Comprehensive Guidelines for the Co-Management of Ophthalmic Postoperative Care

As more non-physician healthcare providers become part of the healthcare delivery team, it is important to clearly define how the ophthalmologist as surgeon can properly share pre- and postoperative responsibilities with non-surgeon providers, and how those providers may be ethically and legally reimbursed for their services. This position paper offers guidelines on co-management and transfer of care, and provides guidance to assist ophthalmologists in their patient care.

Definitions:

Co-management is a relationship between an operating ophthalmologist and a non-operating practitioner for shared responsibility in the postoperative care when the patient consents in writing to multiple providers, the services being performed are within the providers' respective scope of practice and there is written agreement between the providers to share patient care.

Transfer of care occurs when there is transfer of responsibility for a patient's care from one qualified healthcare provider operating within his/her scope of practice to another who also operates within his/her scope of practice.

Federal Medicare policy concerning co-management has been adapted and interpreted by states and carriers with variations in details and restrictions. The operating ophthalmologist has the ultimate responsibility for the preoperative assessment and postoperative care of the patient, beginning with the determination of the need for surgery and ending with completion of the postoperative care contingent on medical stability of the patient. Economic considerations, such as inducement for surgical referrals or coercion by the referring practitioner, should never influence the decision to co-manage, or the timing of the transfer of a patient's care following surgery. Any such quid pro quo arrangement is unethical and, in many jurisdictions, illegal. The Office of Inspector General of the Department of Health and Human Services has expressed concern about co-management based on economic considerations rather than clinical appropriateness and has refused to provide safe harbor protections for such arrangements, preferring to review cases on an individual basis.[1]

However, the operating ophthalmologist's postoperative care responsibilities may be ethically delegated to another non-operating healthcare practitioner, whether as part of a co-management arrangement or as a transfer of care, under appropriate circumstances and when the conditions set forth in this Guideline are met.

Circumstances in Which Co-Management May Be Appropriate

Examples of circumstances in which co-management and transfer of care may be appropriate (assuming compliance with conditions in this Guideline) include the following:

- *The operating ophthalmologist and non-operating practitioner provide postoperative care within an integrated health system such as the Veterans Administration Health System or the Department of Defense in which both the operating ophthalmologist and non-operating practitioner are employees of the parent entity and, as such, do not directly participate in Medicare co-management. The protocol for co-management or transfer of care emphasizes patient safety and the timing of this transfer is based on postoperative stability and patient preference.*
- *Patient inability to return to the operating ophthalmologist's office for follow-up care*
    - Patient is unable to travel to the ophthalmologist's office due to distance.
    - Lack of availability of the person(s) or organization previously responsible for bringing the patient to the operating ophthalmologist's office.

[1] *See* 64 Fed. Reg. 63518,63548-63549.

- *Operating ophthalmologist's unavailability*
    - The operating ophthalmologist will be unavailable to provide care (e.g. travel, illness or leave, surgery performed in an ophthalmologist shortage area).
- *Patient prerogative*
    - The patient requests co-management or transfer of care to minimize cost of travel, loss of time spent travelling, or the patient's inconvenience, and gives informed written consent to the co-management arrangement or the transfer of care and the operating ophthalmologist is familiar with the non-operating practitioner and is confident that the practitioner has the adequate training, skills and experience to accurately diagnose and treat the conditions that are likely to be presented as well as the willingness of the non-operating practitioner to seek advice from operating ophthalmologists whenever necessary.
- *Change in postoperative course*
    - Development of another illness or complication best handled by another qualified health care provider
    - Development of an intercurrent disease.

Essential Conditions for Co-Management and Transfers of Care

Any delegation of a surgeon's postoperative responsibilities to another non-operating practitioner and any payments to either party should be completely transparent to the patient and only done after obtaining the patient's informed consent in writing. Routine co-management or transfer of care referral arrangements are not appropriate. Instead, co-management and transfer of care arrangements should be conducted pursuant to written patient-specific protocols where each of the following criteria are met:

- The patient requests and makes an informed decision in writing to be seen by the non-operating practitioner for postoperative care.
- The operating ophthalmologist determines that the operative eye is sufficiently stable for transfer of care or co-management.
- The operating ophthalmologist determines that the transfer of care or co-management arrangement is clinically appropriate.
- The non-operating practitioner is willing to accept the care of the patient.
- State law permits the non-operating practitioner to provide postoperative care and the non-operating practitioner is otherwise qualified to do so.
- The operating ophthalmologist is familiar with the non-operating practitioner and is confident that the practitioner has the adequate training, skills and experience to accurately diagnose and treat the conditions that are likely to be presented as well as the willingness of the non-operating practitioner to seek advice from operating ophthalmologists whenever necessary.
- There is no agreement or understanding between the operating ophthalmologist and a referring non-operating practitioner to automatically send patients back to the non-operating practitioner.
- The arrangement complies with all applicable federal and state laws and regulations, including the federal anti-kickback and Stark laws and state laws concerning fee splitting and patient brokering.[2]
- The operating ophthalmologist or an appropriately trained ophthalmologist is available upon request from either the patient or non-operating practitioner to provide medically necessary care related to the surgical procedure directly or indirectly to the patient.

