

Hiring and Employing Medical Assistants: State Regulations and Best Practices



According to the Bureau of Labor Statistics, employment of medical assistants is projected to grow 14% from 2022 to 2032, faster than the average of other occupations. More than half of all medical assistants work in a doctor's office or clinic. Whether you currently employ a medical assistant or plan to add them to your staff in the future, you need to be aware of potential liability risks.

The Risk Team at the Mutual Insurance Company of Arizona® (MICA) created this resource to help you mitigate the risks of employing medical assistants. In this resource, you will learn:

- ▶ Laws and regulations in Arizona, Utah, Nevada, and Colorado that address education requirements and scope of practice limitations of medical assistants
- ▶ Steps to take when you're ready to make an offer of employment to a medical assistant
- ▶ Best practices after hiring a new medical assistant

About The Risk Team

The Risk Team at MICA works with our members to help them prevent medical liability claims and address pain points that come with running a medical practice. Our Risk Consultants take a collaborative approach to deliver responses and resources specific to an individual practice.

MICA members can contact the Risk Team directly at **800-705-0538** or rm_info@mica-insurance.com. Whether you need to schedule a risk assessment or ask for a free resource, our team members are ready to help. Our Risk Consultants are available to integrate their legal, nursing, practice administration, and quality management experience to address your needs.

Interested in becoming a MICA member? [Visit us online](#) or call us at **800-681-1840**.

State Regulations for Medical Assistants

Practices and practitioners who employ medical assistants (“MA”) to perform basic medical tasks must be aware of state regulations surrounding MA scope of practice, and the potential liability they face if a medical assistant administers negligent care.

States have different laws and regulations in place addressing education requirements and scope of practice limitations, but one thing is consistent – practitioners who supervise and practices that employ MAs can be held vicariously liable or face medical board action for the negligent and/or unprofessional acts of their medical assistants. Documenting compliance with state laws and regulations about education, training, supervision, and scope of delegated tasks promotes quality patient care and may mitigate liability risk for unlicensed medical staff.

Please refer to the following information for guidance on your state’s laws and regulations regarding MAs.



Arizona Guidance

Medical Assistant Training and Education in Arizona

A “medical assistant” is defined as “an unlicensed person who ... has completed an education program approved by the [Arizona Medical Board], assists in a medical practice under the supervision of a doctor of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant’s education and training but **does not** diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.”¹

MAs must have completed one of the following training requirements:

- ▶ An “approved MA training program;”
- ▶ “An unapproved MA training program and pass the MA examination administered by either the American Association of Medical Assistants or the American Medical Technologists;
- ▶ A U.S. Armed Forces medical services training program;
- ▶ Prior to August 7, 2004, completed a medical assistant training program and was continuously employed as a medical assistant since completing the program.²

An “approved MA training program” is:

- ▶ Accredited by The Commission on Accreditation of Allied Health Education Programs;
- ▶ Accredited by the Accrediting Bureau of Health Education Schools;
- ▶ Accredited by any accrediting agency recognized by the United States Department of Education; or
- ▶ A program designed and offered by a licensed osteopathic or allopathic physician that meets or exceeds the standards of one of the accrediting agencies listed above and that verifies the graduates have entry level competencies listed in [Appendix B, Core Curriculum for Medical Assistants, 2015 edition of Standards and Guidelines for the Accreditation of Educational Programs in Medical Assisting, published by the Commission on Accreditation of Allied Health Education Programs.](#)³

Medical Assistant Scope of Practice in Arizona

Arizona law limits the medical procedures an MA can perform and requires “direct supervision” by a physician, PA, or NP. “Direct supervision” means that the physician, PA, or NP must be available for consultation regarding the delegated task by remaining in the same room or office suite as the MA.⁴

Arizona Revised Statutes and the Arizona Administrative Code dictate that MAs can perform the following tasks under the direct supervision of a physician, PA, or NP.⁵

- | | |
|-----------------------------------------------|----------------------------------------------------|
| ▶ Take bodily fluid specimens | ▶ Transcutaneous Nerve Stimulation unit treatments |
| ▶ Administer injections | ▶ Hot and cold pack treatments |
| ▶ Whirlpool treatments | ▶ Small volume nebulizer treatments |
| ▶ Diathermy treatments | ▶ Perform venipuncture and blood draw |
| ▶ Electronic galvation stimulation treatments | ▶ Perform capillary puncture |
| ▶ Ultrasound therapy | ▶ Conduct pulmonary function testing |
| ▶ Massage therapy | |
| ▶ Traction treatments | |

