

AMERICAN ASSOCIATION OF MEDICAL ASSISTANTS

Report of the Chief Executive Officer and House Legal Counsel For the Period Ending September 2019

The following is a summary of Chief Executive Officer (CEO) Balasa's priorities and accomplishments, and an update on pertinent developments, since the 2018 meeting of the American Association of Medical Assistants® (AAMA) House of Delegates (HOD) in Salt Lake City, Utah.

The CEO's focus has been on facilitating the AAMA's accomplishment of its *Mission* and *Strategic Issues Plan* by: (1) assisting President Hawes and all other volunteer leaders to achieve their goals; (2) scanning the external environment to discern opportunities and threats; and (3) overseeing the deployment of AAMA resources (e.g., staff and capital assets) in an effective and efficient manner.

Live-by-telephone CEU presentations—"The Professional Less-Regulation Movement: An Opportunity or Threat for Medical Assistants?"

Beginning in January of 2019, CEO Balasa presented the live-by-telephone AAMA CEU presentation entitled "The Professional Less-Regulation Movement: An Opportunity or Threat for Medical Assistants?" The presentation was given to approximately 40 state societies and local chapters. These sessions were well-received and, in some instances, included interesting questions and lively discussions. Hopefully, they were informative and educational, and provided an opportunity for face-to-face interaction among members and attendees.

MGMA and PAHCOM Annual Conferences

Legal Counsel Balasa attended the Medical Group Management Association (MGMA) and the Professional Association of Health Care Office Management (PAHCOM) Annual Conferences in October of 2018. In addition to answering scope-of-practice and other questions, he sent the following memorandum to attendees who visited the AAMA exhibit booths at these events:

Thank you for visiting the American Association of Medical Assistants (AAMA) booth at the recent [MGMA/PAHCOM] Annual Conference. It was wonderful to meet you and talk with you about the medical assisting profession, the AAMA, and the CMA (AAMA)® credential.

Managers should keep in mind that individuals who have completed an education program in medical assisting are not automatically certified. Certification requires the passing of a standardized exam. In addition, the only medical assistants who are permitted to use the initialisms "CMA" or "CMA (AAMA)" are those who have passed the CMA (AAMA) Certification Exam and have kept their certification current by recertifying periodically by either continuing education or testing.

Medical assisting scope of practice information for most American jurisdictions is found on the website of the AAMA—www.aama-ntl.org. Click below "State Scope of Practice Laws" on the bottom left of our home page.

My legal and public affairs articles are also available on our website. Click on "CMA Today" in the ribbon at the top of our home page. An option in the dropdown menu is "Public Affairs Articles." Click on this and you will have access to my articles from 2005 to the present.

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Please do not hesitate to contact me if you have legal questions about the scope of practice for medical assistants. My email address is dbalasa@aama-ntl.org

Webinar for First Healthcare Compliance

As a result of a contact made at the PAHCOM 2018 Annual Conference, Mr. Balasa was asked to present a webinar for First Healthcare Compliance. His webinar “The Role of Medical Assistants in Medicare CCM and TCM” was broadcast December 5, 2018. It was well received by attendees.

BOT memorandum clarifying membership privileges

At the request of the Board of Trustees, Mr. Balasa drafted a memorandum clarifying membership categories and privileges on the AAMA level, and on the state society and local chapter levels. This memorandum was emailed to state and chapter presidents and vice presidents in October of 2018.

The following is an excerpt from this memo:

To summarize, the membership privileges on the AAMA level (including serving as a delegate or alternate delegate to the AAMA House of Delegates) for the various categories of membership are set forth in the AAMA *Bylaws*. The membership privileges on the state society and local chapter levels for the various categories of membership are determined by the state societies and local chapters.

Vice Chair of Main Committee to update ICE 1100

In early 2019 CEO Balasa completed his service as Vice Chair of the Main Committee to update [Institute for Credentialing Excellence] *ICE 1100—Standard for Assessment-Based Certificate Programs*. (Instructional Designer Michelle Nolin, CPLP, served as Chair of the Main Committee.) *ICE 1100* is an American National Standard approved by the American National Standards Institute (ANSI). Mr. Balasa’s service deepened his understanding of the requirements for accreditation-worthy assessment-based certificates (ABCs) and the roles of instructional designers, psychometricians, and executive/administrative staff in the creation and maintenance of a high-quality ABC.

