

# LIABILITY ISSUES FOR ADVANCED PRACTICE CLINICIANS AND THOSE THAT SUPERVISE THEM

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## LEARNING GOALS

To understand Nebraska law governing liability  
pertaining to the care and treatment provided by  
advanced practice clinicians

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“What you don’t  
know can hurt  
you”

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## OVERVIEW

- Differences between APRNs and PAs
  - Licensing requirements
  - Scope of practice
- Liability issues under NE law
- Examples
- How we can help

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## Advanced Practice Clinicians: APRNs and PAs

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## WHAT'S THE DIFFERENCE?

- PA: work with physicians to diagnose and treat patients
  - Approved PA program and examination
  - Complete continuing medical education
- APRN: general designation for registered nurses who have passed certain post-RN requirements
  - Hold RN license
  - Graduate-level nursing education program in a clinical specialty area
  - Certified in a specialty (NP, CNS, CRNA, CNM)

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## APRN CATEGORIES

- Nurse Practitioner
  - Clinical Nurse Specialist
  - Certified Registered Nurse Anesthetist
  - Certified Nurse Midwife
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- Similarities: education and licensure requirements
  - Differences: specialty areas and practice

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## Permitted Scope of Practice

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## APRN: NURSE PRACTITIONERS

- Full practice authority and **independence**
- Practice without physician supervision after completing **experience** requirements
  - 2000 hours
  - Transition-to-practice agreement with supervising provider

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## APRN: OTHER

- CNS, CRNA, and CNM have a more limited scope of practice than NP that requires physician supervision
  - CNS: full practice but not independent
  - CRNA: subject to hospital narrowing scope and not independent
  - CNM: supervised with written practice agreement

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## PHYSICIAN ASSISTANT

- Not independent
- PA must have a supervising physician
  - Supervising physician:
    - Licensed with no restrictions
    - Written agreement with PA
  - Supervision:
    - Must be continuous
    - Physical presence not necessary

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## May I See the Doctor?

Statistics - Source: Willson, Fernando et al. UNMC Ctr. for Health Policy, College of Public Health in Collab. with The Nebraska Area Health Edu. Ctr. Program (AHEC), Feb. 2018

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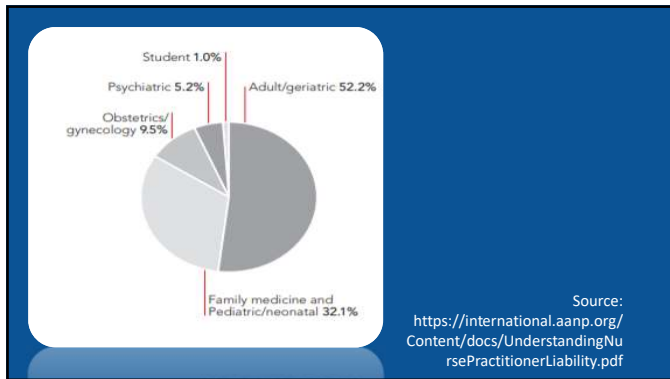
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## May I Sue the Doctor?

### Common Law Concepts: The Basics

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### MAY I SUE THE DOCTOR?

#### COMMON LAW LIABILITY ISSUES: PAs

- Vicarious liability
  - *Respondeat superior*
- Agency law
  - Apparent agency
- Supervising physician liability

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## MAY I SUE THE DOCTOR?

### STATUTORY LIABILITY ISSUES: PAs

- PAs are agents of their supervising physicians
- Supervising physician requirements
  - Written agreement
    - Defines the scope of practice
    - Supervising physician will retain responsibility
  - Continuous
- Physicians shall be liable

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## MAY I SUE THE DOCTOR?

### COMMON LAW LIABILITY ISSUES: APRNs

- Vicarious liability
  - *Respondeat superior*
- Agency law
  - Apparent agency
- Supervising physician liability
- Contrast NP (independent) with CNM (limited)

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## MAY I SUE THE DOCTOR?

### STATUTORY LIABILITY ISSUES: APRNs

- No agency or liability statutes like PAs
- Common law liability governs
  - Example: independent nurse practitioners vs. transition-to-practice nurse practitioners vs. certified nurse midwives

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## How does this factor into defending my lawsuit?

Can a physician opine on standard of care?

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## Pitfalls & Issues

Sample Scenarios

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### POINTERS



Policies



Supervising Agreements



Other? (ED, *locum tenens*)

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QUESTIONS?

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