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massachusetts-rhode island chapter

24th Annual Revenue Cycle Conference

Rev Cycling Through Adversity



Race, Medicare and Post Pandemic America

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Virtual Webinar

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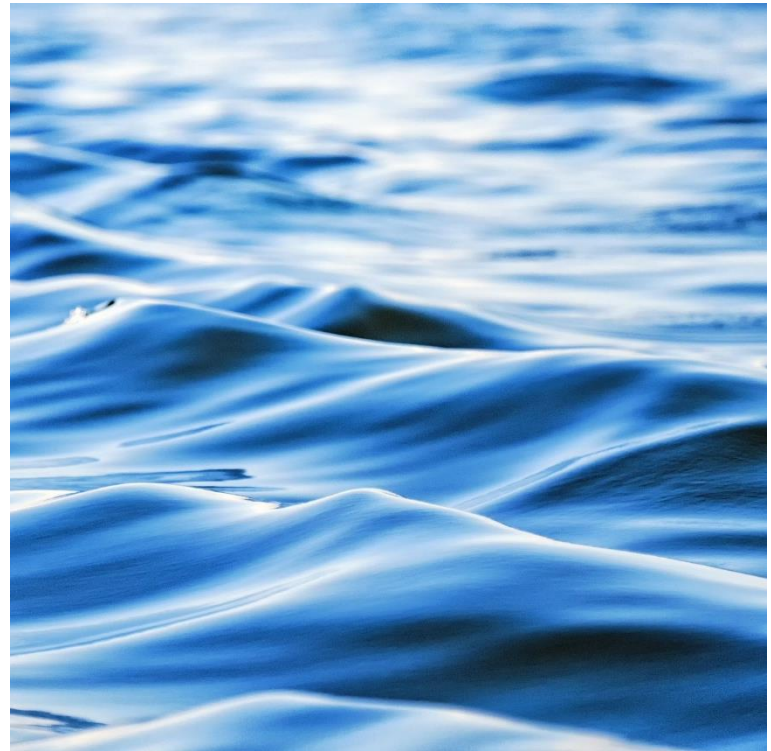
THE **POWER** TO
HEAL

**CIVIL RIGHTS,
MEDICARE,
AND THE STRUGGLE TO
TRANSFORM AMERICA'S
HEALTH CARE SYSTEM**

DAVID BARTON SMITH

Pandemics and Major Social Change

- “Only when the tide goes out do you discover who has been swimming naked.”- Warren Buffett
- COVID-19 laid bare two key flawed assumptions about the organization and financing of healthcare in America



**Flawed
assumption #1:
“That was all in
the past” -
‘Historical
institutionalism
and path
dependency
shapes the
present.**



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Flawed assumptions #2: The future involves a full epidemiological transition from the “Age of Infectious Diseases” to an “Age of Degenerative Ones.”

The Truthful Story:

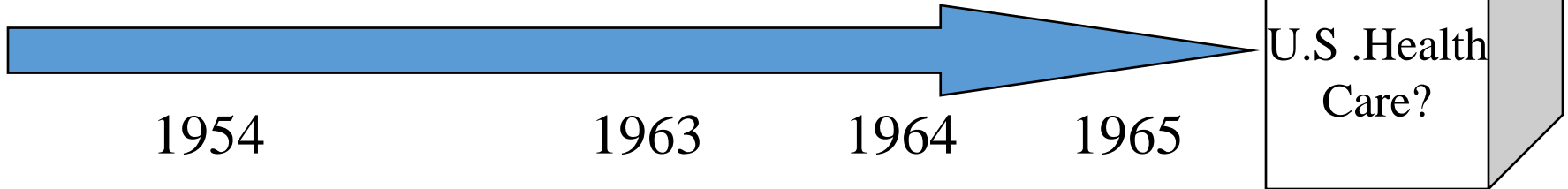
“The past is not dead, it’s not even past.” Faulkner

- U.S. health system’s “formative years” bookended by the Plessy and the Brown Decisions (e.g. 1896-1954).
- The way we think about, finance and organize health care has been shaped by that dysfunctional environment.
- Yet, coordinated small acts of defiance began to force dramatic change (August 28, 1963).



