Closed Claim Study

Patient Mix-up in the Laser Suite

By Ryan Bucsi, OMIC Senior Claims Associate, and Anne M. Menke, RN, PhD, OMIC Risk Manager

Allegation

Incorrect LASIK procedure performed on the wrong patient.

Disposition

Case settled on behalf of the ophthalmologist and surgery center.

Case Summary

A 44-year-old male truck driver presented at a local eye surgery center for bilateral LASIK correction of hyperopia. He was scheduled to have the second procedure of the day. When the first patient canceled, the truck driver was moved into the first time slot. In the laser suite, staff members addressed him, reportedly more than once, as the patient who had canceled; he did not correct them. He was already positioned for surgery when the insured ophthalmologist entered and was handed the first patient's medical record, which he used to verify the laser settings.

The next day following surgery, the patient reported significant visual difficulties, which examination revealed were due to high hyperopia and astigmatism. The ophthalmologist realized what had happened, informed the patient of the error, and explained that retreatment alone could not correct the problem. After unsuccessful trials of contact lens and glasses, the patient elected to have clear lens extraction with toric intraocular lens insertion, followed by bilateral LASIK retreatment for residual refractive error, all performed free of charge. The patient's corrected visual acuity the day after retreatment was 20/20 OU. He did not return for additional follow-up.

An Independent Medical Evaluation (IME) was obtained to evaluate complaints of severe sensitivity to bright light, glare, difficulty focusing, and headaches. UCVA was 20/60 OD, 20/40 OS; pinhole 20/50, 20/30; with refraction, 20/70, 20/60; hard contact lens over refraction, 20/80, 20/100; and near vision 20/25 -2 OU. It was the IME physician's opinion that the patient could read and see better than the measured UCVA or BSCVA.

Analysis

The surgery center did not have adequate systems in place to prevent this communication breakdown and error. The person who took the cancellation message claimed to have told the technician, but the chart and laser cards for the first patient were not removed from the suite. The facility did not give patients name tags or name bracelets, and this patient was apparently too anxious to notice that he was being addressed incorrectly. Plaintiffs have an easy time winning these cases since wrong patient, wrong procedure, and wrong site outcomes are generally considered to be the result of negligence; claims resolution thus focuses on the amount of damages to be awarded. As in this case, the facility and the surgeon are usually named as codefendants and each contributes to the settlement. Although the insured did not own the surgery center or employ the staff there, he was determined to have the primary responsibility for preventing the error and compensating the plaintiff.

Risk Management Principles

Excellent protocols exist for preventing errors of this type. The American Society of Ophthalmic Registered Nurses, in cooperation with the American Academy of Ophthalmology, produced *Patient Safety Bulletin Number 1: Eliminating Wrong Site Surgery* in 2001 (available at www.asorn.org). In July 2003, the Joint Commission on Accreditation of Healthcare Organizations released its *Universal Protocol for Preventing Wrong Site, Wrong Procedure, Wrong Person Surgery* (available at www.jcaho.org). Recommendations include a preoperative verification process, marking the operative site, and a "time out" immediately before starting the procedure. The "time out" involves the patient and the entire surgical team; a checklist is used to verify the identity of the patient, the correct site and side, the procedure, the patient's position, laser settings, and any implants or special equipment.

A second issue raised by this case is the judiciousness of bilateral simultaneous procedures. Advantages to the patient include decreased cost and time off work and increased convenience. However, surgery performed on different days prevents the occurrence of sight-threatening complications in both eyes at the same time and may promote greater accuracy through modification of the treatment plan for the second eye. Further, the patient retains visual function in the unoperated eye while the first eye heals.