

RULEMAKING BASICS

1. The Board needs a statutory basis or authority to make the rule. The Board receives its rulemaking authority from the legislature through the Nurse Practice Act A.R.S. § 32-1601 (1)(A); the Board implements provisions of statute in rules.
2. The Governor's Regulatory Review Council (GRRC) oversees the rulemaking process. Their role includes assuring that:
 - The Board has the legal authority to make the rule
 - The language of the rule conforms to the accepted style and format
 - The rule is understandable to the public
 - All proper notices are published
 - The Board has appropriately addressed the economic impact of a rule
 - The Board has addressed all comment on the rule during the comment period
3. The Board sends rule packages to GRRC twice during the rulemaking process: First for a courtesy review and then for a final review. Courtesy reviews can take up to 4 months but will save time in the long run. Final reviews take 3 weeks. The GRRC members then review the rule at their regularly scheduled open public meeting and either approve the rule, send it back to the agency, or deny approval.
4. Published notices are legally required for all rulemaking in the *Arizona Administrative Register(AAR)*. The following notices are required for all rules:
 - Notice of Docket Opening (noticing the public that the rule is being discussed)
 - Notice of Proposed Rulemaking (the intended rule)
 - Notice of Final Rulemaking (the final rule after GRRC approval)

Other notices that the Board has published in the past include:

 - Notice of Open Public Workshop (sometimes utilized to receive informal comment on a controversial rule)
 - Notice of Supplemental Proposed Rulemaking (for substantive changes to the proposed rule)
5. There is no legal requirement to publish a rule on the website or in the newsletter. The Board does this to obtain broad participation in the rulemaking process and make sure all interested parties are informed and have a chance for their ideas to be heard.
6. After publication of the Notice of Proposed Rulemaking, the official comment period of one month begins. Any comment made on the rule during that time

must be addressed by the Board in the Notice of Final Rulemaking. An open hearing is not mandatory by the Administrative Procedures Act, but the Board has established (in rule) that open hearings will be held on all rulemakings.

7. Board members have many opportunities to review and provide direction for a rule. The docket, notice of proposed rulemaking, and notice of final rulemaking all need Board approval before publication. Additionally if there are areas of controversy within a rule, these are brought to the Board. As matter of policy, early drafts of a rule are also brought to the Board for input. Additionally Board staff prepares a summary of changes to rules and explains the changes in the preamble
8. Final rules cannot be enforced until 60 days after filing with the Secretary of State (about 30 days after publication in the Register).
9. All rules must be reviewed by an agency every 5 years. Exceptions are made for Articles that were amended within the past 2 years. Failure to submit a 5-year rule review results in the rules being expired. The 5-year report must contain the following:
 - The rule's effectiveness in achieving its objective
 - Written criticisms of the rule received during the previous 5 years
 - Authorization of the rule by the existing statutes
 - Whether the rule is consistent with other rules made by the agency, current agency enforcement policy, and current agency views regarding the wisdom of the rule
 - Clarity, conciseness, and understandability of the rule
 - The estimated economic, small business, and consumer impact of the rules as compared to the economic impact statement prepared on the last making of the rules.