

March 27, 2019

**VIA HAND DELIVERY**

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

Re: Enrolled House Bill 2486

Dear Secretary Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 2486.

The intended purpose of Enrolled House Bill 2486 is to preclude certain prior criminal history from being the basis for a denial of a professional license. However, the bill is in conflict to some extent with W.Va. Code §30-1D-1, “Lynette’s Law”, which mandates certain boards conduct a criminal background check for applicants. Of the boards subject to the requirements in “Lynette’s Law”, only Board of Medicine and Board of Osteopathy are exempted from the language of Enrolled House Bill 2486. So, the Board of Dentistry, Board of Pharmacy, Board of Examiners for Registered Professional Nurses, Board of Examiners for Licensed Practical Nurses, Board of Optometry, Board of Veterinary Medicine, and Board of Psychology are left in the untenable position of requiring applicants to submit to a background check, yet precluding the Boards from acting on any prior criminal history unrelated to the practice being regulated by the Board. The Boards that would be subject to the conflicting statutes have promulgated rules governing evaluation of the criminal history in relation to the practice, which would be null and void by the passage of this bill.

Additionally, determination for whether the past criminal conduct of an applicant is related to the profession is vague and subjective, and could result in litigation for boards that issue an unfavorable decision on an applicant.

For these reasons, I disapprove and return Enrolled House Bill 2486.

Sincerely,

Jim Justice  
Governor

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