House Legal Counsel Responsibilities

Legal Counsel Balasa has continued to provide assistance to state societies and local chapters on questions involving bylaws, parliamentary procedure, suspected or actual misappropriation of funds, records retention, obtaining an Employer Identification Number/Taxpayer Identification Number (EIN/TIN), incorporation, responding to questions from the Internal Revenue Service, and the ineligibility of states and chapters for state sales tax exemption. He has provided standard letter templates and has reviewed and signed cease and desist letters to medical assistants who are using the CMA (AAMA) credential and are not CMAs (AAMA), and to former CMAs (AAMA) who are using the credential even though their CMA (AAMA) is not current.

Fiscal performance of General and Certification Funds

For fiscal years 2018 and 2019, revenue exceeded expenses in the General Fund and the Certification Fund. As reflected in the financial statements in this Delegates Packet, for the fiscal year ending June 30, 2018, revenue exceeded expenses in the General Fund by \$1,818,593, and revenue exceeded expenses in the Certification Fund by \$495,673.

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Credential Engine and presentation for the Certification Network Group

Mr. Balasa continues to serve on the Certification and Licensure Advisory Group (CLAG) of *Credential Engine*. On February 27, 2019, he presented “*Credential Engine* and Credential Literacy: Clarifying Definitions” at the Certification Network Group-Chicago quarterly meeting. Roy A. Swift, PhD, the Executive Director of *Workcred* and the former Chief Workforce Development Officer at the American National Standards Institute (ANSI), also presented at this meeting.

Update of *Questions a Legislator Should Ask*

Legal Counsel Balasa assisted Kara Schmitt, PhD, in updating the monograph *Questions a Legislator Should Ask*. The following is a description of this monograph:

Questions a Legislator Should Ask is designed to provide important questions to be asked, as well as background information, to assist policymakers in their deliberation of proposed new professional regulation as well as revisions to current statutes. The questions included will help guide legislators towards achieving the desired goal of creating legislation that protects the public from unscrupulous practitioners. This book can also be of value to legislative staff and regulators who may need to provide information to stakeholders. The background information will serve as a basis for understanding the benefits and liabilities of regulation.

BOT presentations

At the request of President Sue Hawes, Mr. Balasa gave a presentation on association board governance at the October 19 and 20, 2018, Board of Trustees Planning Session. He also presented a tutorial on reading and understanding financial statements for the Board of Trustees and the gallery at the June 2019 BOT meeting.

ICE leadership position and Annual Exchange presentations

Mr. Balasa continues to serve as Vice Chair of the Institute for Credentialing Excellence (ICE) Government Affairs Committee. He was part of a panel presentation at the ICE Annual Exchange November 6 through 9, 2018, in Austin, Texas. He will be one of four presenters of a half-day, preconference session (November 18, 2019) at the 2019 ICE Annual Exchange entitled “Accommodations for High-Stakes Testing: Legal, Operational, and Practical Considerations.”

Legal Eye: On Medical Assisting and “Public Affairs” articles in *CMA Today*

Legal Counsel Balasa continues to write semimonthly posts to his blog *Legal Eye: On Medical Assisting*. He also continues to write a “Public Affairs” article for each issue of *CMA Today*.

The following is an excerpt from his article “CMAs (AAMA) are “clinical staff” under the CMS appropriate use criteria (AUC) program”:

By enacting the Protecting Access to Medicare Act (PAMA) of 2014, Congress authorized the creation of a Medicare program that would discourage the inappropriate and unnecessary ordering of advanced diagnostic imaging services. Advanced imaging services include: magnetic resonance imaging (MRI); nuclear medicine; positron emission tomography (PET); and computed tomography (CT). PAMA directed CMS to promulgate Appropriate Use Criteria (AUC) for these advanced imaging services to give ordering providers guidance on which imaging services are most appropriate for various medical conditions.

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CMS rule defines “appropriate use criteria” as follows:

Appropriate use criteria (AUC) means criteria...developed or endorsed by national professional medical specialty societies or other provider-led entities, to assist ordering professionals and furnishing professionals in making the most appropriate treatment decision for a specific clinical condition for an individual. To the extent feasible, such criteria must be evidence-based. An AUC set is a collection of individual appropriate use criteria. An individual criterion is information presented in a manner that links: a specific clinical condition or presentation; one or more services; and, an assessment of the appropriateness of the service(s).

A key operational component of the AUC Program is the requirement that licensed providers (or their “clinical staff”) consult a Clinical Decision Support Mechanism (CDSM) that meets CMS specifications before ordering an advanced diagnostic imaging service. A CDSM is defined thusly in the CMS rule:

Clinical decision support mechanism (CDSM) means the following: an interactive, electronic tool for use by clinicians that communicates AUC information to the user and assists them in making the most appropriate treatment decision for a patient’s specific clinical condition. Tools may be modules within or available through certified EHR [Electronic Health Record] technology (as defined in section 1848(o)(4)) of the Act [PAMA] or private sector mechanisms independent from certified EHR technology or established by the Secretary.

