



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: August 22, 2016

TO: President Steven G. Nawrocki and Members of City Council

CC: Sam Azad, City Manager

VIA: Gina Dutcher, City Clerk

FROM: Daniel C. Kogovsek, City Attorney, Law Department

SUBJECT: A RESOLUTION SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, A BALLOT QUESTION TO AMEND TITLE XI OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 12 AND THE ADOPTION OF ORDINANCE NO. 9015 WHICH SHALL MAKE IT UNLAWFUL FOR ANY HOSPITAL LOCATED IN THE CITY OF PUEBLO TO CHARGE OR BILL ANY PATIENT OR INSURANCE COMPANY FOR ANY INPATIENT OR OUTPATIENT SERVICES IN EXCESS OF THE MEDICARE PART A AND PART B PROGRAM ALLOWABLE CHARGES AND WHICH ALSO SHALL MAKE IT UNLAWFUL FOR ANY HOSPITAL TO CHARGE, BILL OR REQUEST PAYMENT FROM A PATIENT OR INSURER FOR A FACILITY FEE FOR OUTPATIENT VISITS TO A PHYSICIAN

SUMMARY:

This Resolution refers initiated Ordinance No. 9015, referred to as "*Limitations on Hospital Fees and Charges*" to the voters of the City of Pueblo at the November 8, 2016 Special Municipal Election.

PREVIOUS COUNCIL ACTION: None.

BACKGROUND

Petition Representatives Dr. Malik M. Hasan and Mr. Ronald P. Hudzinski have circulated and submitted a Petition signed by registered electors equal in number to five (5) percent of the total votes cast in the last General Municipal Election pursuant to Section 18-1 and 18-2 of the City Charter.

The City Clerk issued a Certification on August 8, 2016 validating the Initiated Petition for Ordinance No. 9015 determining that the number of signatures on said Petition to be Sufficient under the City Charter to qualify this ballot question as an Initiative to be submitted to the voters of the City of Pueblo.

FINANCIAL IMPLICATIONS:

Not Applicable

BOARD/COMMISSION RECOMMENDATION:

Not Applicable

STAKEHOLDER PROCESS:

Petition Representatives have submitted the Proposed Ordinance to the City Council as an Initiative under the City Charter.

ALTERNATIVES:

The City Clerk issued a Certification on August 8, 2016 which validated the Initiated Petition for Ordinance 9015 by finding the number of signatures on said petition to be sufficient under the City Charter. Pursuant to the City Charter, Council is required to either adopt Ordinance 9015 within 30 days without alterations, or submit the citizen's Initiated Ordinance to a vote of the people at the November 8, 2016 Special Municipal Election.

RECOMMENDATION:

Approval of the Resolution

Attachments: Proposed Ordinance No. 9015

RESOLUTION NO. _____

A RESOLUTION SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, A BALLOT QUESTION TO AMEND TITLE XI OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 12 AND THE ADOPTION OF ORDINANCE NO. 9015 WHICH SHALL MAKE IT UNLAWFUL FOR ANY HOSPITAL LOCATED IN THE CITY OF PUEBLO TO CHARGE OR BILL ANY PATIENT OR INSURANCE COMPANY FOR ANY INPATIENT OR OUTPATIENT SERVICES IN EXCESS OF THE MEDICARE PART A AND PART B PROGRAM ALLOWABLE CHARGES AND WHICH ALSO SHALL MAKE IT UNLAWFUL FOR ANY HOSPITAL TO CHARGE, BILL OR REQUEST PAYMENT FROM A PATIENT OR INSURER FOR A FACILITY FEE FOR OUTPATIENT VISITS TO A PHYSICIAN

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The question of adopting Ordinance No. 9015, thereby Amending Title XI of the Pueblo Municipal Code by the addition of a new Chapter 12 shall be submitted to a vote of the eligible electors of the City at the City's Special Municipal Election to be held on November 8, 2016. The ballot question (submission clause and title) therefore shall be as follows:

Question No. 302
(Limitations on Hospital Fees and Charges)

SHALL TITLE XI OF THE PUEBLO MUNICIPAL CODE BE AMENDED BY THE ADDITION OF A NEW CHAPTER 12 AND THE ADOPTION OF ORDINANCE NO. 9015 WHICH SHALL MAKE IT UNLAWFUL FOR ANY HOSPITAL LOCATED IN THE CITY OF PUEBLO TO CHARGE OR BILL ANY PATIENT OR INSURANCE COMPANY FOR ANY INPATIENT OR OUTPATIENT SERVICES IN EXCESS OF THE MEDICARE PART A AND PART B PROGRAM ALLOWABLE CHARGES AND WHICH ALSO SHALL MAKE IT UNLAWFUL FOR ANY HOSPITAL TO CHARGE, BILL OR REQUEST PAYMENT FROM A PATIENT OR INSURER FOR A FACILITY FEE FOR OUTPATIENT VISITS TO A PHYSICIAN?

YES _____
NO _____

The text of Ordinance No. 9015 is as follows:

ORDINANCE NO. 9015

AN ORDINANCE AMENDING TITLE XI OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 12

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PUEBLO, that (brackets indicate matter being deleted; underscoring indicates new matter being added):

SECTION 1.