- ▶ Electrocardiography
- ▶ Conduct patient screening
- ▶ Perform dosage calculations
- ▶ Apply pharmacology principles to prepare and administer medications
- ▶ Maintain medication and immunization records
- ▶ Perform CLIA waived hematology, chemistry, urinalysis, microbiological and immunology testing
- ▶ Screen test results
- ▶ Obtain specimens for microbiology testing
- ▶ Obtain patient history
- ▶ Document patient care
- ▶ Render first aid⁶

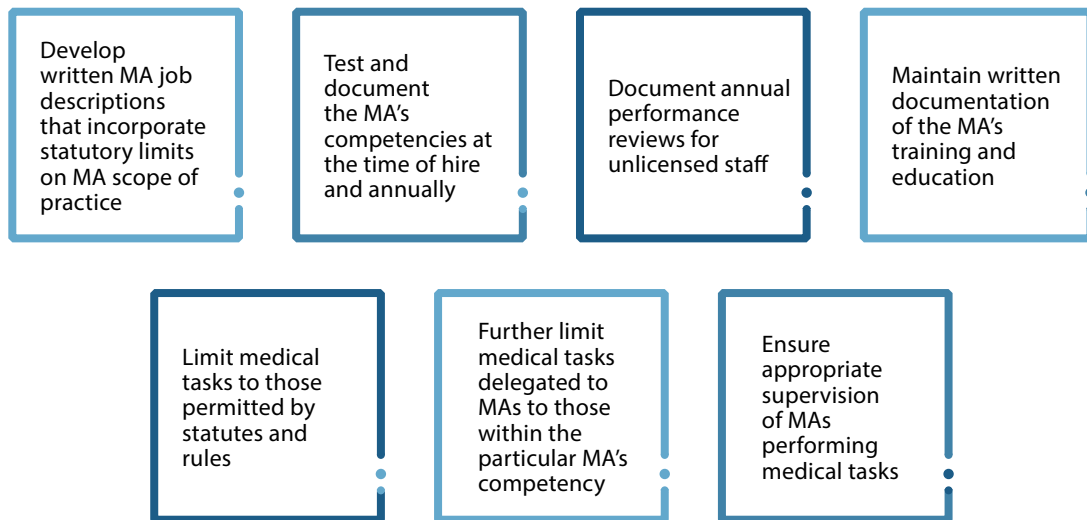
MAs can perform the following tasks *without* direct supervision by a physician, PA, or NP.

- ▶ Billing and coding
- ▶ Verify insurance
- ▶ Make patient appointments
- ▶ Perform scheduling
- ▶ Record physician findings and transcribe materials in patient charts and records
- ▶ Perform visual acuity screening as part of a routine physical
- ▶ Take and record patient vital signs and medical history⁷

A person using the title “medical assistant” or similar abbreviation is guilty of a class 3 misdemeanor if that person does not work under the direct supervision of a physician, PA, or NP or does not provide written verification of successful completion of a training program.⁸

Best Practices When Employing and/or Supervising Medical Assistants in Arizona

To reduce the risk of liability and licensing board discipline when working with medical assistants, clinicians and practices should:



Utah Guidance

Medical Assistant Training and Education in Utah

In Utah, medical assistants are exempt from licensure, and there are no specific education requirements by law or regulation. However, it is important to ensure that MAs working in your practice and who are under your supervision have training commensurate with the tasks they will be asked to perform. Requiring your MAs to be certified medical assistants who have gone through an official education program is one way to ensure that the individuals helping to care for your patients have the appropriate education and practical skills. It may also reduce your risk of a malpractice/vicarious liability claim.