Mounting Pressure from a Twenty Year Civil Rights Campaign

Brown v. Board of Ed Simkins v. Moses Cone Title VI. Civil Rights Act Medicare



1954

1963

1964

1965

U.S. Health
Care?

No one thought Title VI *posed a Problem for Segregated Hospitals*

- **Provider dependent:** AMA threatened a Medicare boycott and hospitals had already successfully resisted Title VI compliance for the Hill-Burton funding they had received.
- **Politicians and bureaucrats had no interest in forcing the issue.** Never came up in the legislative debate over Medicare.
- **Mission Impossible:** The office established to assure compliance in more than 6,000 hospitals had a staff of 5, no budget for expansion or travel costs and a 3 month deadline.

The Office for Civil Rights' "Children's Crusade"

- No "all deliberate speed" for hospitals wishing to participate in the Medicare Program. They must be in "**full compliance.**"
- No exceptions- dare you to stop us!
- Johnson's two signature pieces of legislation (Civil Rights Act and Medicare) are on a collision course in the highest stakes gamble in domestic policy history.





Regulatory Capture by the Civil Rights Movement

- Authors the enforcement guidelines and procedures.
- Recruits & Trains 800 inspectors as temporary transfers from DHEW's Public Health Service and the Social Security Administration.
- Energizes an invisible army of local civil rights activists and hospital workers.

The “2-Day Wonder” Field Inspectors Fly by the Seat of their Pants and Force Real “Behavioral” Change

- The “Desegregated” Doors
- The “Desegregated” Waiting Room
- The Louisiana Red Cross Blood Supply
- Desegregating the “medically vulnerable.”
- Desegregating physician referrals.

June 1966 Crisis:

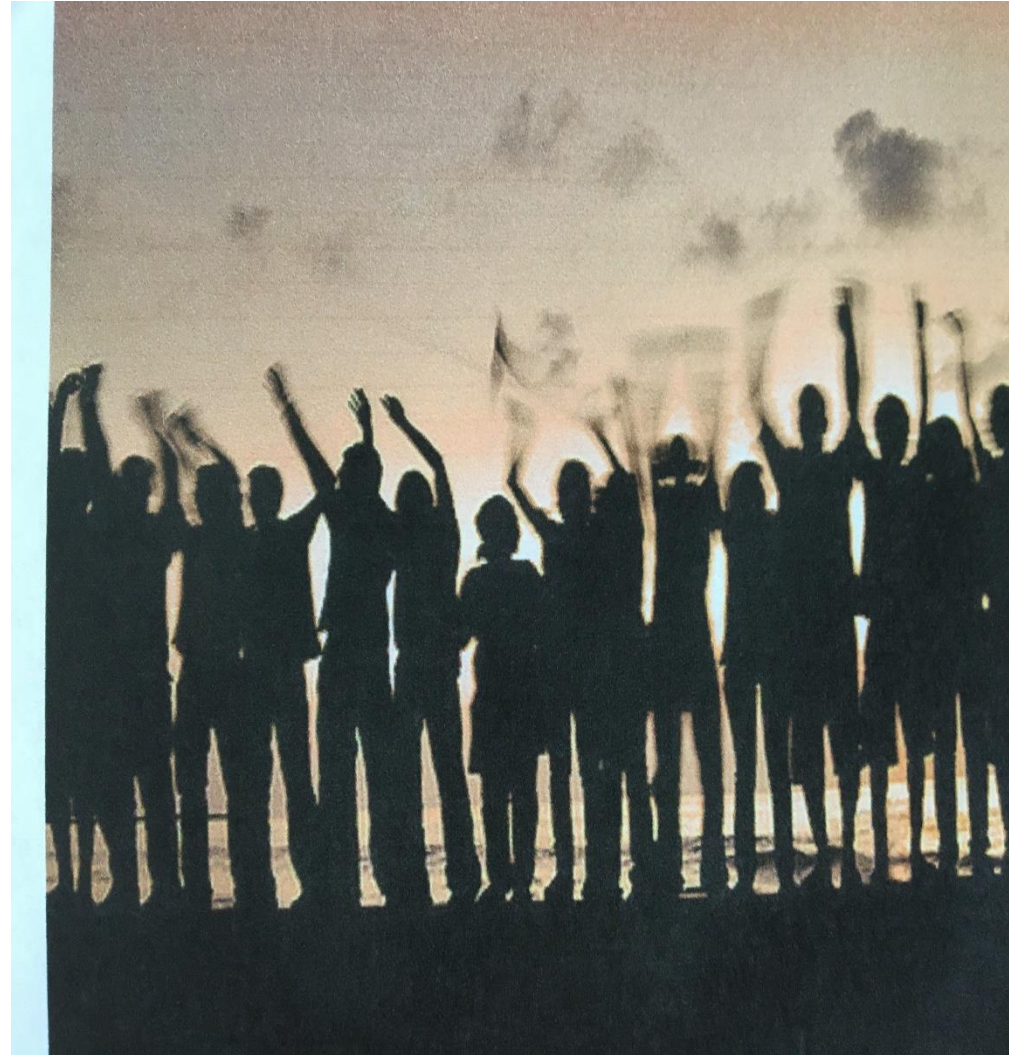
Most Hospitals in South Still Non-compliant



