Informed consent may satisfy patient even after bad outcome

Informed consent is the best way to prepare – and perhaps even to satisfy – a patient with a bad outcome.

Why? Because an informed consent is the only way to prepare a patient for what you cannot control.

Refractive surgeons cannot prevent every bad outcome. But every surgeon can warn every patient about the risk of a bad outcome.

When refractive surgeons think about informed consent, they may focus on a consent form – a single piece of paper that they and their patients sign before an operation. But informed consent is so much more than a piece of paper or even a single event. Instead, surgeons should think of informed consent as a process that underlies the entire surgeon-patient relationship.

Informed consent is a process that can begin before the patient ever sets foot in the refractive surgeon’s clinic and that can extend beyond the last follow-up visit. So what is informed consent all about?

Informed consent is about:

- Understanding your patient;
- Understanding your practice;
- Understanding your role.

To understand your patient, you must assess the patient’s competence. Usually, lawyers and physicians think of competence in terms of the age of the patient and the mental capacity of the patient. That is the easy part of competence. The difficult part of competence involves more than that because it involves you. To assess fully a patient’s competence, you must take the time to have a real conversation with the patient.

Take enough time

Too often, physicians do not spend enough time to create a dialogue with their patients. According to Gerard Panting MD, director of policy at the Medical Protection Society, physicians do not listen long enough to their patients or provide them with enough information. For instance, one study found that when the average physician takes a history from the average patient, the physician typically interrupts within 18 seconds of the patient opening her or his mouth. If the physician had only waited another minute or so, the patient could probably have given a full history that would have allowed the physician to make a better diagnosis and plan more appropriate treatment, Dr Panting told a group of refractive surgeons recently in Dublin.

Dr Panting also told that group that physicians do not spend enough time explaining conditions and proposed treatments to their patients. Dr Panting pointed to one study that found that physicians spent only one minute out of a 20-minute consultation providing information to each patient.

In any conversation, you and the surgeon and no one else – should listen to why a patient wants a particular refractive procedure and how the patient hopes the procedure will alter her or his lifestyle. Does the patient want LASIK so that he can throw away his glasses and impress his new girlfriend? Does the patient want LASIK to improve her sight as an airline pilot?

With such information from these patients, you can understand why they have come to you. You can warn him that he may still need glasses; you can warn her that she may develop postoperative complications that could endanger her job.

Once you understand your patient, you can understand your practice. With a patient’s personal information – including the reasons why he or she wants to have laser eye surgery – you can advise the patient about what procedure – if any – suits them best. You may also find out that you do not perform – or do not feel comfortable performing – the procedure that would best suit your patient. In those circumstances, you should refer the patient to someone who can perform that procedure.

It is relatively easy to point to global statistics that indicate the relative risks and limits of LASIK, LASEK, or PRK, but informed consent means interpreting those statistics in a meaningful way that allows your patient to decide whether a procedure that you have proposed for her or him is best. To help your patient make that decision, you should include your own personal outcome statistics for any procedure that you suggest. In other words, patients need the right information to weigh up the possibility of a bad outcome in your hands – and the effects of that bad outcome on their lives and lifestyles.

Informed consent prevents lawsuits

Anyone who doubts the effect of informed consent need only refer to a study by the Medical Defence Union, which indemnifies ophthalmologists and other physicians against negligence lawsuits in the UK and Ireland.

That study found that 20% of medical negligence claims against refractive surgeons were caused primarily by patient dissatisfaction with such outcomes as: Deterioration in night or low-light vision, haze, starburst effect, and diplopia.

According to Union officials, many of those refractive surgeons could have spared themselves the time and trouble of such lawsuits if they had only:

- Given their patients sufficient time to ask questions and to digest the information about their proposed procedures before signing their consent forms.
- Reminded their patients of other options available to them – such as continuing to wear spectacles or contact lenses – and the benefits and risks of the procedure when compared to these options.

To help each patient make the best treatment decision, you should also provide him with written information about his condition and your proposed treatment. Such information should include details about:

- Diagnosis and prognosis of the patient’s underlying eye condition;
- Purpose and description of the proposed refractive procedure and the anaesthetic;
- Explanation of the benefits from the procedure;
- Explanation of the risks and permanent side-effects from the procedure, including an approximation of the likely occurrence of such adverse events;
- Explanation of the risks and degree of temporary pain or temporary visual impairment;
- Risk of need for follow-up or enhancement surgery;
- Risk of postoperative need for glasses;
- A description of the alternatives to the procedure;
- How long the procedure has been used and whether it is still considered to be experimental;
- Your name and contact telephone number for any preoperative questions and for post-operative follow-up or emergencies;
- Whether any doctor in training will be involved in the procedure;
- All costs and charges for the procedure.

You should also include a specific note in any written materials that patients have a right to change their minds about their surgery at any time or to seek a second opinion up until the time they undergo their procedure.

The surgeon’s place in a patient’s decision

Once you have presented the patient with all of the information that she or he needs to make his decision, you can then turn to the third point of understanding – understanding your place.

In the law of informed consent, courts throughout Europe want to ensure that when a patient consents to treatment he consents freely. For refractive surgeons, that means that they should never overstep their role as physicians. In that role, they are offering a service which the patient must freely receive or reject.

Of course, refractive surgery is a business, but it should never be a business that endangers the patient-physician relationship or medical ethics. A surgeon must never promise or guarantee an outcome. By doing so the surgeon robs the patient of the free will to consent to a procedure whose results she or he cannot guarantee. And if the surgeon robs the patient of the ultimate right to consent to treatment, then whatever consent form the patient signs isn’t worth the paper it’s written on.

In essence, only once you have understood the patient, understood the best way to practice for that patient, and understood your role as the patient’s advocate, can the patient make an informed consent to treatment.

And once that patient consents, you and the patient will enter a relationship that may well be strong enough to withstand a bad outcome.