



SMALL PATIENTS, BIG RECORDS: DOCUMENTING CARE FOR KIDS

Mike Whitmer:

Imagine this, you're talking to a new patient about a treatment plan and they spit on you, or they scream and crawl under a table. Yep, today we're talking about kids. Kids are complicated, not just raising them, but treating them. There are so many details to consider that aren't relevant with adult patients. Depending on the child's age, you may need to communicate with their surrogate. There could be custody issues you need to take into consideration. And how long do you need to retain the records? To get answers to these questions and more, we've invited Dr. Jenny Brocker to talk with us on this episode of chiropractic. Dr. Brocker uses her experience as a mother and her knowledge as a chiropractor to help make pregnancy a time of joy and celebration leading to a positive birth experience. With three kids of her own, dr. Jenny finds so much delight in working with children. You can find her complete bio in the show notes.

Dr. Brocker, thank you for joining us.

Dr. Jenny Brocker:

Yeah, it's so great to be here. Thank you for having me.

Mike Whitmer:

Let's start with the very big picture. We're talking about documentation as it relates to pediatric patients. Why are good records important for your pediatric patients?

Dr. Jenny Brocker:

The biggest thing is there's two aspects to that, and the first one is legality, and that is true for all documentation for everyone, but there's particular importance with pediatrics because sometimes, most of the time in fact, you are not speaking directly to your patient, and so you're getting a report from somebody that's other than your patient, a parent, a guardian, an aunt, a grandma, somebody else who is reporting on your patient. So it's especially important to have all of the information that they give you written down, and then also anything that you communicate to them written down because parents a lot of times are going to remember things in pieces and differently, and so it's really important legally that you have it written down somewhere.

And then the other big aspect of that is safety. We want to make sure that anytime that I'm treating a patient that not only the next time I see them do I know what I did and what I can and can't do with that patient, but also in the event that another provider is seeing one of your patients. It's really important to have that documentation so that they know what to do in the case of treating your patient, whether it's a coverage doc or somebody else in your practice that's coming in to treat your patients, particularly if there's anything that you shouldn't do. If they have any contraindication to a specific type of adjustment or to an area of care, it's really important that additional provider knows what that is and can also provide safe care for your patients.

Mike Whitmer:

I'm really glad you said that. I talk to doctors all the time and talk about documentation, and I always say, "Yes, this is in your best interest because it protects you in the event of a malpractice allegation," but documentation also protects the patient because of all those things that you just said, and I think that is even more important with pediatric patients. So thank you for that.



Let's talk a little bit about informed consent because that process is a little bit different as well. So how is that process different with pediatric patients than your adult patients?

Dr. Jenny Brocker:

Well, it depends a lot on who you're speaking with and what the age of your patient is, right? So we just talked about how one of the really unique aspects of treating pediatric patients is that a lot of times you are not speaking directly to the person that you're in providing care for, and sometimes you are. If you have an older child who can understand you, it's important to get there, explain to them what you're doing, why you're doing it, and get their feedback and their consent to continue. But when you're treating an infant, for example, you don't have the ability to say to them, "This is what I'm going to do, is that okay?" And so you really have to be very clear in your communication to the person who's bringing them in, whether that be their parent or their guardian, or in some cases we'll have an aunt or an uncle who's bringing them in.

And it's always important to make sure that you not only get that first day informed consent before you treat them the first time, but also every time that you're treating them, just letting the parents know, this is what I'm going to do, this is why I'm doing it, making sure that they're okay with that as you go along because sometimes your treatment's going to look a little bit different. Sometimes you've got mom who's brought them in for five visits and now all of a sudden dad's sitting in your office and has no idea what you're doing. And so it's really important to make sure that everybody's on the same page all the time and making sure that they're comfortable with what you're doing because ultimately it's your responsibility to make sure that parent or guardian is on board with your treatment in that moment.

Mike Whitmer:

Thank you. I know a lot of doctors are interested in working with pediatric populations, and one of the areas where doctors have a lot of interest in getting started with it is participation physicals for school sports, student athletes. What are the risks here? How do we do these right, and what's the documentation that's needed to protect the doctors and the student athletes?

Dr. Jenny Brocker:

Yeah, that's a tricky question because there's two ways to approach that. First of all, you have to know your state laws, whether or not you are cleared to do sports physicals for pediatric patients. It'll depend on your state. In the state of Oregon where I live, I am cleared to do sports physicals, so that's nice. I can do that for my patients. So ultimately, you want to make sure that whatever form that the school requires that you have filled out and that you also keep a record of that in your patient's chart.

If it's an existing patient, it's really easy because you can document your visit both in your chart note and on the form and have everything saved in one place. If it's not an existing patient, it's a little bit more challenging because you either need to create a whole new patient visit for that person, which is what I would recommend. That's what I would do. It's the most secure way of ensuring that you've documented a full history and that you've not only done their sports physical exam, but you've also done your full regular physical exam for them. But you could, depending on the situation, do just the sports physical and have that paperwork, but you still need to make sure that it's saved somewhere in that patient's chart in your office, wherever, so that you have access to it and that if there is something that comes back, you have the documentation to be able to say, "No, I did that and this is what it showed."



