

OPEN MEETINGS ADVISORY OPINION NO. 2003-12

Issued On October 2, 2003 By The

WEST VIRGINIA ETHICS COMMISSION
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Provisional Board of the Physicians' Mutual Insurance Company asks if it is subject to the requirements of the Open Meetings Act.

FACTS RELIED UPON BY THE COMMITTEE

In 2003, the WV Legislature passed legislation authorizing creation of a Physicians' Mutual Insurance Company. The WV Board of Risk and Insurance Management (BRIM) was made responsible for the formation and organization of the Company. From July 1, 2003, to June 30, 2004, the Company is to be governed by an eleven member Provisional Board of Directors, which includes five BRIM Members. The Company has filed articles of incorporation with the Secretary of State but is not yet licensed by the Insurance Commissioner.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A, the Open Governmental Proceedings Act, and W. Va. Code § 33-20F, Physicians' Mutual Insurance Company Act, which provides in pertinent part:

(4)(b) For the duration of its existence, the company is not and may not be considered a department, unit, agency, or instrumentality of the state for any purpose.....

(d) The company is not subject to provisions of article nine-a, chapter six of this code....

(5)(a)(2) From the first day of July, two thousand three, until the thirtieth day of June, two thousand four, the company shall be governed by a provisional board of directors....

ADVISORY OPINION

The Committee concludes that as of July 1, 2003, the Provisional Board of the Physicians' Mutual Insurance Company is exempt from the requirements of the Open Meetings Act.



Chairman