

OPEN MEETINGS ADVISORY OPINION NO. 2001-37

Issued On January 3, 2002 By The

**WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS**

OPINION SOUGHT

The Nursing Home Licensing Advisory Council (NHLAC) asks if the Open Governmental Proceedings Act applies to its meetings.

FACTS RELIED UPON BY THE COMMITTEE

NHLAC was created under an administrative rule issued by the Office of Health Facility Licensure and Certification in the Bureau of Public Health. The Council advises the agency regarding regulatory issues and improvement of nursing home services. These recommendations are not binding on the agency. NHLAC includes nursing home operators, private citizens and state employees. It is required to hold at least two meetings per year, one of which must be open to the public.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

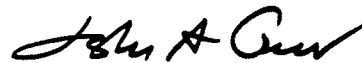
The Open Meetings Act defines a "public agency" as:

Any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power.

W. Va. Code § 6-9A-2(6).

ADVISORY OPINION

NHLAC is an administrative subunit of State government. However, the Council's limited authority to provide advice and non-binding recommendations does not involve the exercise of executive or legislative power. Therefore, NHLAC is not a public agency subject to the requirements of the Open Meetings Act. However, NHLAC must hold one open meeting per year in accordance with the administrative rule.



Chairman