BRIEF CASE

SUMMARY: A 40-year-old female, who was a long-time patient of the insured, alleged that she suffered a left vertebral artery dissection during a seated rotational high velocity neck manipulation. The patient suffered a left cerebellar stroke two days later while undergoing the same procedure in the insured's office and was taken to the emergency room via ambulance.

The Patient and Condition

Patient had been undergoing chiropractic treatment with insured for six years at the time of the incident. Patient was actively taking Adderall for ADHD and had a long history of chronic cervical, thoracic, lumbar, and hip pain, as well as migraines and spina bifida occulta. Patient was very flexible, double jointed, and had a history of Raynaud's disease.

The Treatment

At one particular appointment, the insured performed a seated rotational high velocity neck manipulation and then performed the same procedure at the patient's subsequent visit two days later, despite the patient's complaints of neurological symptoms after the original treatment.

The Injury

The patient alleged to have suffered from a vertebral artery dissection at the first appointment in question. Then, during the subsequent visit to the insured's office for the second seated rotational high velocity neck manipulation procedure, the patient suffered a left cerebellar stroke, which occurred at the insured's office.

The Allegations

The allegations against the insured included:

- Failure to do an adequate work-up.
- The first time the insured had performed a seated rotational high velocity neck manipulation on patient was during the original appointment in question.
- The patient advised the insured of her neurological symptoms after the original treatment, but the insured still performed treatment.
- The insured performed the seated rotational high velocity neck manipulation again during the subsequent visit, causing the patient to suffer a left cerebellar stroke.

The Defense

The patient's medical records were obtained and reviewed by numerous experts, including a chiropractor, neurologist, neurosurgeon, neuroradiology specialist, neuropsychologist, vascular surgeon, and vocational rehab/life care planner. The insured in this case couldn't locate any informed consent documents signed by the patient. With no documentation of the patient's consent, this case was indefensible. Additionally, the patient's attorney had a video showing advertisements from the insured's website and social media page which made the insured look unprofessional and less credible.

The Outcome

The case was settled prior to trial.

Risk Management Tips

- **Regularly take the patient's medical history, even if you have been treating them for a long time.** Regular medical history updates should be completed by the patient and reviewed by the insured.

- **Always document informed consent with all your patients.** Informed consent forms should be completed with all patients and regularly updated. Always discuss the risks of treatment with the patient and document your discussions, especially when there is a change in the treatment plan.

- **Document all details of the treatment and how the patient is tolerating the treatment.** The type of manipulation, the area manipulated, and how the patient tolerated treatment should all be documented. In this situation, the insured stated that he had performed the same rotational high velocity neck manipulation on the patient several times, but all his treatment notes simply stated he performed a chiropractic manipulation. All of the insured's notes said that the patient tolerated treatment well. After more than six years of treatment with this patient, there should have been more documentation that included more details.

- **Be cautious when posting to a website or social media and if you use an outside company to market on your behalf, make sure to review content carefully.** There is always a risk when posting anything on a public website or social media page. If a patient is looking to file a malpractice lawsuit, ads and posts can be taken out of context and used against you. Not only that, but if the case goes to trial, these could negatively influence the jury. In this case, a third-party company was handling the insured's marketing, so if you outsource this aspect of your practice, make sure to carefully review what they post on your behalf.

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