WEST VIRGINIA CODE: §31-17-14

§31-17-14. Hearing before commissioner; provisions pertaining to hearing.

(a) Any applicant or licensee, as the case may be, adversely affected by an order made and entered by the commissioner in accordance with the provisions of section thirteen of this article, if not previously provided the opportunity to a hearing on the matter, may in writing demand a hearing before the commissioner. The commissioner may appoint a hearing examiner to conduct the hearing and prepare a recommended decision. The written demand for a hearing must be filed with the commissioner within thirty days after the date upon which the applicant or licensee was served with a copy of the order. The timely filing of a written demand for hearing shall stay or suspend execution of the order in question, pending a final determination, except for an order suspending a license for failure of the licensee to maintain the bond required by section four of this article in full force and effect. If a written demand is timely filed as aforesaid, the aggrieved party is entitled to a hearing as a matter of right.

(b) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of the article were set forth in extenso in this subsection.

(c) For the purpose of conducting any such hearing hereunder, the commissioner or appointed hearing examiner shall have the power and authority to issue subpoenas and subpoenas duces tecum in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All subpoenas and subpoenas duces tecum are issued and served in the manner, within the time and for the fees and shall be enforced, as specified in the section, and all of the section provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

(d) Any hearing shall be held within twenty days after the date upon which the commissioner received the timely written demand therefor unless there is a postponement or continuance. The commissioner or hearing examiner may postpone or continue any hearing on his or her own motion or for good cause shown upon the application of the aggrieved party. At any hearing, the aggrieved party may represent himself or herself or be represented by any attorney-at-law admitted to practice before any circuit court of this state.

(e) After the hearing and consideration of all of the testimony, evidence and record in the case, the commissioner shall make and enter an order affirming, modifying or vacating his or her earlier order, or shall make and enter an order as is considered appropriate, meet and proper. If the commissioner appoints a hearing examiner then the commissioner must issue his or her final order within fifteen days of receiving the recommended decision of the hearing examiner. The order shall be accompanied by findings of fact and conclusions of law

WV Legislature

as specified in section three, article five, chapter twenty-nine-a of this code and a copy of the order and accompanying findings and conclusions shall be served upon the aggrieved party and his or her attorney of record, if any, in person or by certified mail, return receipt requested, or in any other manner in which process in a civil action in this state may be served. The order of the commissioner is final unless vacated or modified on judicial review thereof in accordance with the provisions of section fifteen of this article.

WV Legislature