

Rulemaking in AZ: Dental Therapy (HB 2235)

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Professional Licensing Overview

- ▶ Most state professional licenses (including the implementation of [HB 2235](#)) require both authorizing statute and Administrative Code (also known as “rules”)
- ▶ [HB 2235](#) charged the AZ Board of Dental Examiners with Licensing Dental Therapists and authorized them to adopt “rules” to flesh out the detailed requirements
- ▶ The statutory language in the law is quite prescriptive- which is good





Statute vs. Rules

- ▶ The statutory language provides the “skeleton” of the licensing requirements
- ▶ The Administrative Code – or “rules” provides the detail needed to make the statute actually function
- ▶ Both statute and Administrative Code need to be finished before licensing of professionals can begin
- ▶ In this case, the AZ Board of Dental Examiners is the body that will need to develop the Administrative Code



Rulemaking Categories

- ▶ There are different classes of Rulemaking:
 - ▶ Emergency
 - ▶ Exempt
 - ▶ Regular
- ▶ [HB 2235](#) provides for **regular** rulemaking (the slowest kind)
- ▶ Board of Dental Examiners will need to follow the regular rulemaking process
- ▶ [HB 2235](#) does not include a required timeframe for the Board to begin or complete the Rulemaking



Regular Rulemaking Requirements

- A regular rulemaking must conform with the requirements in the Arizona Administrative Procedure Act in [Arizona Revised Statute \(A.R.S.\) Title 41, Chapter 6](#)
- [41-1021](#) Public rule making docket; notice
- [41-1022](#) Notice of proposed rule making
- [41-1023](#) Public participation & oral and written proceedings
- [41-1024](#) Time and manner of rule making
- [41-1025](#) Variance between rule and published notice
- [41-1032](#) Effective date of rules





Timing

- [HB 2235](#) does not include a required timeframe for the Board to begin or complete the Rulemaking
- There are several required time periods in the Administrative Procedures Act
- Process can be a lengthy one (timewise)
- The AZ Board of Dental Examiners will determine the resources that will be devoted to the Rulemaking



Final Process

- Within 120 days of the “close of record” the AZ Board of Dental Examiners needs to submit the rules for approval of the Governor’s Regulatory Review Council
- Governor’s Regulatory Review Council has final approval authority
- Rules become effective 60 days after final approval and filing with the Secretary of State



Take Home Messages

- The regular rulemaking process is required before licensing can begin
- The process is detailed and can be time consuming
- The statutory language in [HB 2235](#) is detailed (good)
- [HB 2235](#) does not include a required timeframe for the Board to meet (bad)
- The Board will need to prioritize resources to expedite the Rulemaking- Be the Squeaky Wheel!
- The Governor's Regulatory Review Council makes final call

