



Patrick Morrisey
Governor of West Virginia

April 1, 2025

VIA HAND DELIVERY

The Honorable Randy Smith
President of the West Virginia Senate
State Capitol Complex
Building 1, Room 229M
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill 369

Dear President Smith:

Pursuant to Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 369 with the following objections:

First, the bill authorizes the Board of Pharmacy to promulgate 15 C.S.R. § 15, related to the licensure and regulation of pharmacies. But this rule contains a technical flaw. Several sections provide for *annual* registration and related *annual* licensing fees, *see* 15 C.S.R. § 15-3.2, 5.1, 5.2, even though a bill passed by this Legislature and signed last week directed registrations by this board “be renewed *biennially*.” 87th Leg. Sess. S.B. 291 (eff. June 12, 2025), *codified in* W. Va. Code § 30-5-22(f) (2025) (emphasis added). That means this rule will be out of line with the West Virginia Code almost as soon as it is effective.

Second, the bill authorizes the Board of Respiratory Care to promulgate 30 C.S.R. § 11, related to the practice of telehealth by a licensed respiratory therapist. But the last section of this rule is missing a section name and so is inconsistent with procedural formatting standards for legislative rules, *see* 153 C.S.R. § 5.9 (requiring that section heads “contain the title number, series number, section number, and name of the section”).

Third, the bill authorizes the Election Commission to promulgate 146 C.S.R. § 3, which is a legislative rule regarding the regulation of campaign finance. While campaign finance laws should ensure transparency, they must also be clear enough to enable citizens to participate in our political process. This rule falls short of that mark and instead, its imprecise and unwieldy regulation of political action committees will likely cause confusion for those attempting to have

their voices heard in our political process. That raises concerns under the First Amendment to the United States Constitution. As the Supreme Court of the United States insists, the “whole point of the First Amendment is to afford individual protections” against “laws that restrict free speech.” *McCutcheon v. FEC*, 572 U.S. 185, 205 (2014).

While I am disapproving Senate Bill 369, the bill authorizes, repeals, and directs the promulgation of several important and timely legislative rules by various constitutional officers, boards, and commissions. I am therefore asking you to expeditiously work to modify and fix the technical flaws I have identified in 15 C.S.R. § 15 and 30 C.S.R. § 11. I also look forward to working with the sponsor of 146 C.S.R. § 3 and the Legislature in the future to craft campaign finance reforms that better protect citizens’ speech and ability to participate in our political process.

As a result of these issues, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 369.

Sincerely,



Patrick Morrisey
Governor

cc: The Honorable Roger Hanshaw
Speaker of the House of Delegates

The Honorable Kris Warner
West Virginia Secretary of State