Where do we go from here?

Comparative Institutional Analysis

- Methodology: Side-by-side comparison of the strengths and weaknesses of institutional structures in light of real world imperfections
- Attributes:
 - Empirically not ideologically driven
 - Highlights often sharp policy tradeoffs between competing options
- Compare: Medical informed consent

Evaluation of non-profits

- Characteristics

- Social (non-market) mission
- Tax exempt
- Bond financing
- Assets tied to mission
- High barriers to exit of assets
- Fiduciary duties, not market discipline
- Cross-subsidies possible

- Strength or Weakness?

- Efficiency?
- Agency failures?
- Access to credit?
- Sustainable?
- Reliability?
- Social needs?

Evaluation of for-profits

- Characteristics

- Profit driven
- Maximize shareholder value
- Responsive to market changes
- Low barriers to exit of assets
- Capital financing
- Cross-subsidies unlikely

- Strength or Weakness?

- Efficiency?
- Agency failures?
- Access to credit?
- Sustainable?
- Reliability?
- Social needs?

Important questions to ask

- What is the business case for the transaction?
- Are there alternative sources of financing for non-profits?
- What will be the impact of the transaction on the community?
- How can promises be made binding over time?

How can promises be made binding over time?

- First Year Contracts: Not all promises are binding
- Even private contracts have limited force: Holmes => only promise to pay damages
- Social contracts politically not legally enforceable (constitutional exception)

How can promises be made binding over time?

- Social promises intrinsically difficult to enforce in private economic markets
- Non-profit form is, in fact, a mechanism to make binding social promises over time