

March 27, 2019

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled House Bill No. 2530

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2530.

Enrolled House Bill No. 2530 creates a voluntary certification process for drug and alcohol-free recovery residences. It provided for inspection standards, regulations, fees, criminal penalties, fines and rulemaking. In §16-56-2, the “certifying agency” is granted rulemaking authority, after consultation with WV Department of Health and Human Resources. ‘Certifying agency’ is undefined but is required to be under contract with DHHR.

Legislative rules under §29A-1-1 et seq. act with the force of law. An undefined “certifying agency” who acts as a contractor with DHHR could be a governmental agency but that is not a requirement of the bill. If the contract was awarded to a for profit business or even nonprofit corporation, how could they effectuate laws through the promulgation of rules. Constitutionally, the force of law cannot be promulgated by a private entity.

Although this bill had unanimous support and was with a well-intended purpose, this rulemaking issue would cause legal and constitutional conflicts that are untenable. I request that this bill be corrected of these issues and be submitted again for legislative approval.

For these reasons, I must disapprove and return Enrolled House Bill No. 2530.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Roger Hanshaw  
Speaker of the House of Delegates