



June 9, 2021

To: Senator Marc R. Pacheco, Chair
Representative Antonio F. D. Cabral, Chair
Joint Committee on State Administration and Regulatory Oversight

From: Michael Weekes, President/CEO

Re: Testimony in support of House Bill 3241, *An Act enhancing the effectiveness of nonprofits' core mission work through full cost funding*

Chairman Pacheco, Chairman Cabral and members of the Joint Committee on State Administration and Regulatory Oversight, thank you for the opportunity to submit testimony in support of House Bill 3241, legislation that would strengthen Massachusetts nonprofits' ability to serve the Commonwealth's more than 7 million residents. ***We urge the committee to report this bill favorably and work toward its enactment.***

The Providers' Council is the state's largest association of home- and community-based human services organizations, representing more than 200 nonprofits that provide an array of services on behalf of the Commonwealth. These range from services to children and women at risk of abuse, our frail elderly who need support, children and adults with intellectual and developmental disabilities (including those on the autism spectrum), a growing number of people with an opioid or alcohol addiction, our veterans and others needing support and protection. Nearly all of our members are nonprofits and contract with the Executive Office of Health and Human Services to provide essential services to one-in-ten state residents.

This legislation would bring the Commonwealth into conformity with the federal rules under which it must comply and extend the same set of cost principles to all government grants and contracts, regardless of whether they are funded solely with federal, state or other funds – or a combination of each. The legislation would ensure that nonprofits with *Negotiated Indirect Cost Rate Agreements* (NICRA) reflecting an indirect cost rate negotiated between the federal government and a grant or contract awardee would receive the same indirect cost rate if receiving state funds or a combination of state and other non-federal funds. Indirect costs are equivalent to what a for-profit business might refer to as “overhead.” These include items such as rent, utilities, technology, administration, professional fees and other expenses that are not tied to any one program but that are vital to sustaining a healthy organization.

Should a nonprofit not have negotiated and received an indirect cost rate as described above, House Bill 3241 provides that it would receive a rate of at least 15 percent of the costs that would be considered modified total direct costs

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under the federal OMB Uniform Guidance or by negotiating a new percentage indirect cost rate with the Executive Office of Administration and Finance per guidelines established by that office.

Unfortunately, nonprofits have – for years – not received the full costs under contracts for services that they deliver on behalf of governments. In fact, the underfunding of indirect costs can undermine nonprofit performance and sustainability, while also damaging the ability of governments to measure program success. A study from *Giving Evidence* shows that the most efficient and effective charitable nonprofits spend more on indirect costs than their less effective peers.

Additionally, the federal Government Accountability Office (GAO) investigated concerns about the fiscal strain on nonprofits in 2010. As the government increasingly relies on nonprofits to provide essential services, the GAO study noted: “...it is important to better understand the implications of reported funding gaps, such as compromised quality of important administrative functions, including information technology, human resources, legal and accounting operations.”

For too long, nonprofits with allegedly “high” overhead rates have been vilified by certain so-called charity websites, further creating an unrealistic expectation of what it takes to run a nonprofit organization. External expectations of what are considered acceptable indirect costs have plagued our organizations for decades. Often, overhead is only discussed when talking about nonprofits, yet a study of the indirect cost rates of S&P 500 companies revealed that consumer services companies had a median overhead rate of 34 percent, and the rate for information technology companies reached 78 percent.

Expecting nonprofits to compete in a race to be as close to zero overhead as possible – which would mean operating without some basic needs, like rent, utilities, management, accounting, technology and infrastructure support – is not only illogical, but may be downright dangerous. Nonprofits operating efficiently and effectively must spend on indirect costs to be able to serve their clients and consumers and provide appropriate information to their governmental funders.

The community-based human services sector in Massachusetts serves one-in-ten state residents and provides employment with more than 180,000 jobs. These organizations provide essential services in every community in the state. And yet, efforts to limit indirect cost reimbursement are – in reality – reducing the effectiveness of these efficient and effective organizations. By curbing these nonprofits’ effectiveness, it may only ensure an inability to achieve desired outcomes for those served by human services organizations. The bottom line is that we simply cannot produce and/or improve upon desired outcomes without even the most basic resources needed to do so.

We thank you for your positive consideration of this legislation, and we look forward to answering any questions you may have.