

WEST VIRGINIA CODE: §16-5B-7

§16-5B-7. Judicial review.

Any applicant or licensee who is dissatisfied with the decision of the state department of health as a result of the hearing provided in section six 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. The court may, if it so desires, refer the matter to a commissioner in chancery for a hearing, with a request that he report to the court his findings of fact together with his recommendation.

The department shall promptly certify and file in the court the transcript of the hearings on which its decision is based.

Findings of fact by the department shall be considered as prima facie correct, but the court may remand the case to the department for the taking of further evidence. The department may thereupon make new or modified findings of fact which shall likewise be considered as prima facie correct. All evidence in the case shall be held secret until the final order is issued by the court which order shall be made public.

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.