

# Risk Matters: They are NOT Just "Little Adults"



**By Jeffrey A. Woods, JD**

Medical care and treatment of children (“minors”) present unique challenges not typically found in the provision of medical services to adults. These challenges can often be a source of medical malpractice risk and, should a malpractice lawsuit be filed, juries tend to view injuries (especially catastrophic ones) to children more sympathetically than they would similar injuries to adults. Therefore, it is important that every practitioner who provides care to children implement risk management strategies for their practice.

Some factors that can make risk management more challenging in pediatric settings:

- Relative rarity of many pediatric illnesses.
- Premature and neonate patients are highly vulnerable to risks of infection, respiratory complications, and issues with feeding and temperature regulation.
- Limited capacity for communication and cooperation in young children.
- High levels of dependency on others (e.g., parental/caretaker observation and assessment of problem).
- Pediatrics covers many stages of development from newborn to adult.
- Changes in patients can make diagnosis difficult (e.g., weight, height, physiologic

- and developmental maturation).
- Frequency of childhood diseases and injuries (whose presentation can also be misleading and a source of misdiagnosis).
  - Medication errors due to weight-based miscalculation of dosages.
  - Cultural, political, religious, and societal beliefs as well as misinformation relating to vaccines, therapies and treatments.
  - Language and literacy barriers.
  - Disputes as to which parent or guardian has medical decision-making authority.
  - Constantly changing laws and regulations relating to whether a minor patient can provide medical consent or whether it remains solely with the parent/guardian.
  - High-volume specialty (many patients, many visits, many telephone calls, and the addition of telehealth care).

Risk management strategies a practice might consider include:

- **Education and Training:** Ensure that every member of the care team receives frequent and ongoing education and training specific to pediatrics including care standards, safety protocols, legal requirements, and risk management practices.
- **Pediatric-Specific Guidelines:** Implement clinical guidelines specifically designed for pediatric patients to ensure appropriate care.
- **Develop Risk Reduction Strategies Specific to the Practice:** Evaluate past adverse events including “near misses” and specific areas to determine where risk can be mitigated. Develop risk reduction strategies specific to the practice and document those strategies in written policies where appropriate.
- **Communication:** Develop a rapport with patients and families by demonstrating empathy and effectively communicating with them. Communication includes education, active listening by the provider, and removing any barriers that exist including those relating to language and literacy. Be understanding of another person’s beliefs but explain in a non-judgmental manner the benefits of the recommended care to the patient/parents. Develop a mutually agreed upon plan of care. If unable to achieve an agreed upon plan, and the refusal to follow your recommendation is likely to result in significant harm to the patient, consider involving the facility ethics committee, an SVMIC Claims Attorney or (in extreme cases) the Department of Children’s Services. Review patient/family complaints to detect ways to improve communication.
- **Documentation:** Timely and thoroughly document all encounters with patients and family members including who were present. Document all after-hours telephone calls as well as any informed consent discussions in detail.

For further guidance please review the American Academy of Pediatrics Practice Management article, *Protecting the Practice from Medical Liability*, April 4, 2024, or contact an SVMIC Claims Attorney at 800-342-2239 or [ContactSVMIC@svmic.com](mailto:ContactSVMIC@svmic.com).

---

*The contents of The Sentinel are intended for educational/informational purposes only and do not constitute legal advice. Policyholders are urged to consult with their personal attorney for legal advice, as specific legal requirements may vary from state to state and/or*

---

*change over time.*