

WEST VIRGINIA CODE: §16-5N-12

§16-5N-12. Administrative appeals from civil penalty assessment, license limitation, suspension or revocation.

(a) Any licensee or applicant aggrieved by an order issued pursuant to section five, six, ten or eleven of this article shall, upon timely written request, be afforded an opportunity for a hearing by the director at which the order may be contested as contrary to law, unwarranted by the facts, or both. The provisions of article five, chapter twenty-nine-a of this code governing contested cases apply to and govern hearings conducted pursuant to this section and the administrative procedures in connection therewith. A licensee or applicant may also request an informal meeting with the director before requesting a hearing.

After a hearing conducted pursuant to this section, the director shall make and enter a written order either dismissing the complaint or taking whatever action is authorized and appropriate pursuant to this article. This written order shall be served upon the licensee and his or her attorney of record, if any, by certified mail, return receipt requested, accompanied by the director's findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code. If the director suspends a residential care community's license, the order directing the suspension shall specify the grounds for the suspension and the time by which the conditions or circumstances giving rise to the suspension must be corrected in order for the licensee to be entitled to reinstatement of its license. If the director revokes a license, he or she may stay the effective date of the revocation upon a showing that a delay is necessary to assure appropriate placement of the licensee's residents: Provided, That the effective date of revocation may not be stayed for more than ninety days. The director's order is final unless it is vacated, reversed or modified by the court upon judicial review in accordance with the provisions of section thirteen of this article.

(b) In addition to all other powers granted by this chapter, the director may take a case under advisement and make a recommendation as to requirements to be met by a licensee in order to avoid suspension or revocation of its license. In these cases, the director shall enter an appropriate order and notify the licensee and its attorney of record, if any, by certified mail, return receipt requested. If the licensee meets the requirements of this order, the director shall enter a subsequent order taking notice of the licensee's satisfactory compliance and dismissing the complaint. This order shall also be delivered to the licensee and its attorney of record, if any, by certified mail, return receipt requested.