Medical Assistant Scope of Practice in Utah

Utah law specifies that a medical assistant **may**:⁹

- ▶ administer a vaccine under the general supervision of a physician; or
- ▶ engage in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine under the indirect supervision of a physician, except for:
 - ▲ performing surgical procedures;
 - ▲ prescribing prescription medications;
 - ▲ administering anesthesia other than a local anesthetic for minor procedural use; or

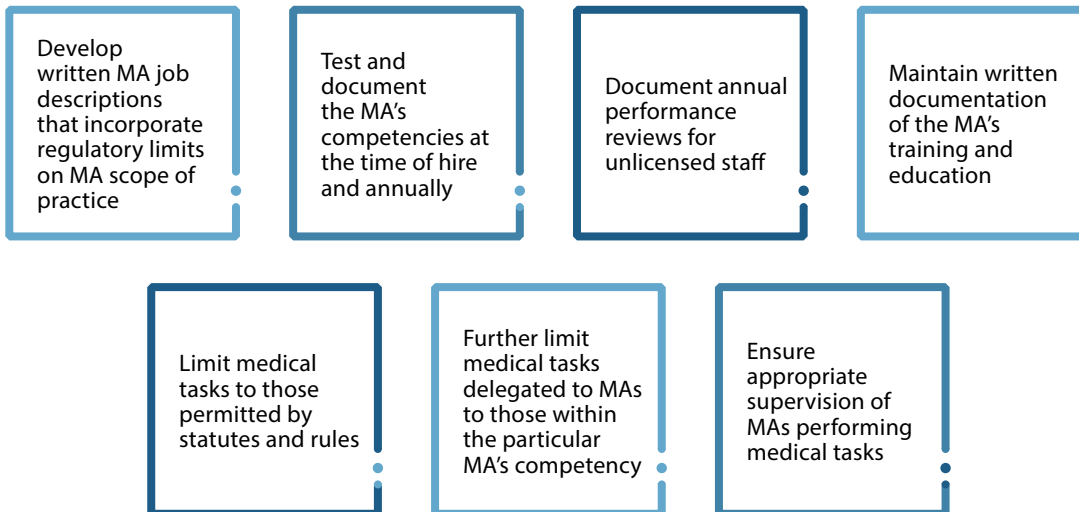
- ▲ engaging in other medical practices or procedures as defined by division rule in collaboration with the Physicians Licensing Board.

Utah regulations specify that a medical assistant **may not**.¹⁰

- ▶ diagnose;
- ▶ establish a treatment plan; or
- ▶ inject the following:
 - ▲ neurotoxins, soft tissue fillers, or other facial esthetic substances; or
 - ▲ cosmetic products with bioactive ingredients with claimed medical benefits.

Best Practices When Employing and/or Supervising Medical Assistants in Utah

To reduce the risk of liability and licensing board discipline when working with medical assistants, clinicians and practices should:



Nevada Guidance

Medical Assistant Training and Education in Nevada

In Nevada, a “medical assistant” is defined as a person who performs clinical tasks under the supervision of a physician or physician assistant and does not hold a license to perform those tasks. The term does not include employees who perform solely administrative or other nonclinical tasks.¹¹

In Nevada, medical assistants do not need to be licensed, and there are no specific education requirements by law or regulation. However, it is important to ensure that MAs working in your practice and who are under your supervision have training commensurate with the tasks they will be asked to perform. Nevada deems it “Prohibited Professional Conduct” to allow any person to act as a medical assistant in the treatment of a patient unless the medical assistant has sufficient training to provide the assistance.¹² This requires that a physician have knowledge of the training and expertise of his or her medical assistants and only delegate tasks to MAs who are qualified to perform those tasks. Nevada also deems it “Prohibited Professional Conduct” to fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant.¹³

Requiring your MAs to be certified medical assistants who have gone through an official education program is one way to ensure that the individuals helping to care for your patients have appropriate education and practical skills. It may also reduce your risk of a malpractice/vicarious liability claim.

Medical Assistant Scope of Practice in Nevada

A physician may delegate tasks to a medical assistant only if:¹⁴

- ▶ the practitioner **knows** the medical assistant has the knowledge, skill, and training to perform the task safely and properly;
- ▶ the medical assistant is not required to be certified or licensed to perform the task;
- ▶ the medical assistant is employed by the delegating practitioner, or the medical assistant and the delegating practitioner are employed by the same employer; and
- ▶ the employer of the medical assistant has documented in the medical assistant’s employment record that the MA has been appropriately trained and is competent to perform any task or procedure assigned to them.