[2] Ophthalmologists are encouraged to review the HHS Office of Inspector General's Advisory Opinion on a proposed co-management arrangement between an ophthalmology group and optometrists external to that group. See AO 11-14 (2011) at http://oig.hhs.gov/fraud/docs/advisoryopinions/2011/AdvOpn11-14.pdf.

- Financial compensation to the non-operating practitioner is consistent with the following principles:
    - The non-operating practitioner's co-management fees should be commensurate with the service(s) actually provided, and should be separately billed by the non-operating practitioner
    - For Medicare/Medicaid patients, the co-management arrangement should be consistent with all Medicare/Medicaid billing and coding rules and should not result in higher charges to Medicare/Medicaid than would occur without co-management.
    - The patient should be informed of, and consent in writing to, any financial compensation to the non-operating practitioner resulting from the co-management arrangement, and any additional fees that the non-operating practitioner may charge beyond those covered by Medicare/Medicaid or other third-party payors.
    - For services that are not covered by Medicare or Medicaid, other fee structures may be appropriate, though they should also be commensurate with the services provided, disclosed and consented to in writing by the patient, and otherwise comply with all applicable federal and state laws and regulations.
- Transfer of care or co-management is documented in the medical record as required by carrier policy.
- All relevant clinical information is exchanged between the operating ophthalmologist and the non-operating practitioner.

The operating ophthalmologist should consult with qualified legal counsel and other consultants to ensure that his/her co-management practices are consistent with federal and state law and best legal practices. The organizations listed below agree with the above philosophy and positions. Above all, patients' interests must never be compromised as a result of co-management.

Signatory Organizations

American Academy of Ophthalmology
Alabama Academy of Ophthalmology
Alaska Society of Eye Physicians and Surgeons
American Academy of Pediatrics, Section on Ophthalmology
American Association for Pediatric Ophthalmology & Strabismus
American Association of Ophthalmic Oncologists & Pathologists
American College of Surgeons, Advisory Council for Ophthalmic Surgery
American Glaucoma Society
American Ophthalmological Society
American Osteopathic College of Ophthalmology
American Society of Ophthalmic Plastic & Reconstructive Surgery
American Uveitis Society
Arizona Ophthalmological Society
California Academy of Eye Physicians and Surgeons
Colorado Society of Eye Physicians and Surgeons
Connecticut Society of Eye Physicians
Delaware Academy of Ophthalmology
Eye Bank Association of America
Florida Society of Ophthalmology
Georgia Society of Ophthalmology
Hawaii Ophthalmological Society
Illinois Society of Eye Physicians & Surgeons
Indiana Academy of Ophthalmology
Kansas Society of Eye Physicians & Surgeons
Kentucky Academy of Eye Physicians and Surgeons
Louisiana Academy of Eye Physicians and Surgeons

Macula Society
Maine Society of Eye Physicians & Surgeons
Maryland Society of Eye Physicians and Surgeons
Massachusetts Society of Eye Physicians & Surgeons
Michigan Society of Eye Physicians and Surgeons
Mississippi Academy of Eye Physicians and Surgeons
Missouri Society of Eye Physicians & Surgeons
Montana Academy of Ophthalmology
National Medical Association, Ophthalmology Section
Nebraska Academy of Eye Physicians and Surgeons
Nevada Academy of Ophthalmology
New Jersey Academy of Ophthalmology
New York State Ophthalmological Society
North American Neuro-Ophthalmology Society
North Carolina Society of Eye Physicians and Surgeons
North Dakota Society of Eye Physicians and Surgeons
Ocular Microbiology and Immunology Group
Ohio Ophthalmological Society
Oklahoma Academy of Ophthalmology
Oregon Academy of Ophthalmology
Pennsylvania Academy of Ophthalmology
Retina Society
Rhode Island Society of Eye Physicians & Surgeons
South Carolina Society of Ophthalmology
South Dakota Academy of Ophthalmology
Tennessee Academy of Ophthalmology
Texas Ophthalmological Association
Utah Ophthalmology Society
Vermont Ophthalmological Society
Virginia Society of Eye Physicians and Surgeons
Washington Academy of Eye Physicians & Surgeons
West Virginia Academy of Eye Physicians & Surgeons
Wisconsin Academy of Ophthalmology
Women in Ophthalmology
Wyoming Ophthalmological Society

Approved: August 26, 2016

**These guidelines are provided for informational purposes only and intended to offer practitioners voluntary, non-enforceable co-management guidelines. Practitioners should use their personal and professional judgment in interpreting these guidelines and applying them to the particular circumstances of their individual practice arrangements. This paper is not intended to provide legal advice and should not be relied upon as such. Practitioners are encouraged to consult an experienced health care attorney if they have questions about propriety of their co-management arrangements under applicable laws and regulations.*