

Optometrists creating controversial laser surgery niche

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Optometrists are writing a controversial new role for themselves in the lucrative boom in laser eye surgery rather than risk losing patients eager to ditch their eyeglasses for good.

Though they can't perform the surgery, some optometrists are teaming with ophthalmologists who can, referring patients for the procedure, then handling the patients' postoperative care in exchange for a cut of the fee.

The trend is called co-management, and as demand for the pricey laser vision correction procedure grows, so does the motivation to form such alliances.

Americans have lined up for laser in situ keratomileusis, or LASIK, among them golfer Tiger Woods, supermodel Cindy Crawford, actress Courteney Cox Arquette, and Atlanta Braves pitcher Greg Maddux. More than 800,000 Americans are expected to have the surgery this year on both eyes, up from just 210,000 in 1997.

Thrilled with their newfound vision,

patients, by and large, have been unaware of the controversial alliances and the potential for conflicts of interest.

Optometrist Randy Fuerst, co-owner and chief executive of the Pacific Laser Eye Center in Gold River, said the arrangement is both legal and practical.

"We feel very strongly that this is the best division of labor," Fuerst said. "The surgeons get to focus on what they do best, which is procedures, and optometrists can continue to participate in the care of their patients."

But Dr. Dave Edmiston, a Sacramento ophthalmologist, said optometrists' co-management proposals can verge on coercion and carry with them the implication that eye surgeons risk losing referrals if they don't share the business.

"I was approached by several optometrists who said, 'I will be happy to work with you if you give me 20 percent of the action,' " Edmiston said.

Edmiston opted not to participate. He and other critics say co-management skirts the boundaries of medical ethics in two interrelated ways:

- ❑ Optometrists, they argue, by taking on the aftercare part of the procedure, are performing the role of a physician.
- ❑ Co-management can be hard to distinguish from the illegal practice of fee splitting. Optometrists have a choice of ophthalmologist to whom they refer

patients, and that decision can be influenced by whether the ophthalmologist is willing to co-manage patients.

Under a typical co-management arrangement, optometrists who refer patients to ophthalmologists share the patient's fee with the surgeon and share a portion of the patient's pre- and postoperative care.

"These arrangements exist so that money can exchange hands," said San Francisco health care attorney David Willett, who has advised his ophthalmologist clients to steer clear of co-management agreements.

The law prohibits payment for referring business to other specialists to ensure that referrals are made with the patient's best interest, not the referring doctor's pocketbook, in mind.

The

It's all in the name

Many people may not realize who they're going to see when they say they're visiting "the eye doctor."

Ophthalmologist: A medical doctor/surgeon who deals with structure, function and diseases of the eye.

Optometrist: A specialist in the measurement of the range and power of vision, and in the prescribing of corrective lenses. Not a medical doctor.

statute -- Section 650 of the state Business and Professional Code -- states that it is illegal for any licensed medical professional to give or receive any "rebate, refund, commission, preference, patronage, dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients."

The dynamics of the debate could see a significant shift as new players enter the market -- health benefits companies that like co-management, and low-cost clinics that figure ophthalmologists can handle all the work themselves.

While optometrists -- who are trained to measure vision and prescribe corrective lenses but are not medical doctors -- are fairly united in support of co-management, the practice has split ophthalmologists, who are medical doctors and perform the actual surgery.

Some eye surgeons feel co-managing is an effective way to handle burgeoning demand for LASIK, while others see it as optometrists expanding their turf for financial gain.

Chris Popov, an attorney for Pacific Laser Eye Center, one of the area's leading eye surgery centers, said optometrists who work with ophthalmologists on the procedure earn all of the money they are paid.

"This is not someone putting checks in the mail when no services have been rendered -- that would be a kickback,"

he said. "These (optometrists) see patients several times before and after the surgery, and they agree to keep taking care of that patient for no charge (if further surgery is needed). And that's a kickback? Excuse me?"

From Popov's perspective, the motivation of co-management's critics is clear: ego and greed.

Eye surgeons may say they are concerned about quality of care, but they also have a keen eye on what this year could be a \$4.3 billion LASIK market -- and they don't want to share it, Popov said.

"They think that because they have M.D. (degrees) they ought to have a corner on the market," he said.

As co-management becomes more widespread, state and federal regulatory bodies, as well as optometric and ophthalmic professional groups, are weighing in:

- The American Academy of Ophthalmology has issued voluntary guidelines that urge eye surgeons not to co-manage except in exceptional circumstances, as when a patient resides in a rural or remote area and cannot easily travel to the surgeon's office for follow-up care. In its February position paper, the academy said it believes such arrangements may be unethical and potentially illegal.

