

OPEN MEETINGS ADVISORY OPINION NO. 99-14

**ISSUED BY THE WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS
ON JANUARY 6, 2000**

GOVERNMENTAL BODY/MEMBER SEEKING OPINION

Jane Kite Keeling, President of the Grant County Commission.

OPINION SOUGHT

May the board of a county owned hospital exclude a member of the Grant County Commission from an executive session?

FACTS RELIED UPON BY THE COMMITTEE

Grant Memorial Hospital is a facility owned and supported by Grant County. Its board of directors has members from Grant, Hardy and Pendleton Counties, including one member of the Grant County Commission. The requester is not a member of the board. Although the board at one time invited all three Grant County Commissioners to attend its meeting and permitted the requester to remain during its executive sessions, it has more recently requested that she leave the meeting when the board goes into executive session.

The requester believes that she should be allowed to attend these executive sessions under her interpretation of the Open Hospital Proceedings Act, WV Code 16-5G-1 *et seq.*

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6-9A-11 provides in pertinent part [emphasis applied]:

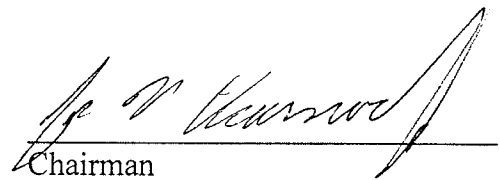
(a) Any governing body or member thereof subject to the provisions of this article may seek advice and information from the executive director of the West Virginia ethics commission or request in writing an advisory opinion from the West Virginia ethics commission committee *on open governmental meetings* as to whether an action or proposed action violates the provisions of this article. The executive director may render oral advice and information upon request. The committee shall respond in writing and in an expeditious manner to a request for an advisory opinion. The opinion shall be binding on the parties requesting the opinion.

ADVISORY OPINION

The authority to issue written advisory opinions was granted to the West Virginia Ethics Commission's Committee on Open Governmental Meetings in the 1999 amendments to the Open Governmental Proceedings Act, WV Code 6-9A-1 *et seq.* Although the same legislation also

amended the Open Hospital Proceedings Act, the Legislature did not give power to the Ethics Commission to interpret the Open Hospital Proceedings Act.

Even though the Grant Memorial Hospital is a county owned facility, its meetings are governed by the Open Hospital Proceedings Act, which specifically applies to any hospital owned by a nonprofit organization or a local governmental unit, and not the Open Governmental Proceedings Act. Therefore, this Committee cannot render an opinion on the issues raised by the requester.



Chairman