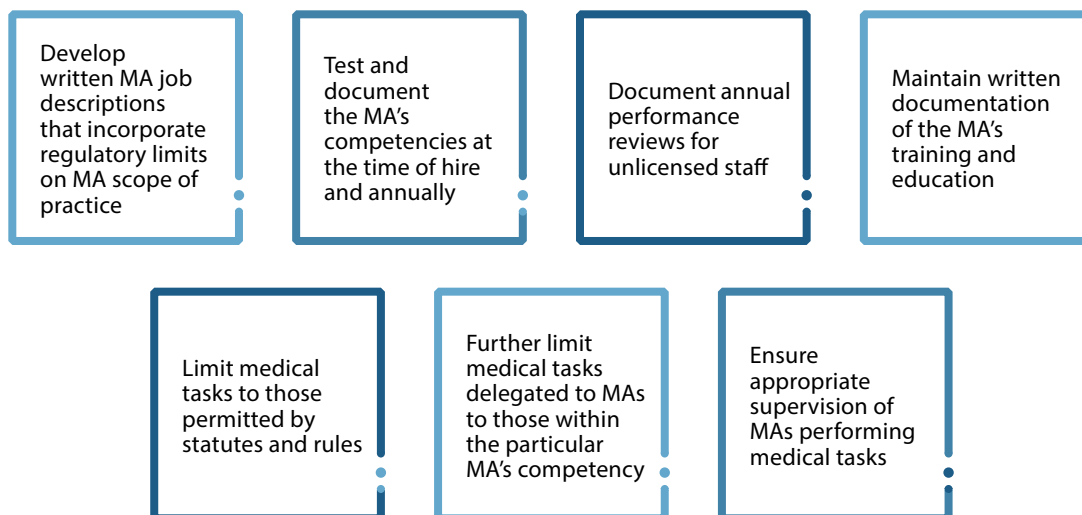
A practitioner may not:

- ▶ delegate a task that involves an invasive procedure, unless the delegating practitioner is immediately available to exercise oversight in person while the MA performs the task;¹⁵

- ▶ ask the medical assistant to make a diagnosis, initiate any treatment, or prescribe any drug;¹⁶
- ▶ delegate a task that is not within the authority, training, expertise or normal scope of practice of the delegating practitioner;¹⁷
- ▶ transfer to another physician assistant the responsibility of supervising a medical assistant during the performance of a task unless the physician or physician assistant knowingly accepts that responsibility;¹⁸
- ▶ authorize or allow a medical assistant to delegate the performance of a task delegated to the medical assistant to any other person¹⁹; or
- ▶ delegate or otherwise allow a medical assistant to administer an anesthetic agent which renders a patient unconscious or semiconscious.²⁰

Best Practices When Employing and/or Supervising Medical Assistants in Nevada

To reduce the risk of liability and licensing board discipline when working with medical assistants, clinicians and practices should:



Colorado Guidance

Medical Assistant Training and Education in Colorado

The Code of Colorado Regulations includes several rules related to unlicensed individuals who perform medical services delegated by a physician. Medical services are defined to include:

- ▶ “suggesting, recommending, prescribing, or administering any form of treatment, operation or healing for the intended palliation, relief, or cure of any physical or mental disease, ailment, injury, condition or defect of any person;”
- ▶ “holding oneself out to the public as being able to diagnose, treat, prescribe for, palliate or prevent any human disease, ailment, pain, injury, deformity, or physical or mental condition;” and
- ▶ “those acts...performed pursuant to physician delegation by unlicensed persons or licensed healthcare professionals.”²¹

Simply acting as an intermediary for communication between the patient and physician does not constitute a medical service. The same is true of gathering data such as phlebotomy, measuring vital signs, and gathering historical patient information.²² Only those tasks that qualify as medical services are subject to the rules summarized below, and fully stated at [3 CCR 713-1](#).

According to Colorado regulations, it is the physician’s responsibility to determine whether an MA has the training, education, and experience necessary to perform each delegated medical service. In doing so, the physician must personally assess copies of diplomas, certificates, credentialing, or professional degrees appropriate to the medical services to be performed. The physician must also perform “over-the-shoulder direct observation” of the MA’s performance of any medical service before allowing the MA to do the task outside of the physician’s physical presence.²³

In addition, the delegating physician must:

- ▶ Provide ongoing inspection, evaluation, advice, and control;
- ▶ Make decisions as to the necessity, type, effectiveness, and method of treatment;
- ▶ Provide sufficient on-the-spot inspection to determine that the physician’s directions are regularly being followed;
- ▶ Monitor the quality of the services provided by the delegate; and
- ▶ Provide personal and responsible direction and supervision that is consistent with generally accepted standards of medical practice.²⁴

The physician must monitor the MA’s quality of services at least every two weeks and reassess the MAs qualifications and competence to perform medical services at least annually, to include over-the-shoulder observation.²⁵ In general, the physician must be on-site while the MA is performing medical tasks.²⁶ The physician/MA relationship must be memorialized in writing, and a sample agreement can be found at Appendix A of [this](#) document, which also includes a complete recitation of the Colorado rules surrounding unlicensed medical professionals such as MAs.

