Medico-Legal Considerations and Coding and Billing of Laser Procedures

Marcus G. Piccolo, OD
Invasive Patient Procedures

- First Do No Harm
Informed Consent

- Part of any medical procedure no matter how minor
  - Even routine parts of an ophthalmic exam require explanation to the patient prior to being performed

- Invasive procedures
  - Require written informed consent
    - Protection of the patient
    - Protection of the provider
  - Opportunity to make sure patient is at ease and all questions are answered
Components of Informed Consent

- Patient must have the capacity to make a decision
- Provider must disclose information on test or procedure
  - Should include:
    - Expected benefits
    - Risks
    - Likelihood or probability that the benefits and risks occur
- Patient must comprehend the relevant information
- Patient must voluntarily grant consent without coercion or duress
Decision Making Capacity

- Decision making capacity legally referred to as “competency”
  - May be competent on some decisions and not others

- Components of Decision Making Capacity
  - Ability to understand options
  - Ability to understand consequences of choosing each option
  - Ability to evaluate personal cost and benefit of each consequence and relate to own set of values
Lack of “Competence”

- If not all components are met then
  - Family members, court-appointed guardians or other surrogate decision-makers may make decision
    - Depends on State Laws
- Competence does not mean that all decisions are good decisions
- Making a bad decision does not mean that patient is incompetent
Decision-making capacity, or competency, simply means that you can understand and explain the options, their implications, and give a rational reason why you would decide on a particular option instead of others.
Disclosure

- Provider must give (or disclose) enough information so that the patient can make an informed decision
- Not necessary to explain all detail
- Information should be enough for a reasonable person to make an intelligent decision
- Should include Risks and Benefits
- All questions should be answered
  - Opportunity for questions
The more invasive, the more need for written consent

- An explanation of the medical condition that warrants the test, procedure, or treatment
- An explanation of the purpose and benefits of the proposed test, procedure, or treatment
- An explanation or description of the proposed test, procedure, or treatment, including possible complications or adverse events
- A description of alternative treatments, procedures, or tests, if any, and their relative benefits and risks
- A discussion of the consequences of not accepting the test, procedure, or treatment
- Consent form should be signed and dated by both patient and doctor
- Patients are entitled to a copy
Competency is a legal term used to indicate that a person has the ability to make and be held accountable for their decisions. The term is often used loosely in medicine to indicate whether a person has decision-making capacity, as described previously. Technically, a person can only be declared "incompetent" by a court of law.
Doctor/Patient Decision Making

Shared Decision-Making

**Informed Consent plus Informed Choice plus:**
- Identify patient needs, values preferences and goals
- Discuss uncertainties of treatment, experience of provider, costs
- Two-way conversation with patient/family having role in decision

**Informed Choice**

**Informed Consent**

- Assess patient understanding
- Discuss Risks and Benefits of All Alternatives
- Ask patient/family to choose

- Nature of Treatment
- Risks
- Benefits
- Alternatives
- Opportunity for Questions
THE UNIVERSITY EYE INSTITUTE
UNIVERSITY OF HOUSTON
Houston, Texas 77204-6052

DISCLOSURE AND CONSENT
FOR LASER IRIDECTOMY

Patient Name: ________________________________

To the patient: You have the right, as a patient, to be informed about your condition and the recommended laser iridectomy so that you may make the decision whether or not to undergo this procedure after knowing the risks and hazards involved.

Agreement: I voluntarily request Dr. ________________________________ as my physician, and such associates as may be required, to perform laser iridectomy to my right and left eye(s).

I understand that the laser iridectomy has been recommended for me because my eye is at risk of developing an acute attack of glaucoma. I understand that this laser treatment should prevent the occurrence of this type of acute glaucoma and should also prevent chronic damage from milder episodes of attack that I may not be aware of. I realize that the following risks and hazards may occur in connection with this laser treatment:

1. Irritation and redness of the surface of the eye may occur. These usually clear up within an hour or two, although they may last longer.

2. A mild degree of inflammation always occurs inside the eye, and I realize that I will be asked to take a medication four times a day in the eye for one to two weeks.

