

Ask the Ethicist: When Residents Encounter Surgical Complications

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Q: *A clinic patient in our large tertiary care center was scheduled for routine outpatient, elective cataract surgery. The attending physician informed the patient that a resident would be involved in part of the surgery, and the patient signed an informed consent. During the surgery, a crack developed in the IOL implant. The problem was immediately recognized by the attending and the resident, but following surgery, it was not disclosed to the patient. Postoperatively, the patient had no symptoms from the cracked IOL and had a good outcome. Should someone have disclosed the error to the patient? If so, when?*

A: Ideally, the cracked lens would have been discarded when discovered and not implanted in the first place. Either a new one would be used, or if unavailable, the patient would have been informed and offered the opportunity to reschedule the surgery. That said, once the complication occurred, the patient should have been informed of the problem as soon as possible after her procedure for several reasons:

- Principle 7 of the [Code of Ethics](#) states that “it is the responsibility of an ophthalmologist to act in the best interest of the patient”—and this includes honesty.
- Being truthful about an error engenders patient trust.
- Being truthful protects the integrity of the profession.
- Being truthful can minimize potential legal liability for the institution and the individual.

Admitting liability (i.e., stating that you’re legally or financially responsible for the outcome) could result in the denial of coverage for a resulting claim. You may wish to contact your carrier before talking with the patient. Currently, 36 states have some form of apology laws, which are intended to reduce medical liability/malpractice litigation.¹ In general, they provide that a health care provider’s expression of apology, sympathy, commiseration, condolence, or compassion is inadmissible as evidence in a medicolegal proceeding and does not constitute an admission of liability or wrongdoing. Each state’s laws are different so be sure to check the details applicable to your practice.