Medical Assistant Scope of Practice in Colorado

MAs performing medical services as defined above may not perform tasks that require the exercise of medical judgment by the physician²⁷ and may not prescribe drugs (except refills for the same medication and dose pursuant to a written refill protocol).²⁸ Delegated medical services should be limited to routine, technical services that do not require the skills of a licensed physician.²⁹ The physician must always ensure that the MA is competent by education, training, and skill to perform the delegated tasks.³⁰

Best Practices When Employing and/or Supervising Medical Assistants in Colorado

To reduce the risk of liability and licensing board discipline when working with medical assistants, clinicians and practices should:

Develop written MA job descriptions that incorporate regulatory limits on MA scope of practice

Test and document the MA's competencies at the time of hire and annually

Monitor quality of service at least every two weeks and document those assessments

Document annual performance reviews for unlicensed staff

Maintain written documentation of the MA's training and education

Limit medical tasks to those permitted by statutes and rules

Further limit medical tasks delegated to MAs to those within the particular MA's competency

Ensure appropriate supervision of MAs performing medical tasks

Medical Assistant Credentials

Before making an offer of employment, it is important to perform basic due diligence on any medical assistant candidate your practice is considering for hire. Documenting the results of a background check and a reference check, keeping a complete employee file, appropriately displaying employee titles, and clearly defining the medical assistant's role shows that your practice takes seriously its responsibility to hire individuals with the training, disposition, and personal history that is appropriate for the patient care setting.

Background Checks and Education/Training Verification

Skipping this important step may increase your medical professional liability risk. Consider the following examples:

- ▶ A practice receives a complaint from a patient that the medical assistant who escorted her to the room and took her vital signs touched the patient inappropriately during the encounter. The patient informs the practice that after her appointment, she typed the medical assistant's name into an internet search and found that he is a registered sex offender. Had the practice completed a background check prior to hiring the medical assistant, they would have known this detail and could have avoided potential liability for the medical assistant's conduct.
- ▶ An applicant for a medical assistant position indicated on her resume that she graduated from an accredited medical assisting program. She even presented the practice with her certificate of completion. Several months into the medical assistant's employment, the practice administrator learned from another employee that the medical assistant confided that she, in fact, did not graduate from the program and created the certificate on her computer. Had the practice completed a background check with education verification prior to hiring the medical assistant, they would have been aware of the lack of appropriate training, avoided possible harm to patients, and avoided an uncomfortable situation dismissing the medical assistant from employment.

The initial time investment and cost of a background check and efforts to verify a candidate's education/training can save your practice from greater outlay for legal fees and potential damages should an applicant have something in their personal or work history that makes them a poor fit for the job.*

*In Colorado, some employers may be required to complete a check of the Colorado Adult Protective Services data system ("CAPS"). If your entity is on this [list](#) of those employers that must comply with this requirement, make sure run a check prior to hiring a medical assistant.

Reference Checks

Asking candidates for references and whether you may call previous employers are also important pre-hire steps to document in candidates' files. Sometimes, the reference will only be able to verify dates of employment. In those instances, simply document your efforts to learn about the candidate's performance, strengths, and weaknesses.

In the event you speak to someone who can provide in-depth information about the candidate, here are tips for how to get the most out of the conversation:

- ▶ Tell the reference you know that no candidate is perfect in every way, but it will be helpful to know as much as you can about the candidate.
- ▶ Be specific about the medical and administrative tasks the candidate will be expected to perform and request feedback about whether the reference believes the candidate to be proficient in those areas. Ask for examples of times the candidate displayed those skills.
- ▶ Be specific about the soft/interpersonal skills the candidate will need in order to be successful in the position. Request feedback on the reference's perception of the candidate's proficiency in those areas and ask for examples of times the candidate displayed those skills.
- ▶ Refrain from interrupting or chiming in with the answer you want to hear.