3. I realize that the laser treatment may cause the pressure in my eye to go up temporarily. I understand that I may be given medication before laser treatment to prevent this increase in pressure. If the pressure still becomes elevated, I may need to take a medication for control of the pressure. The pressure usually returns to its pre-laser level within several days.

4. In most cases, a satisfactory opening in the iris can be created in a single session of laser treatment. However, in a few cases, it may take more than one laser session to achieve an adequate iridectomy.

5. Once a successful iridectomy has been created, it generally remains open indefinitely. In some cases, however, it may close and need to be reopened with another session of laser treatment. The need for further laser treatment does not indicate that anything is wrong with the iris or the treatment, and with further laser therapy, a permanent iris opening can be created in virtually every person.

6. If the pressure in my eye has already become elevated due to chronic change from this condition, I realize that this treatment may not cause the pressure to be decreased to a normal level.

I have been given an opportunity to ask questions about my glaucoma, the alternative forms of treatment, the risks of nontreatment, the procedures to be used, and the risks and hazards involved. I believe that I have sufficient information to give this informed consent. I understand that no guarantee or assurance has been given by anyone as to the specific results that may be obtained with the laser procedure.

I understand that no guarantee or assurance has been given by anyone as to the specific results that may be obtained with the laser procedure.

Patients signature: ___________________________ Date: ______________

Time: ___________________________ Witness: ___________________________
This is a laser surgery used for people with narrow-angle glaucoma. The laser is used to make a small hole in the iris (colored part of the eye). The laser burn should let more fluid leak out through the drain in the eye. Furthermore, it will hopefully prevent scar formation between the iris and cornea which can lead to progression of the glaucoma.

There are some individuals who respond well to this and others who do not respond at all to the surgery. Your response is determined by the type of narrow-angle glaucoma you have and the basic make-up of your eye.

The procedure can be done in one or two trips to the laser area. The laser machine looks similar to the examination microscope that the doctor uses to look at your eyes at each visit. The laser itself makes little noise and flashes a light about as bright as a flash on a camera. Almost everybody finds the procedure comfortable and without pain. Some individuals feel a little pressure during the laser. The procedure usually takes about ten to twenty minutes.

You may need drops before and after the laser. Most people will need to have their pressure checked one hour after the laser. This is because the pressure in the eye can go up after the laser treatment. This is the greatest risk for this procedure. If it does occur, you may require medications to lower the pressure, which will be administered in the office. Rarely, the pressure in the eye elevates to a very high pressure and does not come down. If this happens, you may require surgery in the operating room to lower the pressure. This is a most unusual event.

Most people notice some blurring in their vision after the laser. This clears within a few hours in most individuals. The chance of your vision being permanently affected from this laser procedure is very, very small.

You will need to use drops after the laser to help the eye heal correctly. You will probably use the new drops for about one week. In most cases, you are asked to continue your other glaucoma medications after the laser procedure. The doctors will notify you if there is any exception to continuing your medications.

Other risks from this procedure include inflammation in the eye, cataract formation, bleeding (usually a small amount but can be a large amount), double vision, scar formation between the iris and lens of the eye (synechia) that prevents the pupil from moving correctly, late closure of the iridotomY that requires repeat laser surgery to open the hole again, and (rarely) damage to the cornea or retina from the laser light. Most of these risks are somewhat decreased by having a skilled surgeon, but cannot always be prevented.

Patient (or person authorized to sign for patient) _____________________________ Date __________

Witness _____________________________ Date __________
ARGON LASER TRABECULOPLASTY
SELECTIVE LASER TRABECULOPLASTY

Indications. The argon laser trabeculoplasty and selective laser trabeculoplasty surgeries are used for patients with open angle glaucoma. The laser is utilized to treat the drainage system of the eye known as the trabecular meshwork. Treating this area of the natural internal draining system is designed to improve the outflow of fluid from the eye. This type of laser surgery will be effective in some patients but not others. Your response is determined by the type of glaucoma you have and the specific structures found in your drainage system. Your doctor cannot predict how well the laser will work before the laser surgery.

