



# Legislation vs. Regulation: Which does what?

Laws in the health care, workers' compensation, and insurance industries are changing constantly, so it's important to not only understand what is changing, but how, and by whom. This article will define and describe two main areas of law and the authorities that control the outcomes of each. Simply defined:

**Legislation** crafts policy ideas into bills through the legislative process.

**Regulation** clarifies or implements legislation by adding details to facilitate changes.

## Legislation Process (Statutory law)

The legislation process is prompted when elected members of the state legislature (representatives, assembly members, senators, etc.) draft policy ideas into a bill.

The bill is assigned to a relevant committee(s) for discussion and testimony from interested parties. The committees review amendments to the bill and vote on whether to pass the bill out of committee.

If the bill passes out of committee(s), it moves to a vote of the whole first chamber. If it passes there, the bill moves to the second chamber for the same process. (Most states and the federal government have two legislative chambers.)

If a bill passes both chambers, it is sent to the governor's desk for signature, veto or sometimes enactment without action by the governor after a prescribed time. An enacted bill/legislation then becomes an enforceable statute.

The overall legislation process is not easy and can take months to complete. Most bills do not get the support or votes needed and die during the process.

The bills that do make it through the process often still lack detail, which can result in confusion in how to interpret and implement the new law. These details are worked out in the regulatory process.

### Legislation Process

Policy drafted into a bill



Bill assigned to committee(s) to review discussion and testimony



Bills that pass committee go to the first then second chamber for a vote



Bills that pass both chambers go to Governor's desk

## Regulation Process (Administrative law)




## Regulation Process *continued*

Most proposed regulations from the state agency include a comment period for interested stakeholders and parties to provide testimony, arguments for or against, and suggestions for amendments to the regulation. The state agency considers the comments and weighs whether to adopt the regulation as originally proposed, adopt with changes, or hold off on adopting the regulation. This process typically takes two to three months but can be longer depending on the resources available to the state agency and how controversial the rulemaking may be.

If adopted, the final and approved regulation becomes administrative law. While many state agency regulations become effective after adoption, there are still some states that require yet another level of review and approval by the legislature or committee before the regulation can officially be approved as final administrative law.

## Essential Processes for Reasonable Laws

Legislation establishes the law for the individuals and organizations in the industry. Regulation sets additional rules to operationalize the law. Understanding and participating in the process for both is essential to advocating for reasonable laws that benefit the industry, our clients, and the injured persons we all serve.

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