- Staff work round the clock.
- LBJ, fully engaged, turns up the heat.
- “War Room” at Social Security.
- VA, military hospitals, National Guard helicopters on standby.

Victory!

- Elimination of all the symbols of a racially and economically divided hospital system.
- Access to care on the basis of need not race or economic resources and reduced health “disparities.”
- Success made threat of the use of the federal purse credible and produced dramatic transformations in other sectors (e.g. Title IX).
- But “the past was not dead.”



The Dead Hand From the Past

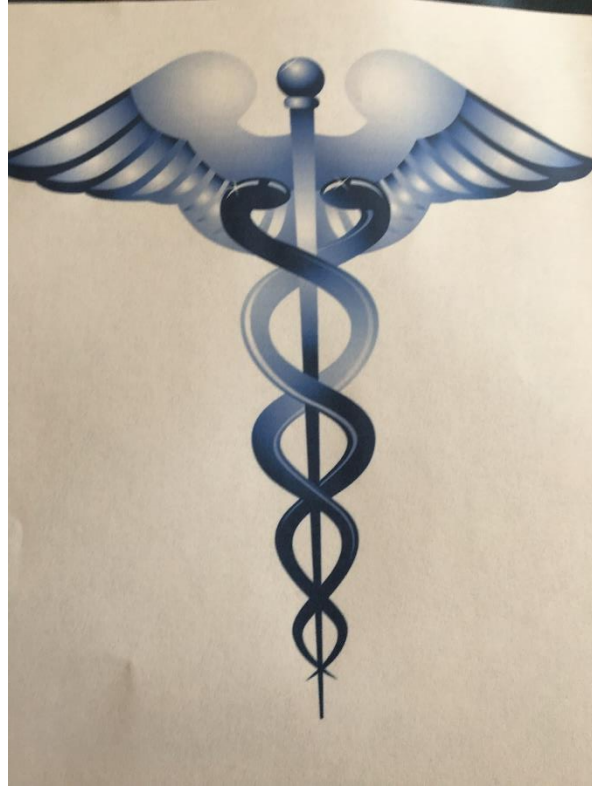


- 1965 HEW decision exempted physicians that would be paid by Part B of Medicare from Title VI compliance.
- Failure to achieve a universal form of payment assures persistence of racial and economic disparities in care.

Can the Keys to Medicare's Title VI Victory in 1966 be Applied to the 2021 Problems?



- Regulatory precision and consistency.
- Universal payment's "Golden Rule."
- The rising tide of a grassroots social movement: "We are all in this together."



*The Pandemic Challenge:
End Jim Crow Medicine*