

## LASIK reporting: Preserving our responsibility to our patients

Advertising has become standard practice in health care. For better, and often for worse, ophthalmologists appear to be taking the lead in advertising dollars spent and, more regrettably, in the potentially harmful nature of the ads. At risk are the respect of our colleagues, the size of malpractice awards (Richard L. Abbott, MD, personal communication, 2003), and, most important, the physician-patient relationship.

What are the financial elements of laser in situ keratomileusis (LASIK) marketing? The amount of money spent on LASIK procedures in the United States in 2002 approached \$2 billion. At a marketing cost of \$140 per treated eye, the total marketing dollars exceeded \$160 million.

The physician's motivation to market, understandably, is to increase surgical volume. Advertising can serve the physician and the patient if it honestly informs patients of procedures, technologies, etc., or honestly describes or compares different aspects of health care. However, our pact with our patients is to provide them with the best quality of vision attainable. Our patients entrust their vision to our care with the understanding that we will use our best judgment. To be consistent with this principle, advertising must be devoid of deception, either stated or implied.

I believe there are 3 categories of ads in terms of the information they convey and the manner in which they convey it:

- Legal and ethical
- Legal but unethical
- Illegal, ie, in violation of U.S. Federal Trade Commission (FTC) guidelines

An ad can be "legal" but not in the best interest of patients—and certainly not in the best interest of our profession.

The American Society of Cataract and Refractive Surgery (ASCRS) and the American Academy of Ophthalmology have developed LASIK advertising guidelines that were approved by the U.S. FTC ([http://](http://www.ascrs.org/advocacy/rkadguidelines11-02.htm)

[www.ascrs.org/advocacy/rkadguidelines11-02.htm](http://www.ascrs.org/advocacy/rkadguidelines11-02.htm)). They explicitly define the types of ads that are appropriate and inappropriate. The FTC has promised to pursue those whose advertising tactics fall outside these guidelines. However, I believe that we as ophthalmologists and physicians have a higher responsibility: to ensure that ads not only meet guidelines but also appropriately protect the pact that we have with our patients to provide them with the best care.

What are the ways in which advertising can deceive patients?

**Price.** This would include the classic bait and switch, which we see on a regular basis. For example, LASIK is advertised for \$299 per eye (typically for the "first 1000 eyes"). When the patient calls, it is obvious that this pertains to only a restricted refractive range and excludes follow-up visits and retreatments. Often these ads have information about more than 1 laser with the implication that either laser is available at the discounted price. In my view, an even more repugnant approach is the "money back guarantee." This implies that the procedure is somehow reversible and that there are no potential risks of sight-threatening or sight-disturbing complications. Getting one's money back does not make up for a lifetime of unhappiness about one's vision; it is not like returning a broken television.

**Eligibility.** Ads imply that the procedure is applicable to all patients. Typical wording are statements such as "get out of glasses" or "get rid of your reading glasses." These statements imply results that clearly do not pertain to many people.

**Outcome.** Ads imply that the result will be perfect, permanent, and/or complication free. Examples include "20/20 for \$2995" or "20/20 promise" or "quick and pain-free way to eliminate your need for corrective lenses." Also misleading are the qualifications that might be attributable to the surgeon or his/her technology. Quotes include "the world's most advanced ophthalmic lasers" or "opinion leader"

(which I saw in an ad for an individual who has never to my knowledge written or published an article on LASIK surgery).

*Fear.* These ads prey on patients' worries by inaccurately denigrating other procedures (eg, showing a box cutter in a surface ablation ad) or making statements that incorrectly minimize the risk of complications. Examples include "can virtually eliminate potential complications" and "ask about our no-glare, no-halo technology" or "CK is a noninvasive procedure . . . no hassles, just crisp, clear vision. . . ."

False advertising deceives patients, fosters poor patient decisions regarding having a procedure, demeans our profession, and is a violation of the implied pact between physician and patient.

What are our options?

1. We need to provide our patients with better information about all aspects of refractive surgery. The Eye Surgery Education Council (ESEC) of ASCRS is attempting to do just that by providing patient-screening guidelines, information about LASIK surgery, and more on the ESEC web site ([www.eyesurgeryeducation.com](http://www.eyesurgeryeducation.com)).

2. We can have some influence on our colleagues simply by calling and pointing out that ads are illegal or unethical. Sometimes, a simple reminder is all that is required.
3. Regulatory action is the next option and could include state licensing boards or the FTC. Obviously, illegal ads need to be reported to these agencies for action to occur. ASCRS has asked the FTC to become more active in stringently and consistently enforcing FTC regulations regarding legal advertising in refractive surgery.

What is the role of our professional societies? How much can they do without risking the high cost of litigation? In our current legal environment, professional societies have little ability to enforce regulations, but we can work together to encourage ophthalmologists to follow appropriate advertising guidelines. ASCRS would welcome suggestions from members regarding how this might be done most appropriately.

*Primum no nocere:* First do no harm. Do we practice medicine in the spirit of Hippocrates, or do we sell used cars? Together, we can make the right choice.

*Douglas D. Koch, MD*