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March 5, 2025

The Honorable, Marvin L. Abney, Chair  
House Committee on Finance  
State House  
82 Smith St.  
Providence, RI 02903

RE: **H 5076 – An Act Making Appropriations for the Support of the State for the Fiscal Year Ending June 30, 2026 – Budget Article 10 – Section 1 (Determination of Need for New Healthcare Equipment and New Institutional Health Services)**

Dear Chair Abney:

I am writing in support of the Governor's Budget Article 10, Section 1 (Determination of Need for New Healthcare Equipment and New Institutional Health Services) as an important health care reform measure. This proposal is aligned with the Governor's comprehensive approach to health that ensures that every Rhode Islander can thrive as an important component of a resilient and productive State. The proposal also serves to expand healthcare access for more underserved populations.

Rhode Island's Determination of Need - also known as Certificate of Need (CON) - process is a regulatory framework that requires healthcare providers to obtain state approval before initiating certain healthcare services or facilities, with the stated goal of assessing community need. However, the process can be lengthy and costly, particularly for small businesses, creating barriers to entry and limiting competition. CON is an additional regulatory burden beyond the licensing process, and **removing a service from the CON requirements does not compromise safety and prevents fraud**, as applicants will be subject to the Initial Licensure process before the State's longstanding Health Services Council. The Rhode Island Department of Health (RIDOH) oversees the CON process in Rhode Island.

The Governor's proposed amendments streamline the current CON process by removing certain services and facilities—such as home health, hospice, substance use disorder treatment facilities, freestanding ambulatory surgical centers and multi-practice physician surgical centers—from review; raising the capital expenditure threshold for review from the present \$7.4 million to \$50 million; eliminating reapproval for minor cost increases for capital projects; adding CON exemptions for state capital projects; and restricting procedural delays by potential competitors / other market participants post-approval. These changes align Rhode Island's policies with other states, encourage new entrants into the healthcare market, reduce regulatory burdens for cost-effective care alternatives, and expand access to underserved communities.

- **Removing CON regulations on home health and hospice care increases access to essential services.** In 2024, 94% (15 out of the 16) CON applications that underwent a full review by RIDOH were for home nursing care, home care, or hospice services. These services are vital to ensuring patients receive compassionate and comprehensive care in their homes, enhancing quality of life and providing necessary support for families. The proposed amendments to the CON process would eliminate these pending applications, allowing new providers in these critical sectors to be established more quickly. Notably, Rhode Island was previously the only state in New England to regulate hospice care as part of the CON process.

- **Expanding access to low-cost alternatives like home health and hospice care provides significant savings for patients.** Research indicates that home health care services save money for adults<sup>1</sup> and hospice care can save \$2,309 per user.<sup>2</sup> These reforms eliminate barriers to entry for providers offering these lower-cost alternatives to traditional healthcare settings.
- **Streamlining the CON process reduces unnecessary burdens on healthcare providers and promotes equitable access.** The reforms narrow the scope of CON review, raise review thresholds, and decrease administrative burdens. This allows healthcare providers to focus more on patient care, particularly benefiting underserved populations who often face barriers to accessing timely and appropriate medical services.
- **Raising the capital expenditure threshold encourages investment in healthcare facilities that serve diverse communities.** By raising the review threshold from the present \$7.4 million to \$50 million, healthcare facilities can more easily invest in physical improvements that underserved areas may struggle to secure funding for necessary upgrades.
- **Exempting state capital projects accelerates timelines and reduces costs, ensuring resources reach unrepresented populations more efficiently.** Since the General Assembly already conducts a public need determination when approving state capital projects, additional regulatory review is unnecessary. This change reduces the cost of state-financed healthcare facility capital projects and accelerates their timelines, allowing for quicker implementation of projects aimed at serving vulnerable populations. For example, the state is currently in the process of developing a Long-Term Acute Care Hospital (LTACH).
- **Restricting procedural delays ensures timely implementation of healthcare projects that address disparities in care.** By allowing only the applicant to file for reconsideration or appeal, the reforms prevent potential competitors from causing unnecessary delays. This amendment streamlines the process and ensures timely implementation of projects, benefiting communities with urgent healthcare needs. Potential competitors will still be able to provide written comments and appear before the Health Services Council to register any concerns.
- **Reforming CON requirements for new healthcare equipment promotes acquisition of state-of-the-art technology that benefits all patients.** Limiting review requirements to only linear accelerators and positron emission tomography (PET) scanners streamlines the approval process, reduces costs, and allows healthcare facilities to more efficiently acquire and replace outdated equipment. This ensures that all patients, regardless of their location or socioeconomic status, have access to advanced medical technologies.
- **The CON reforms align Rhode Island with other states and promote competition, leading to better care for underserved communities.** Rhode Island has been an outlier in the number of services covered under the CON process.<sup>3</sup> The budget article seeks to right size the CON process in Rhode Island by limiting the number of facilities and services covered to those with the greatest potential to impact the statewide healthcare system. The proposal targets areas where

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<sup>1</sup> Curioni C, Silva AC, Damião J, et al. The cost-effectiveness of homecare services for adults and older adults: A systematic review. *Int J Environ Res Public Health*. 2023;20(4):3373. doi: [10.3390/ijerph20043373](https://doi.org/10.3390/ijerph20043373).

<sup>2</sup>Taylor DH, Ostermann J, Van Houtven CH, et al. What length of hospice use maximizes reduction in medical expenditures near death in the US Medicare program? *Soc Sci Med*. 2007;65(7):1466-1478. doi: [10.1016/j.socscimed.2007.05.028](https://doi.org/10.1016/j.socscimed.2007.05.028).

<sup>3</sup> Mitchell MD. Certificate of Need Laws in Health Care: Past, Present, and Future. *INQUIRY: The Journal of Health Care Organization, Provision, and Financing*. 2024;61. doi:[10.1177/00469580241251937](https://doi.org/10.1177/00469580241251937).

Rhode Island is an outlier, focusing on services that are low-cost alternatives and on areas where the CON process disproportionately restricts supply.

- **These reforms could lead to Medicaid savings, freeing up resources to address health disparities.** Removing supply restrictions in Rhode Island could potentially lead to Medicaid savings in the home care and home nursing care sectors, especially given the state's significant investment in these areas. One comprehensive study demonstrated that CON requirements for home care resulted in "higher Medicaid costs for home health services and higher per-capita costs for home health services" and "limits access to home health services based on finding significantly fewer agencies per 1,000 residents, lower levels of competition, and fewer Medicare beneficiaries receiving home health services."<sup>4</sup>

It is for these reasons that I encourage the Committee's favorable consideration of this important health care reform proposal. The proposed legislation represents a comprehensive approach to healthcare reform that will also help support more healthcare entities to serve underserved populations. RIDOH cautions against removal of any specific provision included in the proposal as doing so will undermine the intentional comprehensive approach to addressing the issues identified above. Thank you for the opportunity to comment on the proposed legislation.

Sincerely,



Jerome M. Larkin, MD  
Director

CC: The Honorable Members of the House Committee on Finance  
Nicole McCarty, Esquire, Chief Legal Counsel  
Lynne Urbani, Director of House Policy

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<sup>4</sup>Custer, William S.; Ketsche, Patricia; Sherman, Bernette; and Landers, Glenn M., "Report of Data Analyses to the Georgia Commission on the Efficacy of the CON Program" (2006). *GHP Reports*. 18.  
[https://scholarworks.gsu.edu/ghpc\\_reports/18](https://scholarworks.gsu.edu/ghpc_reports/18).