The Pueblo Municipal Code is hereby amended by the addition of a new Chapter 12 of Title XI to read as follows:

CHAPTER 12 LIMITATIONS ON HOSPITAL FEES AND CHARGES

Section 11-12-1. Findings and Purpose.

The electors of the City of Pueblo find that the health care costs in the City of Pueblo are higher than in the City and County of Denver. The health insurance cost for the consumer and employers are 30% to 48% higher when the cost of a 41-year-old person is compared. This is despite the difference in cost-of-living which is 11% higher in Denver than in Pueblo. The electors of the City of Pueblo find that the main cause for this difference is the hospital health care costs which are directly related to poor patient care, especially in the area of patient safety. Another cause of increased costs is acquisition of private physicians' practices with the addition of unnecessary facility fees. The electors of the City of Pueblo find that the inflated health care costs have discouraged the influx of new businesses to the City, resulting in severe adverse economic impact.

Section 11-12-2. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

- (1) "Emergency services" means a medical screening examination that is within the capability of a hospital emergency department, including ancillary services routinely available to such department to evaluate such condition, and such further medical examinations and treatment required to stabilize such individual.
- (2) "Facility fee" means any fee charged or billed by a hospital
 - a. Intended to compensate the hospital for either the operational expenses of the hospital or for providing data for hospital services; and
 - b. Separate and distinct from a professional fee.
- (3) "Hospital" means a not-for-profit establishment under the Internal Revenue Code that is licensed by the appropriate City, County, or State authority or accredited by the Joint Commission on Accreditation of Hospitals to be primarily engaged in providing diagnostic services, extensive medical treatment, including surgical services, and other hospital services, as well as continuous nursing services. Hospitals have an organized medical staff, inpatient beds and equipment and facilities to provide complete health care. The Colorado Mental Health Institute at Pueblo and for-profit nursing homes are excluded from this definition.
- (4) "Outpatient" means a patient who receives medical treatment that does not involve hospitalization of the patient.
- (5) "Patient" means any consumer of medical treatment from a physician or hospital including seeking advice or professional guidance in regards to the consumer's health care status or plan.
- (6) "Patient Safety" means the averting of potentially preventable errors and adverse effects to patients associated with health care. Such errors include but are not limited to those described by the Agency for Healthcare Research and Quality, including Accidental Puncture or Laceration, Complications of Anesthesia, Deaths in Low-Mortality Diagnosis Related Groups, Decubitus Ulcers (Bed Sores), Failure to Rescue, Foreign Body Left During Procedure, Iatrogenic Pneumothorax (Puncturing of the Lungs), Postoperative Hip Fracture, Postoperative Hemorrhage or Hematoma, Postoperative Physiologic and Metabolic Derangements, Postoperative Respiratory Failure, Postoperative Pulmonary Embolism or Deep Vein Thrombosis, Postoperative Sepsis, Postoperative Wound Dehiscence (Wound Reopening After Surgery), Selected Infections Due to Medical Care, and Transfusion Reaction.
- (7) "Professional fee" means any fee charged or billed by a physician for professional medical services provided in a hospital-based or hospital-contracted facility.

Section 11-12-3. Facility Fees Prohibited.

It shall be unlawful:

- (a) For any hospital to charge, bill, or request payment from a patient or insurer for a facility fee for outpatient visits to a physician.
- (b) The prohibition contained in subsection (a) of this section shall be inapplicable to hospital outpatient surgery, radiology, pathology, anesthesiology and emergency services.

Section 11-12-4. Limitations on Hospital Fees and Charges.

It shall be unlawful for a hospital to charge or bill any insurance or patient fee for services or treatment in excess of the Medicare A and B program allowable charges. This limitation shall be applicable to both inpatient and outpatient services.

Section 11-12-5. Offset.

Every hospital subject to the prohibition on facilities fees outlined in Sec. 11-12-3 and the limitations on hospital fees and charges outlined in Sec. 11-12-4 above is prohibited from reducing the number of hospital staff from the current level of staffing to adjust to the change in revenue and is hereby mandated to improve the quality of care and Patient Safety to the optimal level so as to qualify for reimbursements associated with CMS Value-based Reimbursement.

SECTION 2:

This Ordinance shall become effective upon a majority vote in favor thereof by the registered electors of the City voting thereon at the Special Municipal Election to be held on Tuesday, November 8, 2016.

SECTION 3.

The City Council does hereby find, determine, and declare that the ballot title set forth in Section 1 hereof fairly expresses the true meaning and intent of the proposed Ordinance.

SECTION 4.

The City Clerk shall (a) at least ten (10) days prior to the November 8, 2016 Special Municipal Election publish a Notice of Election upon the proposed Ordinance, which notice shall contain the full text of the proposed Ordinance, and (b) certify the Ballot Title to the Pueblo County Clerk and Recorder by no later than sixty days before the November 8, 2016 election as provided in Section 1-5-203(3), C.R.S. To minimize publication expenses, the notice required to be published by this section may be combined with any other notice published concerning such Special Municipal Election.

SECTION 5.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures described herein.

SECTION 6.

This Resolution shall become effective upon final passage and approval.

INTRODUCED: August 22, 2016

BY: _____
COUNCILPERSON

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK