



Considerations When Hiring an Associate Checklist

Employment

- Determine if the associate will be an **employee** or an **independent contractor**. The classification of employees as independent contractor is largely dependent on federal and state tests, not an employer's desire to reduce administrative burdens or payroll costs. Federal and state agencies use somewhat different tests when determining employee status. The IRS uses tests to determine who is an employee and who is an independent contractor. Further, the California Department of Labor (DOL) uses the common law test when determining an employee classification. The **Employment Determination Guide (DE 38)** contains a worksheet of questions that employers can use to determine employment status. Employers should take care to make sure they are not misclassifying employees as independent contractors by considering, as a general rule of thumb:
 - Is the worker employed by an outside agency contracted to perform work?
 - Is the relationship is expected to be long-term?
 - Will the individual be supervised in any way by yourself or a manager?
 - Is the nature of their work associated with the practice's core business?
 - Would the worker pose no profit/loss?

Resources:

[Legal Reference Guide For California Dentists – Chapter 4 Employment Law](#)
[State of California Department of Industrial Relations - Independent contractor versus employee](#)
[State of California - EDD Employment Determination Guide](#)

- Work with an employment attorney to develop a written independent contractor contract or associate agreement. CDA Practice Support can offer a referral.
- Complete all legally required employment forms. *New Employee Orientation and Onboarding Checklist* on cda.org/practicesupport.

Regulatory

- Dental Board.** The associate dentist must report each place of practice within 30 days of commencing practice at the location, dbc.ca.gov/licensees/dds/name_address.shtml.
- National Provider ID.** Ensure the associate dentist has a Type 1 NPI number for use on prescription forms and claims. Application for both types of NPI numbers is found at nppes.cms.hhs.gov/webhelp/nppeshelp/MAIN%20PAGE.html.
- Prescription forms.** Determine if the associate dentist will have his or her own prescription form or if all dentists' names will be on one prescription form. Be aware that when the associate leaves the practice, the associate's name should be marked off the forms or the forms should be destroyed.
- CURES registration.** If the associate dentist has a DEA number, state law requires that he or she register to access CURES, the state's prescription drug monitoring database, oag.ca.gov/cures. CURES 2.0 is a database of patient controlled substance history information and can assist prescribers in identifying situations that may be prescription drug abuse.

- **Local government.** If working as an independent contractor, the associate dentist may be required to obtain a business license. The associate, whether an employee or independent contractor, may be required to pay a professional business tax. Check the website of the respective city finance department for more information.
- **Cal/OSHA regulations.** If the associate dentist is an independent contractor, the employer is not obligated to offer the Hepatitis B vaccination or pay for post-exposure testing.
- **HIPAA.** An independent contractor associate dentist may be considered part of the workforce and must be provided information privacy and security training similar to other employees.

Contracting with dental benefit plans

To avoid problems in obtaining payment from dental benefit plans for treatment rendered by the associate, it is best to contact the plans and ask questions about their respective payment and contracting policies. As a best practice, contact a plan's professional relations and/or contracting department directly as frontline customer service staff are not as familiar with intricate plan contracting policies.

□ **Questions to ask the plan before hiring an associate and signing a contract:**

- If the associate is already contracted with the plan at another location, is the associate's contract portable?
- Will the contract and fees for the associate be the same as the billing dentist/entity? *If the answer to this question is "no," ask:*
 - Will the contract enroll the dentist in more than one network?
 - What is the network(s) size?
 - Ask to see the fee schedule for each network.
 - Does the plan lease/sell/share networks?
 - What is the time frame for contract and credential processing? Some plans can take up to 90 days to contract a provider.
 - Will the associate dentist be considered out of network during the contracting phase? *If the answer to this question is "no," ask:*
 - Will the plan allow direct payment to the billing dentist?
 - Will the patient's benefits be reduced?

□ **Questions to ask the plan if the associate dentist will be out of network:**

- Does the plan accept assignment of benefits and direct pay to the billing dentist? Some plans do not, even if you have assignment of benefit authorization or the billing dentist is in contract with the plan.
- Will the patient's benefits be decreased?
- Ask how out-of-network fees are calculated. Remember, if the dentist is out of network plans do not have a contracted fee agreement and may pay at the plan's fee schedule not from the out-of-network submitted, usual customary fee on the claim.