CMAAs (AAMA): (1) have completed postsecondary education that includes essential clinical knowledge; and (2) have passed the CMA (AAMA) Certification Exam that tests (in addition to other essential areas of knowledge) such clinical knowledge; and (3) have provided evidence of current mastery of such clinical knowledge every five years by either completing at least ten hours of clinical continuing education (out of a total of 60 hours of continuing education) or passing the CMA (AAMA) Certification Exam. Therefore, I maintain that CMAAs (AAMA) are “clinical staff” under the AUC Program and consequently are authorized to perform a CDSM consultation and communicate with the ordering providers about the appropriateness of various advanced diagnostic imaging services for specific patients with specific conditions.

The AUC Program is scheduled to begin January 1, 2020, with a one-year testing and learning period during which no Medicare claims for advanced diagnostic imaging services will be denied. The AUC Program is scheduled to be implemented fully on January 1, 2021, with denial of claims for noncompliance. CMS has the authority to postpone these starting dates.

AAMA involvement in new CDC-CASAT FASDs grant

Beginning in 2015, the American Association of Medical Assistants has been the sole subgrantee under a three-year grant awarded by the Centers for Disease Control and Prevention (CDC) to the Center for the Application of Substance Abuse Technologies (CASAT) of the University of Nevada, Reno (UNR). This grant was part of a coordinated national effort to prevent fetal alcohol spectrum disorders (FASDs) by preparing medical assistants to assist their overseeing providers in reducing alcohol-exposed pregnancies.

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The CDC has awarded another grant to the CASAT of the University of Nevada, Reno, with the AAMA as the sole subgrantee. The purpose of this new grant project is as follows:

...to develop, deliver, disseminate, and evaluate trainings and materials for medical assisting students and practitioners on how to conduct alcohol screening and brief intervention (SBI). These activities will teach medical assistants to assist their overseeing providers to identify patients' risky drinking behaviors, to provide health education to change those behaviors (especially among women of childbearing age), and to prevent alcohol exposed pregnancies (AEPs) and FASDs. These activities will be important in promoting primary prevention and sustained practice change. In addition, CASAT's proposed translation and development of products in culturally appropriate in-person and online versions (including language translation) will facilitate implementation of these services by medical assistants and their providers working with underserved populations (e.g., non-English-speaking patients).

Indiana State Medical Association resolution supporting certified medical assistants

Legal Counsel Balasa assisted Tammy Daily, CMA (AAMA), a leader of the Indiana Society of Medical Assistants and its liaison to the Indiana State Medical Association, craft language for a resolution for consideration by the House of Delegates (HOD) of the Indiana State Medical Association in September of 2018. The resolution was entitled "Support of Certified Medical Assistants" and was adopted by the Indiana State Medical Association HOD. Its last "Resolved" is as follows:

RESOLVED, that the Indiana State Medical Association urge its members, Indiana physicians, and health care organizations to give preference in hiring to medical assistants who have demonstrated training, qualifications, and continuing education such as that provided by the Certified Medical Assistant (CMA) American Association of Medical Assistants [CMA (AAMA)] certification.

NBME Conference on Collaborative Approaches in Continuing Certification

Mr. Balasa attended the November 29, 2018, invitational conference convened by the National Board of Medical Examiners (NBME) on collaborative approaches in continuing certification. The issues discussed at this conference are similar to those being worked on by the Institute for Credentialing Excellence Government Affairs Committee.

Serving on the CAAHEP Board of Directors

Beginning with his election to the Commission on Accreditation of Allied Health Education Programs (CAAHEP) Board of Directors in April of 2018, Mr. Balasa has served on the CAAHEP Performance Oversight Committee, Public Policy Committee, as Chair of the Bylaws Committee, as Chair of the Policy and Procedures Committee, and as parliamentarian for the April 2019 Annual Meeting of the CAAHEP Commission. He presented "Beware of Antitrust Issues" during the CAAHEP Leadership Workshop in January of 2019, and moderated and co-presented for the panel discussion "How Do We Determine Which Certifications Are Legitimate?" at the 2019 CAAHEP Annual Meeting in April of 2019. He presented "Good Governance Practices for CoA Board Meetings" at the CAAHEP Summer Workshop in July of 2019.

