

ADVISORY OPINION NO. 91-37
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION

ON JUNE 6, 1991

GOVERNMENTAL BODY SEEKING OPINION

Chairman of an Authority

OPINION SOUGHT

Whether members of an informal task force are considered public officials and thus subject to the provisions of the Ethics Act?

OTHER FACTS RELIED UPON BY THE COMMISSION

A Health Care Cost Review Authority (hereafter referred to as HCCRA) is an autonomous division of a State Department and is responsible for administering the certificate of need program and setting hospital rates in the State.

HCCRA is currently in the process of rewriting the regulations pursuant to which it administers the certificate of need program and would like to form an informal task force composed of individuals who regularly participate in the certificate of need process to assist in rewriting these regulations.

This task force would not have the authority to promulgate regulations or establish policy for HCCRA, but would make recommendations regarding amendments to the existing certificate of need regulations.

PERTINENT STATUTORY PROVISIONS

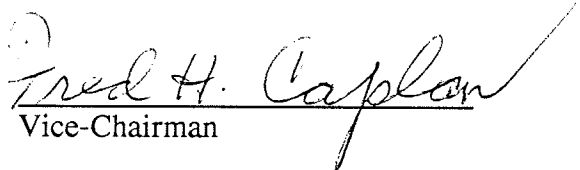
West Virginia Code 6B-1-3(i) states in pertinent part that..."Public Official" means any person who is elected or appointed and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to (i) contracting for, or procurement of, goods or services, (ii) administering or monitoring grants or subsidies, (iii) planning or zoning, (iv) inspecting, licensing, regulating or auditing any person, or (v) any other activity where the official action has a greater than a *de minimis* nature on the interest or interests of any person.

West Virginia Code 6B-2-5(a) states in pertinent part that...The provisions of this section apply to all elected and appointed public officials and public employees, whether full or part time, in state, county, municipal governments and their respective boards, agencies, departments, and commissions and in any other regional or local governmental agency, including county school boards.

ADVISORY OPINIONS

However, the Commission previously determined in Advisory Opinion No.89-4 which was issued on October 5, 1989 that members of a task force are not considered public officials. The members of the HCCRA task force serve as advisors to HCCRA and do not have the authority to promulgate regulations or establish policy.

Therefore, members of the HCCRA Task Force would not be considered public officials and would not be subject to the provisions and requirements established by the Ethics Act.


Vice-Chairman