Procedure. The procedure may be performed in one or two trips to the laser center. The laser machine is similar to the examination microscope that the ophthalmologist uses at each visit to look into your eyes. The laser itself makes little noise and flashes a light about as bright as the flash on a camera. Nearly all patients find the procedure comfortable and pain free. The procedure generally takes from 10 to 20 minutes.

Medications. You may need to use drops both before and after the laser treatment. As the pressure in the eye may temporarily go up after the laser treatment, you will likely need to have your pressure measured after one half to one hour following the laser surgery. If the pressure does elevate, you may need additional medicines to lower the pressure, which will be administered in the office. Rarely, the pressure in the eye could elevate to a level that might require surgery in the operating room to relieve the glaucoma. You will need to use drops after the laser to help the eye heal correctly. You will probably use the new drops for approximately one week. In most cases you will be asked to continue your other glaucoma medications after the laser surgery. The doctor will notify you if there are exceptions to continuing your medications.

Risks and complications. Glaucoma laser surgery may be followed by complications. Most patients notice some blurring of their vision after laser surgery. This generally clears within a few hours. The chance of your vision being permanently affected by this laser is very, very small. Although rare and unusual, there may be bleeding within the eye, inflammation, cataract and increase in the pressure in the eye requiring different and more extensive treatment. It will take several weeks to determine how much of your eye pressure will be lowered with this treatment. You may require additional laser surgery to lower the pressure if you have a response but one that is insufficient to control the pressure.

Patient consent. Not every conceivable complication could be covered in this form and I understand that no warranty or guarantee has been made to me regarding the result of the proposed laser surgery. I have read and understand the consent form, my questions have been answered and I authorize my surgeon to proceed with the operation on my ____________ (state “right” or “left”) eye.

_________________________ (Patient or person authorized to sign for patient) ____________________ Date
Billing and Coding
Laser Coding and Billing

- Billed with 60000 level surgical codes
- Carry a surgical global period
- Possible to bill additionally with the use of modifiers
Unilateral vs Bilateral Procedures

- It’s possible but not preferred
  - Patient safety should dictate course
  - Watch to see how first eye responds
  - Reimbursement only 50% on second eye if done on the same day
Argon Laser Trabeculoplasty
Selective Laser Trabeculoplasty

- Requires glaucoma ICD9 (soon ICD10) code
- CPT 65855
- Global Period 10 days
- Provider Reimbursement CMS $303.83
- CMS Facility Fee $184.99
  - Aetna $714.40
  - BCBS $$238.75
Laser Iridotomy

- Requires glaucoma ICD9 (soon ICD10) code
- CPT 66761
- Global Period 10 days
- Provider Reimbursement CMS $240.91
- CMS Facility Fee $183.78
  - Cigna $1120
Laser Iridoplasty

- Requires glaucoma ICD9 (soon ICD10) code
- CPT 66762
- Global Period 90 days
- Provider Reimbursement CMS $434.88
- CMS Facility Fee $243.09
Posterior Capsulotomy

- CPT 66830
- Global Period 90 days
- Provider Reimbursement CMS $727.56
- CMS Facility Fee $912.49
SLT FAQs

**Question:** Does Medicare cover selective laser trabeculoplasty (SLT)?

**Answer:** Yes. Trabeculoplasty performed with a frequency doubled Nd:YAG laser (also known as SLT) is a covered procedure when it is medically necessary and supported in the patient's medical record.
SLT FAQs

QUESTION: Should I consider SLT as a primary treatment for glaucoma?

ANSWER: Sometimes. When a patient cannot tolerate anti-glaucoma medications or cannot comply with instructions for use, then SLT should be seriously considered. When anti-glaucoma meds are not affordable, SLT is a cost-effective alternative. Oftentimes, SLT supplements current medications as an adjunctive therapy to prevent glaucomatous damage.
3 QUESTION: What CPT code do we use to report SLT for glaucoma?

