ARS

- Where do you practice the majority of the time?
  - Clinic
  - Hospital
  - Home Care
  - Other

ARS

- Are you licensed to prescribe Schedule II drugs in your State?
  - Yes
  - No

General Areas of Liability

<table>
<thead>
<tr>
<th></th>
<th>To whom is healthcare provider responsible?</th>
<th>Is patient injury necessary?</th>
<th>Result if Plaintiff/State is successful</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malpractice or Negligence</td>
<td>Patient</td>
<td>Yes</td>
<td>Money</td>
</tr>
<tr>
<td>Administrative/ Licensure</td>
<td>Department of Health</td>
<td>No</td>
<td>Probation, loss of license, fines</td>
</tr>
<tr>
<td>Criminal</td>
<td>State or Federal</td>
<td>No</td>
<td>Jail and/or Fine</td>
</tr>
</tbody>
</table>

Reference for slide
MALPRACTICE AND NEGLIGENCE

ARS

• Have you, or someone you know, ever been named as a defendant in a malpractice action?
  – Yes
  – No

ARS

• Have you, or someone you know, ever been deposed as part of a malpractice action against the healthcare employer?
  – Yes
  – No
ARS

• Is “Standard of Practice” a legal term or a medical term?
  – Legal
  – Medical

ARS

• Is “Standard of Care” a legal term or a medical term?
  – Legal
  – Medical

Definitions

• Standard of Practice
• Standard of Care
• Negligence
• Malpractice
Elements of a Malpractice Suit

- Duty
- Breach
- Damage
- Causation

“Standard of Practice”

- Current practice
- Continuing education
- Textbooks
- Journals
- Research studies

“Standard of Practice”

- Agency policies and procedures
- State/Federal Regulations
- State/Federal Laws
- Standards of Professional Organizations
“Standard of Care”

The degree of skill, care and learning expected of a reasonably prudent [advanced practice nurse] at that time, in the [state, nation, community], acting in the same or similar circumstances.

Prevention

- Be current
- Be timely
- Apply new knowledge
- Monitor your patients
- Communicate
- Practice within your licensure

Prevention

- Maintain current, realistic policies and procedures
- Timely address practice issues
- Admit mistakes
- Apologize
- Maintain good rapport with patients and families
Documentation

- Accurate templates
- Objective description
- Subjective information
- Information and data from other sources

Documentation Pitfalls

- Multiple late entries
- "Copy and paste" templates
- Lack of entries
- Entries or access when not contemporaneously caring for the patient

"Red flag" language
- Avoid criticizing other providers within the medical record
- Avoid any reference to incident reports, investigations, or quality reviews in the medical record
- Avoid documenting hearsay
ADMINISTRATIVE AND LICENSURE ISSUES

ARS

- Have you, or someone you know, been investigated by your State Department of Health, Nursing Commission, or Federal Agency?
  - Yes
  - No

Licensing Actions

- Care below the standard
- Care beyond scope of practice
- Drug diversion or abuse
- Patient abuse or sexual contact
- Found negligent in a malpractice action
- Violation of laws or regulations
Administrative Process

- Investigation
- Dismissal or Charges
- Discovery
- Optional Settlement
- Hearing
- Appeal

Rights

- Right to Counsel
- Right to Hearing
- Right to an Appeal

CRIMINAL
ARS

- Have you, or someone you know, ever been charged with a crime related to professional licensure?
  - Yes
  - No

Violations of State or Federal Laws

- Practice of Medicine
- Prescriptions
- Billing
- Medical Records

Rights

- Fourth Amendment
- Fifth Amendment
- Eighth Amendment
“Don’t do the crime, if you can’t do the time.”

Just don’t do the crime!

**Impact on Licensure**

- Probation
- Monetary Fines
- Revocation of DEA number
- Temporary Revocation of License
- Permanent Revocation of License

- All States and the Federal Government monitor licensing actions

**SUMMARY**