- The American Optometric Association responded with a defense of co-

management. The association asserted that, while some co-management arrangements may be suspect, co-management can be ethical, legal and in the patient's best interest.

□ The Medical Board of California, which oversees the practice of medicine in the state, is investigating complaints it has received about some co-management arrangements for "possible scope of practice and kickback and referral violations."

Bay Area ophthalmologist Dr. William Ellis said he's become frustrated waiting for regulators to sort out how the law squares with what's going on. He's turned to the courts for a decision.

Ellis, who runs laser eye surgery centers in San Jose and El Cerrito, has sued four Bay Area ophthalmologists, claiming the surgeons are paying kickbacks to optometrists for referring patients to them.

An informal poll of two dozen Sacramento-area ophthalmologists who perform LASIK found that 17 of them co-manage patients to some degree with optometrists.

The actual procedure is startlingly quick. During the 15 minutes LASIK typically takes, the surgeon cuts a flap on the surface of the patient's cornea, then uses a laser to remove tissue, reshaping the cornea to correct the vision. The surgeon then flips the corneal flap back in place; the eye's natural suction holds the flap in place

until it reattaches and heals.

LASIK surgery is elective, meaning it is not a covered benefit offered by most health insurance plans. That leaves ophthalmologists and optometrists free to set fees at what the market will bear.

Patients pay out of pocket -- fees can range from \$500 to \$2,500 an eye -- for the surgery.

Of the \$4,800 fee Pacific Laser Eye Center collects to correct two eyes, the optometrist receives an upfront, lump-sum payment of about \$1,000 for pre- and postoperative care, Fuerst said. The eye surgeon actually receives less, about \$900, he said. The balance of the fee goes to pay for the facility, per-use laser royalty fees and administrative expenses.

Karen Cobb of Roseville recently had both eyes corrected at Pacific's Gold River center. Though she found the cost steep, she wasn't bothered by the clinic's co-management arrangement with her optometrist, Thomas Swanson.

"I know this man. I have gone to him for six years. I trust him completely," Cobb said.

Given the mushrooming demand for the procedure, the choices for optometrists are stark.

"As an optometrist, you can do what you need to do to continue to participate in your patients' treatment or you can sit back and watch your patient base be

plundered," Fuerst said.

That's what worries some ophthalmologists.

The title "eye doctor" notwithstanding, optometrists do not attend medical school and may not be qualified or properly licensed to provide surgical follow-up care and could miss something that results in an injury to the patient, said Dr. Samuel Masket, a Los Angeles ophthalmologist.

So far, there haven't been indications of widespread problems because of the perceived risk of inadequate care. Optometrists say that's because they are conscientious; critics say it's because the procedure is so new.

But even co-management defenders, such as Peter Bergenske, a Wisconsin optometrist involved in the debate nationally, acknowledge that some abuse may be occurring.

"But I don't think that is the mainstay," Bergenske said. "I think (co-management) is good and arguably better patient care than what otherwise would occur."

Co-management -- and the issues the practice raises -- isn't a new phenomenon. For more than a decade, ophthalmologists and optometrists have worked together to treat cataract patients. Rules governing Medicare, the national health insurance program for the elderly, permit co-management for cataract patients. The Medicare rules

specify that co-management fees be paid only for care that is actually provided.

But ophthalmologists say those rules were created for patients in remote areas without easy access to an eye surgeon, and point out that even cataract co-management relationships have come under fire.

Pacific Laser CEO Fuerst, aware of the debate and the pitfalls, holds up his company as an example of how co-management can work well for all parties involved. Pacific's Sacramento center -- one of seven -- has trained about 140 optometrists to handle pre- and postoperative care. Most of those optometrists send surgery patients the centers' way, Fuerst said. Pacific, which Fuerst owns with two ophthalmic surgeons, won't work with optometrists who haven't completed the center's three- to four-hour training.

The debate is expected only to grow as more players enter the market.

One hint of things to come: Vision Service Plan, the Rancho Cordova-based eye-care benefits company, has started offering members a new LASIK program that gives them a discounted rate on the surgery. Ophthalmologists who wish to join VSP's list of approved professionals -- and gain access to VSP's more than 30 million members nationally -- must agree to co-manage VSP patients with an optometrist.

Another new player, LASIK Vision Corp.

of Vancouver, British Columbia, suggests an alternative future, one without co-management. To promote its new Sacramento surgery center this month, the company offered its first 1,000 LASIK patients the procedure for \$999 -- for both eyes.

For the industry, falling prices mean smaller profit margins, even if the number of patients nationwide grows, which may serve to sharpen the debate.

"You haven't seen the last of this issue," said health care attorney Willett.