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State scope of practice issues

Arizona - Partly as a result of written and in-person comments from the AAMA and the Arizona State Society of Medical Assistants, the Arizona Medical Board amended its definition of “approved medical assistant training program” as follows:

3. "Approved medical assistant training program" means a program accredited by any one of the following:
 - a. The Commission on Accreditation of Allied Health Education Programs; or
 - b. The Accrediting Bureau of Health Education Schools; or
 - ~~c. A medical assisting program accredited by any accrediting agency recognized by the United States Department of Education; or~~
 - d. A training program:
 - ~~i. Designed and offered by a licensed allopathic physician;~~
 - ~~ii. That meets or exceeds any of the prescribed accrediting programs in subsection (a), (b), or (c);~~and
 - ~~iii. That verifies the entry level competencies of a medical assistant prescribed under R4-16-402(A).~~

This is a significant, positive accomplishment for the medical assisting profession in Arizona. The amended language went into effect March 9, 2019.

Alaska - In response to proposed amendments to the regulations of the Alaska State Medical Board, Legal Counsel Balasa recommended to the Alaska Medical Assistants Society the following additional language [underscored]:

- (14) the administration of injectable medications, unless
 - (A)
 - (i) it is a single intramuscular, intradermal, or subcutaneous injection, not otherwise prohibited under 12 AAC 40.967(33); or
 - (ii) it is a multidose intramuscular, intradermal, or subcutaneous injection, not otherwise prohibited under 12 AAC 40.967(33) and the person is currently nationally certified as a medical assistant by a national body accredited by the National Commission for Certifying Agencies (NCCA); and
 - (B) all other provisions of this section are met; and
 - (C) the delegating physician, podiatrist, osteopath, or physician assistant is immediately available on site.

This proposed additional language is based on the wording of the delegation language in the regulations of the Alaska Board of Nursing.

Connecticut - Legislation authorizing delegation to educated and credentialed medical assistants the administration of certain types of vaccinations was not enacted by the Connecticut legislature. Mr. Balasa recommended that the leaders of the Connecticut Society of Medical Assistants set up a meeting with the staff of the Connecticut Board of Nursing and nurse educators in the state in an effort to understand their opposition to medical assisting legislation and to agree on legislative language that would be acceptable to all parties.

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Arkansas - Mr. Balasa assisted the Arkansas Society of Medical Assistants in its efforts to arrange a meeting with the Practice Committee of the Arkansas State Board of Nursing to recommend that its rules be amended to permit advanced practice registered nurses (including nurse practitioners) to delegate certain types of injections to appropriately educated and credentialed medical assistants.

On April 29, 2019, the National Council of State Boards of Nursing and the American Nurses Association issued *National Guidelines for Nursing Delegation*. This position statement replaced a similar 2010 document. Because this position paper speaks favorably about nurse delegation to assistive personnel such as medical assistants, Mr. Balasa suggested that the Arkansas Society attach a copy of this position statement to its letter to the Arkansas State Board of Nursing. This was done, and the Arkansas Society is attempting to have this issue placed on the agenda of the September 12, 2019, meeting of the State Board of Nursing Practice Committee.

Maryland - The Nurse Practitioner Association of Maryland (NPAM) is strongly supportive of nurse practitioner delegation to medical assistants. It has been instrumental in the drafting and introduction of bills in the Maryland legislature that would amend the Nurse Practice Act to allow nurse practitioners to delegate to appropriately educated and credentialed medical assistants the administration of certain types of injections. Medical assistant leaders in Maryland have worked with the NPAM in its legislative efforts. Mr. Balasa has assisted these leaders by providing information to the NPAM and the Maryland Board of Nursing, and by suggesting language for the legislation.

Florida - Mr. Balasa assisted a program director of a CAAHEP-accredited medical assisting program in Florida compose a letter to the Florida Board of Medicine requesting reaffirmation that the position of the Board of Medicine continues to be that Florida law permits physicians to delegate to knowledgeable and competent medical assistants working under their direct/onsite supervision in outpatient settings the performing of intravenous infusion therapy.

Washington - The Washington State Society of Medical Assistants (WSSMA) is requesting that the Washington Department of Health (DOH) amend its rules for medical assistants-certified (MA-Cs) to require periodic demonstration of continuing competence as a requirement for renewing the MA-C. Mr. Balasa forwarded to WSSMA leaders previous written statements on this issue submitted by the WSSMA and the AAMA to the Washington DOH and the Washington legislature.

