City Council
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Legislation Text

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TO THE PRESIDENT AND MEMBERS OF THE COUNCIL OF THE CITY OF PHILADELPHIA:

For the reasons set forth below, I hereby return to your Honorable Body as disapproved Bill No. 130770, which passed on November 21, 2013.

This Bill would amend the Zoning Code to provide that "Medical Dental and Health Practitioner (Solo Practitioner and Group Practitioner) uses are prohibited" in all commercial and industrial zones in the Sixth and Tenth Councilmanic Districts. Effectively, this means solo and group medical, dental, or other health practices (for instance, a physical therapy office) cannot be established as of right in these two districts.

Let me repeat that. This Bill effectively bans the establishment or expansion of medical, dental, or other health practices as of right in these districts. Quite simply, this is why I am constrained to disapprove this Bill. At a time when access to healthcare should be expanding for all Americans, this Bill carves out two Councilmanic districts where that evolution toward a better, healthier society will face an undue hurdle in the form of zoning rules that are exclusionary in nature.

For residents, this Bill has the potential to adversely impact their access to healthcare and their choice of providers. For doctors, dentists, and other health professionals hoping to open or expand a practice in the Northeast, this Bill sends a discouraging message by making their task more costly, complex, and uncertain.

If there is a particular concern about a specific practice, or an objectionable characteristic common to medical, dental, or other health practices, it should be dealt with using precise and generally-applicable rules; not by means of an exclusionary ban of healthcare practices-small businesses that no one would argue are anything but appropriate and essential.

It may be argued that the use of variances will allay all of the concerns engendered by this Bill. I would question this view. To obtain a variance, a provider seeking to open or expand a practice would have to show that the Bill's provisions impose an "undue hardship," and, among other things "[t]hat there are unique physical circumstances or conditions . . . peculiar to the property, and that the unnecessary hardship is due to such conditions and not to circumstances or conditions generally created by the provisions of this Zoning Code in the area or zoning district where the property is located"; and that "because of those physical circumstances or conditions, there is no possibility that the property can be used in strict conformity with the provisions of [the] Zoning Code and that the authorization of a variance is therefore necessary to enable the viable economic use of the property." Phila. Code § 14-303(8)(e)(.2)(.a) & (.b).

On its face, this is a significant and high standard. While appropriate for imparting needed flexibility to land use policies, it is self-evidently not an appropriate general standard for determining where healthcare

practices may locate or expand. Medical, dental, and other healthcare practices are not, and never have been, inherently inappropriate uses in their communities.

Finally, it is important to recognize that among Philadelphia's most prized assets is its diverse array of neighorhoods. Each Councilmanic district is comprised of a vibrant and diverse set of neighborhoods. And zoning rules should reflect the needs and characteristics of particular *neighborhoods*. Zoning by Councilmanic district in this manner ignores this foundational principal of sound urban planning, and subverts an important aim of the Zoning Code. Indeed, our Zoning Code was, very recently, totally overhauled for the first time in half a century, and unanimously approved by Council after an enormous amount of Council and citizen input.

For the foregoing reasons, I am compelled to conclude that this Bill is the wrong policy for the City of Philadelphia as a whole, as well as for the residents it would directly affect. Accordingly, the Bill is disapproved.

Respectfully,
MICHAEL A. NUTTER