ORD 21-033

AN ORDINANCE TO AMEND CHAPTERS 2, 39, AND 40 OF THE CITY CODE TO CHANGE THE POSITION OF CITY PHYSICIAN TO CITY MEDICAL PROVIDER

#0073

Sponsor:

Council Member Johnson

WHEREAS, the longstanding City physician is planning to retire in the near future; and

WHEREAS, the medical profession's provision of medical services has changed dramatically since the creation of the City physician position to permit certain medical providers other than physicians to provide certain medical services independent of a physician; and

WHEREAS, in light of the foregoing, City Council deems it necessary and appropriate to amend the City Code to change the position of City physician to City medical provider to allow the City flexibility in hiring appropriate medical professionals to provide medical services for City employee cases.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 2 of the City Code is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 2-150.5. - Health planning council of the city.

(a) *Establishment.* There is hereby established an advisory body to be known as the "health planning council" of the city. The members of the health planning council shall be persons from the city council health disabilities committee, the city council marketing health task force, the ~~city's physician~~ city medical provider's advisory council, healthcare providers, neighborhood health organizations and community organizations. There shall be 35 members. Ten members shall be appointed by the mayor, ten members shall be appointed by the president of city council, 15 members shall be members of the marketing health task force and the ~~city's physicians~~ city medical provider's advisory council.

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Sec. 2-158. – City ~~physician~~ medical provider.

~~The position of city physician, which is a position in which a duly licensed medical doctor serves as the physician for city employee cases, shall be subject to being filled by one or more duly licensed medical practitioners, as herein provided, during fiscal year 1995 through requests for proposals from area physicians and by one or more contracts, each to be approved by a majority of all members of council, for a term of two years or more and by the same procedure thereafter. The purpose of a specific term shall be to assure continuity of service without sacrificing the city's right to conduct a periodic review of such services.~~

~~In any such requests for proposals, the city administration shall provide a detailed scope of services to be provided to the city. The term "city physician" shall mean an individual medical practitioner, or more than one medical practitioner in a group medical practice, or a larger organization specializing in public sector occupational health care. The city administration shall also be authorized to utilize the preferred provider organization ("PPO") that is available to the city government under the point-of-service program. Such services may include, but are not limited to, routine physician examinations for uniformed services personnel, return-to-duty evaluations for injured employees, and treatment for minor work-related injuries.~~

(a) *Definition.* The term "city medical provider" shall mean the medical provider for city employee cases. The position shall be filled a duly licensed medical doctor or a medical provider who is certified by the State of Delaware to conduct a medical practice independent of a medical doctor. The position may be filled by an individual medical provider, more than one medical provider in a group medical practice, or a larger organization specializing in public sector occupational health care. The city administration shall also be authorized to utilize the preferred provider organization that is available to the city government under the point-of-service program.

(b) *Request for Proposals.* The position of city medical provider shall be filled through a request for proposals from area medical providers. The city shall enter into one or more contracts for a term of at least two years. Each such contract must be approved by an ordinance passed by a majority of all members of council. In any such request for proposals, the city administration shall provide a detailed scope of services to be provided to the city. Such services may include, but are not limited to, fitness for duty examinations for uniformed services personnel, return-to-duty evaluations for injured employees, and treatment for minor work-related injuries.

SECTION 2. Chapter 39 of the City Code is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 39-98. - Death, permanent and partial disability benefits generally.

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(b) No member shall be retired under the provisions of this section until he shall have been found to be permanently disabled to perform his active duties by a board of three physicians, consisting of the ~~police surgeon of the city~~ city medical provider, the family physician of the police officer and a reputable physician selected by the first two. Such board of three physicians shall certify that such disability has been shown to have been acquired in the prosecution of the official duties of such member or that such disability has not been shown to have been acquired in the prosecution of his official duties; provided, that the requirement of action by physicians may be dispensed with by the consent in writing of such member to such retirement and the amount of pension applicable hereunder. The findings of a majority of the three physicians in respect to any question before them shall be final. Compensation to such three physicians shall be paid by the city as a part of the cost of the pensions and benefits provided by this article.

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Sec. 39-126. - Placing personnel of departments on pension list generally.