Representatives Bureau (RB)

Informing RB representatives of public policy developments and other state issues

Mr. Balasa emailed BOT members about right to practice and other current state issues prior to their Representatives Bureau assignments.

Assistance to BOT members and state society leaders during state society annual conferences

There was a significant number of questions (some of them complicated) from Board of Trustees members attending state society annual conferences as Representatives Bureau representatives. For example, these questions involved: (1) interpretation of state society bylaws and other governance documents; (2) which provisions of the AAMA Bylaws supersede state society bylaws; and (3) correct implementation of parliamentary procedure. Mr. Balasa attempted to answer these questions as quickly as feasible.

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Script for 2019 RB representatives about welcoming all medical assistants

Mr. Balasa and Director of Board Services Langley wrote a script for presentation by Board of Trustees members serving as Representatives Bureau representatives at state society annual conferences. The following is an excerpt from this script:

The American Association of Medical Assistants (AAMA) is the recognized voice of the medical assisting profession and *all* medical assistants. According to the current AAMA Bylaws, all medical assistants are welcome to become members of the American Association of Medical Assistants.

The AAMA also invites all educators and their medical assisting students to join the American Association of Medical Assistants. Medical assisting educators have a huge impact on making sure their students are successful. By becoming AAMA members, and encouraging their students to become members, educators will help students become outstanding medical assistants. (The current Bylaws state that all medical assistant students are eligible to become student members.)

By belonging to the AAMA, you add your voice in support of the medical assisting profession. You strengthen our commitment to protecting the medical assistant's right to practice. You are a part of our ongoing efforts—on the local, state, and national levels—to advance the practice of medical assisting.

Continuing education offerings that are awarded AAMA Continuing Education Units (CEUs) are available to all medical assistants and all professionals in the health and allied health disciplines. Members of the AAMA are given discounts on all AAMA continuing education vehicles.

AAMA CEUs may be used to recertify the CMA (AAMA) credential. Depending on the specific policies of the credentialing bodies, some AAMA CEUs may be used to meet some of the continuing competence requirements for: (1) medical assisting credentials other than the CMA (AAMA); and (2) certification and/or licensing requirements for other health professionals. Individuals should check with the certifying or licensing bodies that issued their credentials.

Students also may wish to obtain AAMA CEU credit to build their professional résumés as they look toward finding employment after graduation. *However, students should be aware that AAMA CEUs obtained before passing the CMA (AAMA) Certification Exam may not be used to recertify the CMA (AAMA).*

Assignment

Mr. Balasa served as Representatives Bureau representative to the Wisconsin Society of Medical Assistants Annual Conference. He presented “The Professional Less-Regulation Movement: An Opportunity or Threat for Medical Assistants?” and provided updates to the attendees about current AAMA initiatives.

Representing the AAMA at the AMA Annual Meeting

Mr. Balasa represented the American Association of Medical Assistants at the Annual Meeting of the American Medical Association June 9 through 12, 2019, in Chicago. He attended the AMA House of Delegates and its reference committee hearings. The AAMA is an Official Observer of the AAMA House of Delegates.

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Presentation for the IPHCA and the American Cancer Society, Inc.—North Central Region

Legal Counsel Balasa presented a webinar entitled “The Role of Medical Assistants in Increasing Colorectal Cancer (CRC) Screening Rates” April 16, 2019, for the Illinois Primary Health Care Association (IPHCA) and the American Cancer Society, Inc.—North Central Region. He received the following feedback from the Program Manager of the IPHCA:

As I mentioned, following your webinar last week on the role of MAs in improving CRC screening rates at health centers, I not only received requests for the slides/recording from participants, but also some great feedback as well. I wanted to know if you or your appropriate staff would at all be interested in submitting an abstract for our organization’s annual leadership conference. The target audience includes FQHC [federally qualified health center] leaders from throughout Illinois. I believe, similar to your webinar presentation, the general topic of the role of medical assistants and their scope of practice under Illinois law would be relevant and helpful to health center staff.

Scope of practice webinar for the AAACN

Legal Counsel Balasa presented a telephone webinar on medical assisting scope of practice under state and federal law for the American Academy of Ambulatory Care Nursing (AAACN) July 9, 2019. Mr. Balasa had presented an earlier version of this webinar to the AAACN in July of 2018.

Legal presentation for the Ohio State Society of Medical Assistants

On July 27, 2019, Mr. Balasa presented a one-hour telephone AAMA CEU session entitled “The Significance of Bylaws” for the Ohio State Society of Medical Assistants for its Summer 2019 Leadership Training Session.

Donald Balasa, JD, MBA