

Ask the Ethicist - Your Duty to Report

May 2015

Q: I recently examined a long-time patient for a routine glaucoma check and discovered, to my surprise, that she'd had cataract surgery by a local ophthalmologist. The patient is monocular. Prior to surgery, she had visual acuity of 20/50 in the left eye and counting fingers in the right eye due to an auto accident that resulted in an untreated hyphema, but she had no daily living complaints.

The patient said that she had seen an advertisement in the newspaper with the following slogan: "Regain your visual freedom with cataract surgery at _____." She was curious and went in for a "free consultation," and bilateral cataract surgery was scheduled shortly thereafter.

When I eventually saw her record from the cataract surgeon, I could find no recorded visual acuity tests, visual fields, or pressure checks for either eye, and nothing about her visual status in the right eye being related to trauma and not cataract. The only mention of informed consent was a handwritten comment stating, "Patient consents for surgery." Luckily, the patient's outcome in the left eye was good, and she sees 20-30. There was no change to the vision in the right eye.

I'm not one to make waves, but I'm hearing from colleagues in town that this is not unusual behavior for this ophthalmologist. What is our responsibility in this situation to protect patients?

A: The AMA's Council on Ethical and Judicial Affairs Opinion 9.031: *Reporting Impaired, Incompetent, or Unethical Colleagues*, and Principle 6 of the Academy's Code of Ethics discuss the responsibility of doctors to address concerns about unethical or inappropriate behavior with the physician in question. Rule 5 of the Code of Ethics also states that "it is the duty of other ophthalmologists who know of the impairment to take action to attempt correction of the situation". Alternatively, you could refer the matter to the appropriate entity to prevent the continuation of the conduct.

Rule 6 of the Code of Ethics (Pretreatment Assessment) may also come into play in this scenario with respect to lack of appropriate preoperative assessment.

Whatever the reason – physician impairment, greed or incompetence - the patient's best interests do not appear to have been the primary driver of the bilateral cataract surgery.

In addition, many states have "duty to report" legislation requiring that physicians report colleagues in circumstances like this. If you truly suspect unethical, illegal or impaired behavior in a colleague, protect patients and the profession by bringing your concerns to the attention of an appropriate entity able to resolve the situation in the best interests of all concerned.

For more information or to submit a question, contact the Ethics Committee staff at ethics@aao.org. To read the Code of Ethics, visit www.aao.org/ethics and select "Code of Ethics."