

OPINION: An unnecessary law is crowding Alaska's hospitals

Blurred figures of people with medical uniforms in hospital corridor. (iStockphoto)

At COVID-19's peak, media outlets were saturated with images of overcrowded hospitals: patients receiving care in hallway foldout chairs, unplumbed tents and the backs of parked ambulances. But today, even with COVID a shadow of its former self, Alaska's hospitals are sometimes more overcrowded than during the worst of the pandemic. It is routine, even daily, to have all three of Anchorage's hospitals completely full, unable to accept ambulances, medevacs or transports from rural communities. We keep patients in packed waiting rooms for hours, admitted patients in the emergency room for days, and discharge patients before knowing if their needs can be met at home. Men detoxing from alcohol are roomed on postpartum units, erratic psychiatric patients scream out in the hallways, adults are treated in pediatric rooms, and ambulances are forced to bypass the drowning emergency departments, dropping high-risk patients in the lobby. While these events have historically happened on occasion, they are now the rule rather than the exception. Bad outcomes for patients are not hypothetical but are happening now. Our regulators and hospital executives can no longer chalk this up to extraordinary circumstances; it is our everyday reality. We can and must do better.

There are a lot of reasons for why Alaska's hospitals and nursing facilities are stretched to breaking. As a population, we are older and sicker. Primary care physicians run months-long waitlists for preventative care, the homeless require intensive hospital resources, and COVID's social isolation left direct and indirect scars with high rates of complex diseases. Add to this staffing shortages and skyrocketing costs, and we have a massive, devastating mess on our hands. However, there is one identifiable cause that greatly contributes to this unsustainable strain on Alaskan health care, and one that

is easily remedied by legislative repeal: the certificate of need law.

A certificate of need is a lengthy, expensive legal certificate that hospitals, skilled nursing homes, and inpatient psychiatric facilities must submit to state regulators prior to changing, expanding or improving a facility. The certificate was made into federal law in the 1970s with the intent of controlling health care costs and providing the right level of care to meet community needs — and was repealed at the federal level in the 1980s when the law turned out to have the exact opposite effect. Rather than protect hospital access, certificates of need monopolized it. Rather than maintain health care costs, it elevated the value of a single bed. The problems it set out to solve, it intensified. A handful of states held onto the practice, Alaska included. As a result, inpatient care cannot react to our changing, out-of-control health care environment. Without free market competition to allow for appropriate and high-quality growth, Alaska is chained to the infrastructure that served it in the pipeline days.

Alaska is a hostage health care market. When sick or injured, we have few places to turn. Currently, our existing health care corporations are maximizing profit by stuffing patients into any available space — including, in at least one hospital, an unheated garage. There is little business incentive for them to properly and safely expand when a person in need has nowhere else to go. With certificate of need laws, our existing corporations have both a monopoly on potential competitors and no motivation — other than the threat of horrific and tragic lawsuits — to improve their capacity or quality. If our hospitals are unable or unwilling to expand, we must create a competitive market that others can fill.

Medicine is a lousy product for the free market. There is no monetary value for a life saved or pain relieved. But as a country, our health care is capitalist-driven, and Alaska's certificate of need laws are the opposite of free enterprise. Alaska has a dire problem: the supply of health care does not meet the demand. While the solutions must be multifactorial, repeal of the

certificate of need law is a straight-forward, actionable and market-based starting point.

Jamie Douglas is an RN. Information that could be used to identify patients has been specifically excluded from this commentary.

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