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The Honorable Marvin Abney, Chairman
House Finance Committee
State House
Providence, RI 02903

Re: H.5076, Article 10, Section 1 regarding the changes to Rhode Island's Certificate of Need Process

Dear Chairman Abney,

I am writing to express my opposition to Article 10, Section 1 of the Governor's FY 2026 budget that proposes significant changes to Rhode Island's current Certificate of Need (CON) process. Specifically, I am opposed to removing hospice providers from the "healthcare facilities" covered by the CON process.

While I appreciate the intent of this proposal to alleviate the need for a CON for these services and streamline the process, I am concerned about the unintended consequences of the change and the impact on the high-quality hospice services provided in our state. The data regarding access to quality hospice care in states with and without a CON process displays the value of having such a system in place.

Recent studies conducted by RAND Health Care and research published in the American Journal of Hospice & Palliative Medicine found that states with CON policies are more likely to provide access to higher quality hospice care than those that do not have a CON process. Among the findings are as follows:

- CON regulations have a beneficial impact on hospice quality outcomes
 - Hospice quality scores were significantly higher in CON hospice states than in non-CON hospice states – *Hospice Index Scores (HIS) Scores and Consumer Assessment of Healthcare Providers and Systems (CAHPS) Hospice Star Ratings*
- Hospices in CON states tend to have stronger characteristics, notably:
 - More often non-profit
 - Are larger hospices
 - Have been in operation longer
 - Lower rates of live discharges
 - Higher Hospice Care Index ratings
 - Improved access

A conclusion from the RAND study emphasizes the importance of CONs in a strong hospice industry. The finding states:

"Hospices in CON states have markedly different characteristics and provide higher quality than hospices in non-CON states, suggesting that CON policies are successfully preventing the entrance of new hospice organizations that provide lower care quality."

In addition, ProPublica conducted a comprehensive analysis and reporting on the hospice system across the country. Their reporting found significant problems with fraudulent, and bad actors in states without CON processes. In 2023, based on increased reports of hospice fraud, waste, and abuse, the Centers for Medicare and Medicaid Services (CMS) announced enhanced oversight for new hospice providers in Arizona, California, Nevada, and Texas. None of these states have a CON process for hospice.

The ProPublica reporting also noted the following:

"The four states were overrun with for-profit hospices, many of them sharing the same addresses and owners. Some of these hospices obtained licenses only to sell them to other entrepreneurs. Others appeared to be billing Medicare for "phantom" — that is, nonexistent — patients. Some did both. The government's own data revealed a pattern of rapid hospice growth in the four states, far outstripping the demand for services."

Another concern expressed in the reporting is the hospice payment structure which provides a per diem payment without specific visit requirements. This can be very profitable if you limit time on patient visits and care. Non-CON hospice markets tend to get too many providers with a finite population which leads to problematic and fraudulent behavior. The oversupply of providers with limited numbers of patients leads to enrolling patients who are not qualified for hospice.

Rhode Islanders receive among the highest quality hospice care in the country. I look forward to working with this Committee to maintain the high-quality hospice system in our state with a level of care that Rhode Islanders have come to expect from their hospice providers. For these reasons, I urge you to oppose any effort to eliminate or weaken the current CON process for hospice care providers.

Thank you for your consideration of our position on this proposal.

Sincerely,



Diana Franchitto, MBA, FACHE
President & CEO

cc. House Finance Committee members