HOW TO HANDLE OFFERING PATIENTS REFUNDS

Surgeons share their approaches.

BY STEVEN J. DELL, MD; SHERI ROWEN, MD; WILLIAM B. TRATTLER, MD; ROBERT J. WEINSTOCK, MD; AND WILLIAM F. WILEY, MD

The subject of offering patients a refund is a divisive one among ophthalmologists, who understandably worry about legal ramifications. At the 2018 AECOS Meeting in Deer Valley, Utah, a panel of surgeons weighed in on this sensitive topic.

CASE EXAMPLE

A 38-year-old man underwent uneventful LASIK in his right eye. His postoperative UCVA is 20/15 OD without halos or dry eye. Four months after LASIK surgery on the left eye, the refraction is -0.75 D. The patient's demeanor is hostile. When offered a free enhancement procedure, he says, "No, I have lost confidence in you. I just want a refund." He is unsure if he will live with his result or if he will pursue an enhancement with another surgeon. Would you offer a refund?

William F. Wiley, MD: At this point, I would say, "I'll do whatever is in my power to make you happy, and a refund is within my power and worth considering." I would then discuss the patient's satisfaction with the right eye's outcome and determine if he would be satisfied with a partial refund. If he asks for the seemingly unreasonable request of a both-eyes refund, then I would consider that but explain to him that there will be additional future costs with our office for examinations, surgeries, and treatments. Offering a refund to the patient with reasonable terms often disarms the situation, such that I have had some patients who were really hostile who eventually changed suit and became happy with our center, even referring friends or multiple family members. Sometimes I offer a refund, and the patient says, "Well, thank you for the generous gesture." Often the patient just wanted that offer but did not have intentions of taking me up on it. It seems like the gesture defuses the situation.

Robert J. Weinstock, MD: There are cases where you have clearly done a great job but there is mild regression beyond your control, and you have a simple, easy fix. You can tell that the patient is all about the money and is hostile. I will give it my best shot to defuse the bomb. I will educate them about what is going on and remind them about our 1-year guarantee—that 5% of all LASIK patients need an enhancement, and that this is what they signed up for and signed their name on. It costs a lot of money to deliver this care, and you cannot set a precedent of just giving people their money back when they have had a good result and you have a solution for their problem.

You build the relationship, you take the opportunity, and you deescalate the situation. The hardest thing to teach my fellows, sometimes, is how to deescalate things and then build a relationship and

turn it around. The biggest challenge, more than the eye surgery, is how to turn that relationship around, and that is actually the biggest success in the whole event.

Sheri Rowen, MD: If this patient were 48 years old, this would be a perfect outcome if the right eye were dominant. There is an educational opportunity here. You could take this 38-year-old patient and say, "Let me show you what's going happen to your near vision." Make him semipresbyopic in the lane and say, "This is what will happen. You will be able to read. You will be able to have your computer vision if you want to adapt to it, and, if you don't and you want to try it, we can give you a contact lens for a while. At any time, if you want, we will fix it. We will let you go past a year. We are not going to hold you to the year because we did not achieve the intended outcome." Look at the age and look at the result. It is not like the outcome was -2.00 D. It was -0.75 D, so there are other ways to look at this and defuse it, as Dr. Weinstock suggests.

Dr. Weinstock: There is another scenario that often occurs. A post–radial keratotomy patient does not want to wear glasses. He gets a cataract and comes in for surgery. The cylinder is pretty regular, and you implant a toric IOL. The cornea goes haywire postoperatively beyond your control, and you do not really have a good solution. Maybe you take out the toric IOL and implant a monofocal IOL.

You can say, "Listen, I have no refractive surgical solution to fix your eye. You are going to need to wear glasses and contacts."

The patient responds, "Yeah, but doctor, I paid for you to get me out of glasses."

You say, "I'm sorry. I can't do it. Do you want to see a colleague?"

The patient says, "No, I trust you, but I don't think it's fair that I spent all that money."

I would say, "I don't think it's fair, either. Here's your money back. We have a good relationship, and I want to keep you in the practice. I want to keep taking care of you." I don't want to fire that patient. I don't want to make him sign a release, but I want to give him his money back. We've stopped offering our custom surgery package to most radial keratotomy patients. We do not even try to get them out of glasses anymore.

Dr. Rowen: You really did not do anything wrong. This is a known outcome with a -7.50 D myope. We cannot always expect to hit the target. The patient has to know that, and yet they are still unhappy and hostile. That is when you have to decide that a refund might be better just to get them off your plate. It becomes about money in their mind, but it doesn't mean you assume any liability.

William B. Trattler, MD: The reason patients become unhappy is because they are disappointed with their outcome. I think it is helpful to spend more time with patients and not just at that one visit. I try to address all of their associated issues, including ocular surface disease, which is quite common. After initiating therapy for treatment of dry eye, for example, I request that the patient return within 1 week to reassess the vision and level of dryness. While this will mean more visits, it is a chance to continue to work closely with an unhappy patient, with the goal of

A LAWYER'S PERSPECTIVE

BY ALAN E. REIDER, JD, MPH

When a patient is deeply unhappy about the outcome of laser vision correction surgery and either refuses or is not a candidate for an enhancement, one option is to refund all or part of the money he or she paid for the procedure—but only if you protect yourself and your practice from a subsequent lawsuit. To ensure that the refund is not used as evidence of fault on your part, at a minimum, have the patient sign a release in exchange for the refund.

Sometimes, however, patients will not accept an offered refund. The offer itself is enough to ease the tension and allows the two of you to discuss how to resolve the situation. This gives you an opportunity to regain their trust.

(Editor's note: Alan E. Reider, JD, MPH, is a retired partner with the firm of Arnold & Porter. Although he has retired from the practice of law, he remains active with the ophthalmology community.)

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improving his or her vision. Even if the overall residual refractive error remains unchanged after therapy for dry eye, the patient will often have a better tear film and improved quality of vision. This happens all the time with standard cataract surgery patients, too. Treating dry eye, which is often present, in unhappy patients will often help improve the patient's quality of vision and level of happiness, even if the refractive error does not significantly change. Spending more time and seeing them more frequently are a helpful intervention.

Steven J. Dell, MD: One thing that I have heard over the years that has definitely served me well is that, if you have a patient like this, you can agree with them that their vision is terrible without admitting any type of fault. I think patients really respond well when you say, "Oh yes, it is absolutely awful what has happened to you. I wouldn't even know how you could go on like this." They just want to make sure that you are not trying to dismiss their complaints and that you are going to stick with them no matter what until a solution is achieved. I think the proper way to handle this is to figure out, on an individual basis, what it is going to take to make this person happy. I would much rather give them money or give them a ride over to another surgeon's office or whatever I need to do to get that one person happy with me again. It is going to pay dividends many times over through referrals or winning them back. Whatever it takes, honestly, I think is the right answer.

Dr. Weinstock: The ironic part is that, at least in my experience, it is rare to see patients come in with a conscious desire for a refund. It is in the back of their minds that they want their money back, and they are angry or upset, but they do not come out and say they want their money. I am usually the one who has to bring that up. When I realize, after the full conversation, that there is nowhere else to go, I will say, "I'm sorry I don't have a solution for you. Would it make you feel better if I refunded you the money that you paid to try to get out of glasses?" They are relieved. ■

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