In addition to calling outside references, seek feedback from all those who interviewed the candidate or had an interaction with them. The front desk staff who greeted the candidate before their interview may have valuable information, just like the physician who assessed the candidate's fit for the job during the formal interview.

Credentials and Competence Files

Create a complete credentials and competence ("C&C") file for all new employees. Review the C&C files every year and ensure original credentials remain valid and documented. Every year and as needed, note any new credentials, competencies, and/or new or additional responsibilities.

The C&C file should include the following:

- ▶ Curriculum vitae or resume;
- ▶ Evidence of primary or original source verification of education and training;
- ▶ Evidence of primary or original source verification of certifications, such as basic, advanced, and/or pediatric life support certifications;
- ▶ Evidence of completed continuing education, if applicable;
- ▶ Results of a background check, including any criminal records, employment history, credit history if applicable, education history, driving record, work authorization, and social media profile if applicable; and
- ▶ Evidence of verification of appropriate job-related skills.

In the event of a medical professional liability claim or lawsuit, or a licensing board or government agency investigation, the physicians, advanced health care practitioners, and/or medical practice staff will need to show they **made reasonable efforts** at the beginning of the working relationships to establish medical assistants had appropriate credentials and were competent to perform required tasks and duties.

Evidence of reasonable efforts supports the defense against the following allegations:

- ▶ Negligent hiring or engagement, supervision, and retention of employees, staff, and contractors; and
- ▶ Negligent performance of medical/surgical/clinical/administrative procedures/tasks/duties.

Displaying Job Titles

All physicians, advanced health care practitioners, licensed nurses, medical assistants, and other practice staff, employees, and contractors should refrain from referring to each other by incorrect job titles and inferring credentials the individual does not have.

Physicians, advanced health care practitioners, and other practice staff **should not refer to a medical assistant as “a nurse,” “my nurse,” or “our nurse.”**

Everyone in the practice should 1) wear name badges or tags that clearly state their job title and credentials, and 2) refer to each other by full and correct job titles indicating their qualifications.

Improper representations of the professional status of medical practice staff, employees, or contractors could result in investigations and disciplinary actions by licensing and certification boards and government agencies. Plaintiffs in medical professional liability claims and lawsuits could allege that a misrepresentation of an employee's qualifications was fraudulent, and they relied on the misrepresentation to their detriment.

Job Descriptions

There should be a written description for every job, position, and role in the medical office or practice. The physician, advanced health care professional, and/or medical practice administrator should review descriptions every year and revise them as needed. The description should include the following:

- ▶ Criteria for hiring or contracting with a qualified individual;
- ▶ A framework for performance appraisals, competency determinations, and skills assessments;
- ▶ A definition of the employee's, staff's, and contractor's scope of practice;
- ▶ Duties and responsibilities, including medical emergencies;
- ▶ The level of authority the individual has on behalf of the medical practice, practice staff and employees, contractors, advanced health care practitioners, and physicians;
- ▶ The management and/or supervisory structure of the practice and for the position; and
- ▶ The date the description was created and the dates of all revisions to the description.

Job, position, and role descriptions are criteria for hiring and retaining a qualified individual and disciplining or terminating an individual with poor performance. Descriptions provide candidates with a snapshot of what their day might look like in the practice and sets forth performance expectations for new employees. Employees can refer to descriptions for **understanding or clarification of their role and responsibilities**. Managers and supervisors can use the descriptions to **measure performance**. Descriptions can also **support an individual's designation as "exempt" or "nonexempt"** from the federal Fair Labor Standards Act and state wage and hour laws.

Hiring and Employing Medical Assistants Checklist

Hiring Medical Assistants

- ☐ Prepare a job description with specific information about required education, training, and skills that aligns with your state's statutory and regulatory requirements.
- ☐ Upon receipt of applications, determine if applicants qualify on the basis of the information submitted.
- ☐ Perform phone screening interviews to confirm the information provided in the application package, and to clear up any confusion or missing information. Document the conversation in the applicant's file.
- ☐ Verify education and training information the applicant provides. Request copies of diplomas/certificates/transcripts to include in the applicant's file.
- ☐ If the applicant passes the screening interview, invite the applicant for an interview with the practitioners with whom they will be working. Solicit feedback from the practitioners and document comments in the applicant's file.
- ☐ Request references and call the references provided. Document the conversations in the applicant's file.
- ☐ Run a background check on the applicant to ensure there is nothing in their personal history that would disqualify the applicant from employment. Document the results in the applicant's file.
- ☐ If the applicant is a good fit for the position, send an official offer letter and include a copy in the applicant's file.