Mike Whitmer:

Sure. So how long do we need to hang onto the records for pediatric patients? What are the record retention rules here? And I would imagine they vary by state.

Dr. Jenny Brocker:

Yeah, they do a little bit. The best rule of thumb, honestly, is to save pediatric patient records until they're no longer pediatric, until they're 18 and beyond that age group. And then it becomes a little bit tricky too because as patients approach that age, so if we have, say, a teenager who's 15 and they turn 18, that would be the age of adulthood with keeping records, but adult record keeping needs to be for seven years. So depending on how old they are when you last treated them, is which rule do you follow.

If I have a patient who I treated when they were two years old and I haven't seen them since and now they're 18, I can dispose of those records in a safe manner, make sure they're shredded by a reputable company, that kind of stuff. If they're electronic, depending on where they're saved, again, that changes things a little bit, but make sure that if you are destroying any hardware that it is wiped and destroyed so that there's no way that can come back to you. But if they are an older patient who you're seeing and you haven't seen them maybe for three or four years, it's still important to save those records for seven years once that's the total. So if they're 15 and they turn 18 and you still haven't seen them save them for another four years, just in case.

The biggest thing about pediatric documentation, I think that is easy to forget is that what you're documenting is different. And so what I would say is just make sure that if you have an electronic record system and you have it built for adults, that's not an easy tailoring to pediatrics. It is nice to have something that is more pediatric specific because the questions that you ask and your history are different. The way that you're going to document a physical exam is really different depending on the age of the child. Your assessment and adjustments can be really similar. Our documentation for that between our adult doctors and our pediatric doctors is pretty similar, but the other aspects of documentation are pretty different. So just being aware of what you need to document when you're working with pediatric patients and that it is really different depending on the age of the child that you're treating.

Mike Whitmer:

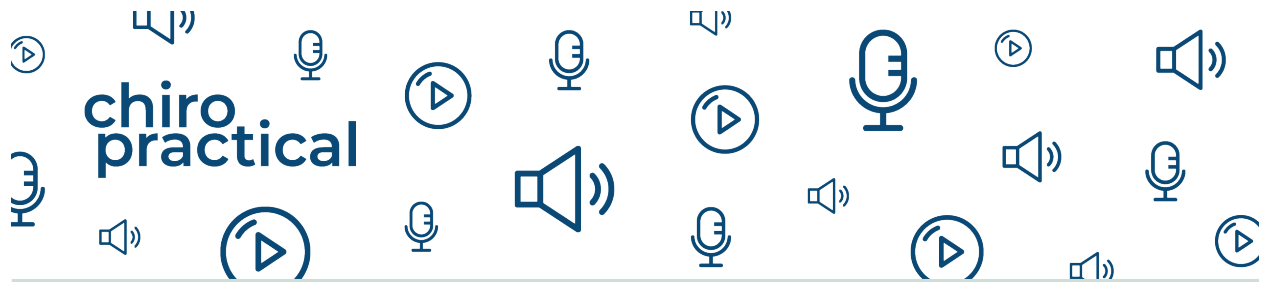
Sure. One other question, do pediatric patients have a right to receive their records? If a 16-year old who has treated with you in the past walks into your office and requests your records, do they have a right to receive those?

Dr. Jenny Brocker:

Yeah. It depends a little bit. Again, on the state, the age of medical independence is different state to state. I believe in the state of Oregon it's 15, and so if a 15-year-old came in and said, "I would like to see my records," they would need to sign a records release, but in that case, they would not necessarily need their parents' permission to have that depending on the state. So it's really important to know your state laws around that. Depending on the state, it may be different. If I have a 10-year old who needs a records release, their parent needs to sign that, but if I have an older child who would be considered medically independent, then I can have them sign their records release.

Mike Whitmer:

With your pediatric patients, what if there are custody issues between the parents possibly disagreement on care? How do you handle those issues?



Dr. Jenny Brocker:

Yeah, that actually does come up. It's happened a few times to me and what's, again, really important to know, here are your state laws about who has medical decision-making. So when they have custody agreements, there's usually a part of that that has who's in charge of medical decisions. If they don't have that, there are some states where it defaults to the mother, and that's the case in the state of Oregon. If it's not documented in their custody agreement, it defaults to the mother as the parent who makes medical decisions. And so as long as you have...

Ideally, we always want to have both parents in a custody situation giving their consent. If that's not possible or if the parents disagree, we are allowed to take the informed consent of the medical decision-making parent, and then it's also really important to document that's who's providing the informed consent. So we have a little note that puts on the bottom of that where we have the mother sign that they are allowed to make medical decisions for their child and that this is the decision that they're making. We always encourage those parents to get on the same page, and ideally, we do want them to both agree whether they're together or not in the same household, but in those rare cases, you can have the medical decision-making parent provide informed consent, and that does provide you with legal protection if in the event the other parent comes after you for whatever reason, as long as you've had that signed.

