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To: The Honorable Susan Donovan, Member of the Rhode Island House of Representatives.

Jim Bartell indicated that we should send our testimony in favor of Ryan's Law, Rhode Island HB 5630 to you so that it can be considered today for the hearing on this bill in the House Health and Human Services Committee.

My name is Ken Sobel. I am an attorney licensed to practice in the States of California and Arizona, and General Counsel for the Cannabis Nurses Network ("CNN") and the Arizona Cannabis Nurses Association ("AZCNA"). My testimony today is in support of HB 5630 (Compassionate Access to Medical Cannabis Act) to require hospitals and certain healthcare facilities to permit terminally ill patients to use medical cannabis while in-patients under certain conditions.

I co-wrote California SB 311 for which HB 5630 is patterned after. SB 311 was the third iteration of the bill originally filed in the California Senate in 2019. It passed the first time unanimously. Fundamentally, the bill supports a dying person's right to choose a beneficial plant medicine for pain relief because he or she chooses to do so. Although the first iteration was vetoed by Governor Newsome, it was only done so based upon the mistaken belief that CMS could possibly deny Medicare reimbursement to the host facilities. Subsequently, CMS confirmed in writing that it had no rules that would allow for such action, and Ryan's Law was again passed by every member of the California Legislature. [A copy of the CMS email is attached. Like California, Hawaii is also in CMS Region 9]

On September 28, 2021, Governor Gavin Newsom signed SB 311, also known as "Ryan's Law", requiring healthcare facilities to allow the use of medical cannabis on their premises for terminally ill patients with a valid Medical Marijuana Identification Card (MMIC) or/ recommendation from an attending physician. The law was passed by the legislature with support from a diverse group of organizations including the Cannabis Nurses Network, Americans for Safe Access (ASA), and many others. The law went into effect January 1, 2022, and applies to all CA health care facilities including acute care hospitals, special hospitals, skilled nursing facilities, congregate living health facilities, or hospice providers (excluding to the emergency department of a health care facility, chemical dependency recovery hospitals and state hospitals).

Ryan's law was passed in honor of Ryan Bartell who was diagnosed with Stage 4 pancreatic cancer at the age of 41. As his condition progressed, he was admitted to the palliative wing of a hospital where he spent his first four and a half weeks on fentanyl to treat his pain. However, the side effect of the fentanyl was to leave Ryan in a near comatose state, unable to interact with his loved ones. In the interim, Ryan's father and co-author of Ryan's Law, Jim Bartell, reached out to Heather Manus, RN, President of CNN, and Nurse Heather arranged for Ryan to receive the appropriate cannabis extracts from a legal source to reduce the pain and allow him to be alert and communicative with family and friends during his final days. Unfortunately, the first hospital could not allow Ryan to use cannabis in their facility. He stayed on this medication until his family could locate and move Ryan to a hospital that would allow him to use cannabis. As a result of using medical cannabis in lieu of fentanyl, within 12 hours Ryan was able to converse and interact with his family normally and spent his last two and half

weeks lucid and pain-free with his family and friends. Following this experience, Ryan's father Jim Bartell made it his mission to ensure that no other family would have to navigate this choice for palliative care, losing precious time with their loved one.

Ryan's Law builds on the rights granted to patients through the California voter initiative Proposition 215 in 1996, also known as the Compassionate Use Act which is similar in substance to Hawaii's medical cannabis law. The law exempts patients and their designated caregivers from criminal penalties relating to the use, possession, and cultivation cannabis with an oral or written recommendation or approval from a physician. In 2003, the California legislature passed the Medical Marijuana Program Act expanding rights for patients and establishing a voluntary ID card program that exempts patients from arrests.

The US Supreme Court confirmed in 2004 that medical professionals have a legal right to recommend cannabis as a treatment in any state due to protections afforded by the First Amendment to the US Constitution. The court upheld an earlier ruling in *Conant v. Walters* in which the Ninth Circuit Court of Appeals ruled that the federal government could neither punish nor threaten a doctor merely for recommending the use of cannabis to a patient.

While cannabis remains a Schedule I drug, for the past 7 years Congress has added restrictions on federal enforcement though the funding bill for the Commerce-Justice-Science (CJS) prohibiting Justice Department funds from being used to prevent states from implementing medical cannabis laws. Known as the Rohrabacher-Farr or CJS amendment, it first signed into law on December 16, 2014. The courts have largely upheld the CJS Amendment, including Chief Justice Breyer's brother, a federal district judge for the northern district of California, in a case known as *US v. MAMM*. Currently, the federal HHS has recommended that cannabis be re-scheduled to Schedule III and that process is pending hearings with the DEA.

Ryan's Law also prohibits the smoking of cannabis in healthcare facilities and outlines a series of responsibilities for the facilities. In conjunction with the Ryan's Law Implementation team, I drafted a Guide to help California health care facilities remain in compliance with this new law and offer tools for implementation. The Guide can be found on the Cannabis Nurses Network website, www.cannabisnursesnetwork.com

Nearly 10 years ago as general counsel for the AZCNA we proved to a reasonable degree of scientific certainty that cannabis was safe and effective in the treatment of Post Traumatic Stress Disorder based upon the testimony of physicians, nurses, scientists, and patients. This is because every human being has an endocannabinoid system sometimes referred to as the eCS or the 12th system of the human body. It is highly effective for pain relief yet much safer than opiates and does not produce the highly sedative effect of opiates. It allows many terminally ill patients the opportunity to live out their remaining time on earth in the company of their family and friends with a better quality of life.

Founded in 2014, CNN's mission is to ensure education and healthcare for legally qualified patients to use and benefit from safe and legal access to cannabis for therapeutic use, and to advocate on behalf of our nurses and their patients. CNN seeks to advocate for and implement the right of patients to choose cannabis as their medicine of choice, particularly those who are terminally ill. In conjunction with Mr. Bartell, our organization is committed to providing advocacy and support in all states through the passage of Ryan's Law.

Because no person should be deprived of their choice for a natural plant medicine that improves his quality of life before death whether they are at home or in a hospital or healthcare facility, and because no parent should have to watch his child pass without the chance to spend meaningful quality time with him before death...we respectfully urge Rhode Island to adopt Ryan's Law – HB 5630.