Employing Medical Assistants

In addition to setting up payroll, benefits, and completing any other required HR tasks for onboarding a new employee, complete the following:

- ☐ If the candidate accepts the position, create a C&C file that contains the information listed in the section of this guide titled "Credentials and Competence Files" on page 13. Merge the applicant file into this new file.

- ☐ Formally assess the employee's skills. Document this initial formal assessment in the employee's C&C file. Note which tasks the MA is competent to perform, and which tasks require additional training.
- ☐ Assist the MA in obtaining any necessary additional training for medical tasks they will be expected to perform. Document completion of training in the employee's C&C file, and update competencies.
- ☐ Provide orientation/training on any administrative tasks the MA will be expected to perform. Document completion of orientation/training and the MA's competence in performing administrative tasks in the employee's C&C file.
- ☐ Provide training on HIPAA and OSHA. Document completion of training in the employee's C&C file.
- ☐ Provide a copy of the practice's employee handbook and require a signed acknowledgment that the employee has read it and agrees to abide by its terms. Place the acknowledgment in the employee's C&C file.
- ☐ Provide a copy of your practice's policies and procedures. Require a signed acknowledgment that the employee has read them and agrees to abide by their terms. Place the acknowledgment in the employee's C&C file.
- ☐ Perform routine evaluations of the MA's job performance and document skills and abilities throughout the year. Document evaluations in the employee's C&C file. In Colorado, delegating practitioners are required to evaluate unlicensed medical professionals every two weeks.
- ☐ Perform a formal annual evaluation of the MA's job performance, and assessment of their skills. Document the annual evaluation and assessment in the employee's C&C file.
- ☐ Seek out references for employment attorneys in your area so that you are prepared in the event you need legal counsel for employment related issues.

Endnotes

- 1 A.R.S. § 32-1401(16)
- 2 A.A.C. R4-22-403
- 3 A.A.C. R4-22-401(A)(1), (2), & (4); R4-16-101(3); A.R.S. § 32-1456(D)(1)-(4). In addition, under Rules applicable to osteopathic physicians, an approved training program includes one accredited by any accrediting agency recognized by the U.S. Department of Education. A.A.C. R4-22-401(A)(3).
- 4 ARS 32-1401(8)
- 5 When a RNP delegates any of these tasks to an MA, the MA must first demonstrate competency in that particular task. A.A.C. R4-19-509(B).
- 6 A.R.S. § 32-1456, A.A.C. R4-19-509, A.A.C. R4-19-509, A.A.C. R4-22-401, A.A.C. R4-22-402
- 7 A.R.S. § 32-1456(C)
- 8 A.R.S. § 32-1456(E)
- 9 Utah Code 58-67-305(6)
- 10 Utah Admin. Code R156-67-305, R156-68-305
- 11 NRS 630.0129
- 12 NAC 630.230(g)
- 13 NAC 630.230(h)
- 14 NAC 630.810(1)-(2)
- 15 NAC 630.810(3)
- 16 NAC 630.810(4)
- 17 NAC 630.830(A)(1)
- 18 NAC 630.830(A)(2)
- 19 NAC 630.830(A)(3)
- 20 NAC 630.830(A)(4)
- 21 3 CCR 713-1.17(D)
- 22 *Id*
- 23 3 CCR 713-1.17(F)
- 24 3 CCR 713-1.17(H)
- 25 3 CCR 713-1.17(H)
- 26 3 CCR 713-1.17(H)(5)
- 27 3 CCR 713-1.17(D)(5)
- 28 3 CCR 713-1.17(D)(6)
- 29 3 CCR 713-1.17(D)(5)
- 30 3 CCR 713-1.17(I)

The content of this publication or presentation is intended for educational purposes only; is not an official position statement of Mutual Insurance Company of Arizona (MICA); and should not be considered or relied upon as professional, medical, or legal advice or as a substitute for your professional judgment. Consult your attorney about your individual situation and the applicable laws. The authors, presenters, and editors made a reasonable effort to ensure the accuracy of the information at the time of publication or presentation but do not warrant or guarantee accuracy, completeness, or currency of such information. As medical and legal information is constantly changing and evolving, check for updated information and consult your attorney before making decisions.