Mike Whitmer:

Quick follow-up question, do doctors need to have a copy of the custody agreement or documentation on the medical decision-making, or is it good enough to have the parent sign a form saying, yes, I have the medical decision-making authority?

Dr. Jenny Brocker:

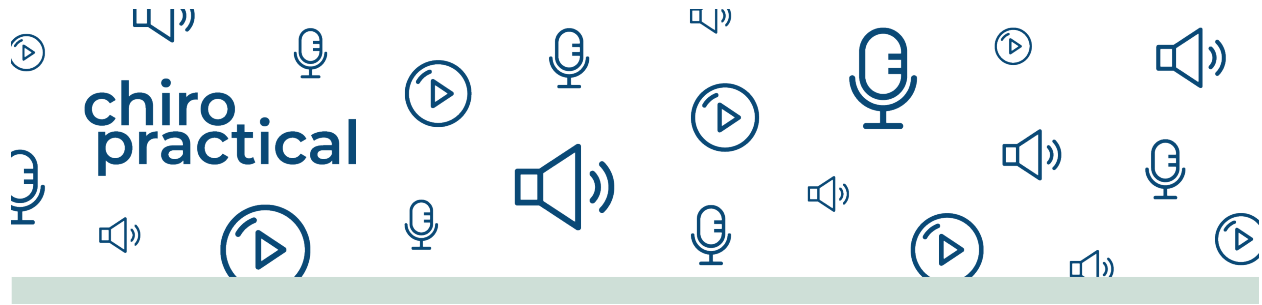
From everything we've learned so far in pediatric practice, it is enough for us to have the signature of the medical decision-making parent provided on our informed consent form. So we just have an additional little line paragraph at the bottom that says, "In the event of a custody situation, I have legal decision-making for this child," and it's signed and dated by them. And so if we have any issues, that is our legal protection. So we don't need to have a custody agreement. If that medical decision-making parent doesn't tell the truth, then that's on them.

Mike Whitmer:

Dr. Brocker, any advice for doctors that are treating pediatric patients or maybe if they're in a situation they don't know quite how to handle from a risk perspective?

Dr. Jenny Brocker:

The best thing is always, when in doubt about a situation, contact your malpractice insurance company. They're going to have people who can answer those types of questions from a protective standpoint for you, and then you know how to proceed. That's really always the best thing to do in any situation where you feel unsure about how to proceed with either legality or documentation or something from that perspective. It's always a good idea to just check in with your malpractice insurance company and make sure that you're doing what they're recommending, because ultimately, if that comes back, they're going to be the ones who are going to be supporting you through that.



Mike Whitmer:

Thank you. I couldn't agree with you more. I always tell doctors, "Call us early and often." We would rather talk to a doctor at the beginning of a situation than down the road when the situation has become worse. So great advice. Thank you very much for joining us.

Dr. Jenny Brocker:

Absolutely. Happy to.

Mike Whitmer:

In our Ask NCMIC segment, Dr. Carmen Milky wonders if there are rules around having security cameras in the office. We've asked Shanna Patrick from our claims department to tackle this issue for us. Shanna?

Shanna Patrick:

Yeah, thanks, Mike. In this day and age, there is a lot of desire to record your business premises just to make sure it's properly secured, but another really popular reason why people want to start doing this is to protect themselves against any false accusations.

Mike Whitmer:

Shanna, it's just fascinating how technology has become so integral to our security measures.

Shanna Patrick:

There's several considerations when you're going to be recording in your office, and the first one is HIPAA, and that's going to be the main consideration. Filming patients who are undergoing treatment can be a HIPAA violation. If you are going to be filming patient treatment areas, you do need to get each individual patient's express written consent to do so, and also have a private treatment area for the patients that don't consent to being filmed.

Mike Whitmer:

Respecting patients' privacy is vital, especially in sensitive areas like treatment rooms.

Shanna Patrick:

Even filming in the general areas such as the waiting room or the hallways, you still should post a sign letting patients know that they are under surveillance.

Mike Whitmer:

Yeah, posting signs is a great way to ensure transparency and keep everyone informed.

Shanna Patrick:

Another problematic aspect about filming is there are limitations on videos. There's blind spots, videos don't save indefinitely sometimes. If a patient was filmed during treatment or even in the waiting room and two years later they decide to sue you over a malpractice allegation, but your video didn't save, you could be accused of destroying the evidence. So that's another thing to be conscious about, is how long your videos are going to be saved and could they potentially be used against you somehow.



Mike Whitmer:

Absolutely. Balancing video retention with legal considerations is a vital aspect of managing this technology in a healthcare setting.

Shanna Patrick:

There's another legal issue that could arise is if any legal authority needs a copy of your video from your inside your office, technically you can't release any videos of patients in your office because that, again, is a HIPAA violation. So if that happens, you might want to call NCMIC for some guidance.

Mike Whitmer:

Shanna, thank you so much.

Shanna Patrick:

You're welcome, Mike. Happy to help.

Mike Whitmer:

That wraps up another episode of Chiropractical. If you found this information useful, we'd love it if you give us a rating wherever you listen to podcasts. That'll help others find us too. Thanks for joining us and talk soon.