AGENDA

- New approach to Pain Tx – Why?
- Nevada SB 459 – the “Good Samaritan Drug Overdose Act”
- Nevada AB 474
- Risks, Liabilities, and Reducing Risk

HISTORY - CONT.

- 1998 – Federation of State Medical Boards releases recommendation that Boards not pursue doctors who prescribe even large amounts of narcotics
- 2001 - JCAHO issues new standard telling hospitals to regularly ask patients about pain, and make it a priority! JCAHO publishes Guide (sponsored in part by Purdue Pharma) suggesting that doctors have inaccurate & exaggerated concerns about addiction risks.
- 2001 – Dr. Chin loses elder abuse lawsuit in Alameda County, CA based on jury finding that he was recklessly negligent in failure to adequately treat his patient’s pain ($1.5M - no MICRA) (defendant hospital settled out before trial)

HISTORY – CONT.

- 2004 – Federation of State Medical Boards calls on members to make undertreatment of pain punishable by licensing Board (recipient of nearly $2M in funding from opioid Rx makers)
- 2007 – Purdue Pharma and 3 of its executives plead guilty to “misbranding” of oxycontin as less addictive and less subject to abuse than other pain meds (they pay $635M fine)
- 2012 – 259M prescriptions for Opioids reach heights never before seen, $9B/year industry;

HISTORY - CONT.

- 2013 – Opioid overdose deaths surpass car accidents as leading cause of accidental death (4 x increase from 1999)
- May 5, 2015 – Gov. Sandoval signs SB 459, the Good Samaritan Drug Overdose Act into law
  - Allows use of naloxone by first responders, friends and relatives
  - Immunity for those who ask for the emergency life-saving drug, and protection for those who call for help
  - Dispensed drugs must be reported within 24 hours
  - Requires training for prescribers pursuant to NRS 453.231 (2 hours every year)

BUT FIRST, A LITTLE HISTORY . . .

- Where are we and how’d we get here?
- 1986 - Dr. Portenoy writes paper arguing that opioids aren’t just for cancer
- 1996 – Purdue Pharma releases Oxycontin (“no risk of addiction”)
- Late 1990’s – American Pain Foundation urges physicians to tackle the epidemic of “untreated pain” (and tells them the risk of addiction is < 1%)
SB 459

Before prescribing II, III, or IV controlled substance, prescriber must obtain a PUR (patient utilization report) on patient if:
- patient is new to practitioner, or
- RX is for more than 7 days and is part of a new course of tx for an existing patient
- provider can permit someone else check on behalf of physician in ED setting
- does not prohibit prescribing, just requires that it be done with information at hand.

RECENT HISTORY: NEW STANDARD OF CARE
AMA-JUNE 2016 – DROPS “PAIN” AS A VITAL SIGN

- AMA Delegate in Support of Change - “Just as we now know the earth is not flat, we know that pain is not a vital sign.”
- AMA President – “(physicians) played a key role in starting the so-called opioid epidemic by overprescribing pain medication. … We have taken ownership of that, and physicians have taken ownership of being part of the solution.”
- Opposing Physician - “I am astounded that physicians don’t believe we should assess pain on a regular and ongoing basis.”
- Ex. Dir. Academy of Integrative Pain Management – “Not asking about pain does not make pain go away and it does not relieve healthcare providers of their moral and ethical obligation to treat pain effectively.”

AB 474 NEW STANDARDS FOR NEVADA

- Changes to NRS 639
- Before prescribing Schedule II, III, IV medication for pain:
  - Bona fide relationship
  - Diagnosis and Treatment Plan
  - PDMP Checking for ALL prescribing
  - Rationale
  - Evaluation and risk assessment
  - Informed consent

- > 30 days
  - medication agreement

- > 90 days
  - new PDMP check and see patient
  - assessment of risk for abuse,
  - review of treatment plan,
  - evidenced-based diagnosis of underlying condition,
  - consideration of referral to specialist

RISKS

- Accidental Overdose – person loses track of how many meds they have taken, or is unaware of danger
- Intentional Overdose – patient still in pain, takes more than prescribed dose, unaware or ignoring risk
- Drug Interactions – doctor unaware that new medication has been prescribed, or patient takes old medication
- Side Effects - some serious, some permanent

- Harm to unborn child - if pregnant mom gets Rx, especially if she doesn’t understand the risk
- Accidents - while operating vehicles or machinery
- Death or serious injury to patient – lawsuit by family members
- Death or serious injury to third party injured by impaired patient
LIABILITIES

- If there is death or serious harm, the patient, decedent’s estate, or third party allegedly hurt because patient was using a Schedule II, III, or IV drug...
  - Their attorney will get copy of patient’s record
  - If prescriber didn’t follow the law, there will be a lawsuit
    - Difficult to defend (common law concept of “negligence per se”)
    - Even if you followed the law, can you prove it?

LIABILITIES –CONT.

- Even if prescriber followed the law, there is a lot of room for their expert to criticize decisions and demonstrate failure to meet “standard of care”
- Can you demonstrate reasonableness of your decisions?

REDUCING RISK

THREE WAYS TO GREATLY REDUCE RISK:

1. Document – everything required by law:
   - *Informed consent
   - *PUR/PDMP review
   - *Medication agreement
   - *Assessment

REDUCING RISK –CONT.

2. Document – reasons for things you chose to do:
   - is patient improving with your treatment plan?
   - If not, why not? and what is your plan now?
   - If patient is getting worse, stop!
   - Make sure your charting tells the story (for continuity of care, quality of care, patient safety... and for the jury!)

REDUCING RISK –CONT.

3. Document – reasons for decisions NOT to do things:
   - if a reasonable physician would run a lab test, get an MRI, or take a more conservative approach, WHY did you choose to skip that step?
   - If PDMP not accessible SAY SO

ADDITIONAL MATERIALS

- AB 474
- Prescribing Protocols Table
- Prescribing in Nevada – Summary of Laws
- Documentation Recommendations
- Prescribing in Nevada White Paper
- Risk Assessment Tools
- CAGE-AID Assessment Tool (Alcohol)
- Opioid Risk Tool
- PHQ-9 (Adults & Adolescents) (Mental Health)
- Informed Consent - Sample
- Pain Contract - Sample
QUESTIONS!