

WEST VIRGINIA CODE: §16-2E-2

§16-2E-2. Birthing centers to obtain license, application, fees, suspension, or revocation.

No person, partnership, association or corporation, or any local governmental unit or any division, department, board or agency thereof may operate a birthing center unless such operation shall have been approved and licensed by the state director of health in accordance with the provisions of this article and the rules and regulations lawfully promulgated hereunder provided that all birthing centers which are in operation or which have received a certificate of need valid as of the date of passage of this act shall be deemed to have been so approved and shall be issued a license within thirty days of passage of this act.

Any person, partnership, association or corporation, or any local governmental unit or any division, department, board or agency thereof desiring a license hereunder shall file with the department of health an application in such form as the department shall prescribe and furnish accompanied by a fee of \$10. Information received by the department of health under the provisions of this section shall be confidential. The director of health is authorized to issue licenses for the operation of birthing centers which are found to comply with the provisions of this article and with all rules and regulations promulgated by the department. The license issued shall not be transferred or assignable. The director of health is authorized to suspend or revoke a license issued hereunder if the provisions of this article or of the rules and regulations are violated.

Before any such license is suspended or revoked, however, written notice shall be given the licensee, stating the grounds of the complaint, and the date, time and place set for the hearing on the complaint, which date shall not be less than thirty days from the time notice is given. Such notice shall be sent by registered mail to the licensee at the address where the institution concerned is located. The licensee shall be entitled to be represented by legal counsel at the hearing.

If a license is revoked as herein provided, a new application for a license shall be considered by the director of health if, when and after, the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished. A new license shall then be granted after proper inspection has been made and all provisions of this article and rules and regulations promulgated hereunder have been satisfied.

All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern any hearing authorized and required by the provisions of this article and the administrative procedure in connection with and following any such hearing, with like effect as if the provisions of said article five were set forth in extenso in this section.

The court shall have the power to affirm, modify or reverse the decision of the department

and either the applicant or licensee or the department may appeal from the court's decision to the Supreme Court of Appeals. Pending the final disposition of the matter the status quo of the applicant or licensee shall be preserved.

Any applicant or licensee who is dissatisfied with the decision of the state department of health as a result of the hearing provided in this section may, within thirty days after receiving notice of the decision, appeal to the circuit court, in term or in vacation, of the county in which the applicant or licensee is located for judicial review of the decision.