The chiefs of police and fire shall have power, after competent medical investigation, to order a member of the police or fire department placed on the pension list in accordance with the laws governing the payment of pensions to members of the departments. Subject to such pension laws, the chiefs shall have power to dismiss a member from the department, when, after competent medical investigation, a member is certified to as physically unfit. The competent medical investigation shall be made by a board of physicians, consisting of the ~~surgeon for the police or fire department of the city~~ city medical provider, the family physician of such police officer or fireman, and a third reputable physician of the city, to be selected by the other members of such board; such board shall report in writing to the chief of police or fire the result of such physical examination, together with a statement as to how far, in the opinion of such board, the police officer or firefighter examined is incapacitated from performing regular active duty in such department. Upon receipt of the report of such board of

physicians, the chief of police or fire may take such action as he may deem advisable based on the result of the medical investigation.

Sec. 39-150. - Voluntary and involuntary retirement; notice and hearing prerequisite to retirement; physical examination and report.

No member of the police department subject to this plan shall be retired until he has been duly notified by the chief of police of his intention to so retire him, and until he has had a fair opportunity of being heard in opposition thereto; provided, that any member of the police department subject to this plan deeming himself entitled to the benefits of this division may make written application to the chief of police for that purpose. No member of the police department shall be placed upon such retired list until he shall have first undergone an examination as to his physical condition to be made by a board of physicians, consisting of the ~~police surgeon of the city~~ city medical provider, the family physician of such police officer, and a third reputable physician of the city, to be selected by the other members of such board. Such board shall report in writing to the chief of police the results of such physical examination, together with a statement as to how far in the opinion of such board, the officer examined is incapacitated from performing regular active duty in the police department. Upon the receipt of such report of the board of physicians, the chief of police may retire such officer in accordance with the provisions of this division.

Sec. 39-151. - Reexamination of person on retired list; return to duty.

The chief of police may at any time require any officer on the retired list on account of disability who has not passed his 20th anniversary of date of hire to be reexamined by the ~~surgeon of the police department~~ city medical provider or some other competent physician authorized by the chief of police to act in the premises, and if on such reexamination, such officer is reported capable of performing regular duty, he may be required by the chief of police to return to regular duty in the same rank and grade in which he was serving at the time of his retirement.

Sec. 39-180. - Voluntary and involuntary retirement; notice and hearing prerequisite to retirement; physical examination and report.

No member of the fire department subject to this plan shall be retired until he has been duly notified by the chief of fire of his intention to so retire him, and until he has had a fair opportunity of being heard in opposition thereto; provided, that any member of the fire department

subject to this plan deeming himself entitled to the benefits of this division may make written application to the chief of fire for that purpose. No member of the fire department shall be placed upon such retired list until he shall have first undergone an examination as to his physical condition to be made by a board of physicians, consisting of the ~~fire surgeon of the city~~ city medical provider, the family physician of such firefighter and a third reputable physician of the city, to be selected by the other members of such board. Such board shall report in writing to the chief of fire the results of such physical examination, together with a statement as to how far in the opinion of such board, the firefighter examined is incapacitated from performing regular active duty in the fire department. Upon the receipt of such report of the board of physicians, the chief of fire may retire such firefighter in accordance with the provisions of this division.

Sec. 39-181. - Reexamination of person on retired list; return to duty.

The chief of fire may at any time require any firefighter on the retired list on account of disability who has not passed his 20th anniversary of date of hire to be reexamined by the ~~surgeon of the fire department~~ city medical provider or some other competent physician authorized by the chief of fire to act in the premises, and if on such reexamination, such firefighter is reported capable of performing regular duty, he may be required by the chief of fire to return to regular duty in the same rank and grade in which he was serving at the time of his retirement.

Sec. 39-214. - Voluntary and involuntary retirement; notice and hearing prerequisite to retirement; physical examination and report.

No member of the police department subject to this plan shall be retired until he has been duly notified by the chief of police of his intention to so retire him, and until he has had a fair opportunity of being heard in opposition thereto; provided, that any member of the police department subject to this plan deeming himself entitled to the benefits of this division may make written application to the chief of police for that purpose. No member of the police department shall be placed upon such retired list unless he shall have first undergone an examination as to his physical condition to be made by a board of physicians, consisting of the ~~police surgeon of the city~~ city medical provider, the family physician of such police officer, and a third reputable physician of the city to be selected by the other members of such board. Such board shall report in writing to the chief of police the results of such physical examination, together with a statement as to how far, in the opinion of such board, the officer examined is incapacitated from performing regular active duty in the police

department. Upon the receipt of such report of the board of physicians, the chief of police may retire such officer in accordance with the provisions of this division.

Sec. 39-215. - Reexamination of person on retired list; return to duty.

The chief of police may at any time require any officer receiving a disability pension under this plan who has not passed the 20th anniversary of his date of hire to be reexamined by the ~~police surgeon of the city~~ city medical provider or some other competent physician authorized by such chief of police to act in the premises, and if on such reexamination such officer is reported capable of performing regular duty, he may be required by the chief of police to return to regular duty in the same rank and grade in which he was serving at the time of his retirement.

Sec. 39-249. - Voluntary and involuntary retirement; notice and hearing prerequisite to retirement; physical examination and report.

No member of the fire department subject to this plan shall be retired until he has been duly notified by the chief of fire of his intention to so retire him, and until he has had a fair opportunity of being heard in opposition thereto; provided, that any member of the fire department subject to this plan deeming himself entitled to the benefits of this division may make written application to the chief of fire for that purpose. No member of the fire department shall be placed upon such retired list unless he shall have first undergone an examination as to his physical condition to be made by a board of physicians, consisting of the ~~fire surgeon of the city~~ city medical provider, the family physician of such firefighter, and a third reputable physician of the city to be selected by the other members of such board. Such board shall report in writing to the chief of fire the results of such physical examination, together with a statement as to how far, in the opinion of such board, the firefighter examined is incapacitated from performing regular active duty in the fire department. Upon the receipt of such report of the board of physicians, the chief of fire may retire such firefighter in accordance with the provisions of this division.

Sec. 39-250. - Reexamination of person on retired list; return to duty.

The chief of fire may at any time require any firefighter receiving a disability pension under this plan who has not passed the 20th anniversary of his date of hire to be reexamined by the ~~fire surgeon of the city~~ city medical provider or some other competent physician

authorized by the chief of fire to act in the premises, and if on such reexamination, such firefighter is reported capable of performing regular duty, he may be required by the chief of fire to return to regular duty in the same rank and grade in which he was serving at the time of his retirement.

SECTION 3. Chapter 40 of the City Code is hereby amended by deleting the stricken language and adding the underlined language to read as follows:

Sec. 40-137. - Same - Conditional offers of employment; medical examination; verification of qualifications.

(a) A physical/medical examination shall be given to all candidates to whom a bona fide offer has been made, as a condition of employment. Such examinations shall be ~~made at the city's expense~~ performed by ~~a duly licensed physician~~ the city medical provider. ~~or other competent authority designated or approved by city council.~~ The ~~examining physician or other authority~~ city medical provider shall determine whether the candidate is able to perform the functions of the position in which s/he is to be employed.

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Sec. 40-298. - Same - Conditional offers of employment; medical examination.

A physical/medical examination shall be given to all E/M program candidates to whom a bona fide offer has been made, as a condition of employment. Such examinations shall be ~~made at the city's expense~~ performed by ~~a duly licensed physician~~ the city medical provider. ~~or other competent authority designated or approved by city council.~~ The ~~examining physician or other authority~~ city medical provider shall determine whether the candidate is able to perform the functions of the position in which s/he is to be employed.

SECTION 4. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... June 3, 2021
Second Reading..... June 3, 2021
Third Reading.....

Passed by City Council,

_____
President of City Council

ATTEST:_____
City Clerk

Approved this ____ day of _____, 2021.

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Mayor

SYNOPSIS: This Ordinance amends Chapters 2, 39, and 40 of the City Code to change the position of City physician to City medical provider to allow the City flexibility in hiring appropriate medical professionals to provide medical services for City employee cases in light of the changing medical profession. The position of City medical provider shall be filled a duly licensed medical doctor or a medical provider who is certified by the State of Delaware to conduct a medical practice independent of a medical doctor. In addition, as a housekeeping matter, this Ordinance deletes unutilized provisions in Sections 40-137 and 40-298 of the City Code.

FISCAL IMPACT STATEMENT: This Ordinance has no anticipated fiscal impact.

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