ANSWER: CPT code 65855, Trabeculoplasty by laser surgery, one or more sessions (defined treatment series) is used to report the service. This is the same code used for argon laser trabeculoplasty (ALT) since CPT does not specify the type of laser. Also, report the location modifiers RT, LT, or 50 as appropriate.
SLT FAQs

**Question:** What is the Medicare physician reimbursement for SLT?

**Answer:** When SLT is performed in the ophthalmologist's office, the first quarter 2015 national Medicare Physician Fee Schedule allowed amount is $341.46 for participating providers. No facility fee is reported; the payment includes use of the laser.

When SLT is performed in an ambulatory surgery center (ASC) or hospital outpatient department (HOPD), the surgeon's Medicare allowable is reduced to $300.70.

Medicare fee schedule amounts are adjusted by local wage indices so actual payment amounts vary.
Question: Does Medicare allow a facility fee to an ASC or HOPD for SLT?

Answer: Yes. Under current Medicare regulations, 65855 is eligible for a facility fee. It is paid under APC 247. The 2015 national ambulatory surgery center (ASC) allowed amount is $188; in the hospital outpatient department (HOPD), the allowable is $443. Allowed amounts are adjusted by local indices.
QUESTION: What is the global surgery period for SLT?

ANSWER: CMS assigned CPT 65855 a 10-day global period, so it is classified as a minor procedure for reimbursement purposes. Most payers agree.
7. **Question:** Is an office visit billable on the same day as SLT?

**Answer:** Sometimes. The visit on the day of a minor surgery is regarded as part of the global surgery package unless there is a separately identifiable reason for the visit. If such a reason exists, the exam may be reportable with modifier 25. If the only reason for the visit is to determine the need for SLT, that visit is not separately billable. For more information, see our FAQ on this subject.⁵
**QUESTION:** Is an office visit billable for a postoperative IOP rise in the treated eye within the 10-day global period?

**ANSWER:** No. The IOP spike in the treated eye is related to the SLT so the eye exam is considered to be postoperative care.
**SLT FAQs**

**Question:** Can I be reimbursed for a repeat SLT on the same eye?

**Answer:** Usually. As a general rule, the effectiveness of SLT can only be evaluated after 1-2 months, which is far beyond the 10-day global period. When the surgeon believes additional treatment is medically necessary, outside of the global period, it is covered. Repeat treatments are supported in the literature. 

Corcoran Consulting Group, January 26, 2015
SLT FAQs

10. **Question:** What about reimbursement for SLT on the fellow eye during the global period of the first eye?

**Answer:** Use modifier 79 with 65855 on your claim to indicate that this procedure is unrelated to the first. Location modifiers RT and LT are also helpful. The Medicare allowable remains the same.
**11**

**Question:** Can SLT be performed on both eyes on the same day?

**Answer:** Yes, although it is not common. CPT guidelines for bilateral surgery and recent Medicare guidelines for Medically Unlikely Edits (MUE) direct you to report bilateral SLT as 65855-50 with a quantity of "1". Under the multiple procedure rules, reimbursement is based on 150% of the Medicare allowable for a single procedure. Most payers agree with this billing method.
Q. What are the indications for YAG laser capsulotomy?

A. Ophthalmologists/Optometrists are quite familiar with the process of using a YAG laser to cut through an opacified posterior lens capsule and/or adjacent hyaloid membrane to restore clear vision in postop cataract patients.

Most Medicare coverage policies are very similar and require the following:

• An impaired ability to carry out activities of daily living due to decreased vision.
• Decreased BCVA of 20/30 or worse or a decrease of two lines of visual acuity.
• Other eye diseases have been excluded as the primary cause of visual disability.
Q. What diagnoses support a claim?

A. Appropriate ICD-9 diagnosis codes may vary from one Medicare policy to another, but most policies include the following:

- 366.50 After-cataract, unspecified
- 366.51 Soemmering's ring
- 366.53 After-cataract, obscuring vision
- 996.53 Mechanical complication of ocular lens prosthesis

Note that the use of these codes does not guarantee reimbursement. The patient's medical record must document that coverage criteria have been met.

Ophthalmology Management, Suzanne Corcoran, 12/1/10
Q. How should this procedure be documented in the medical record?

A. The indications for YAG laser capsulotomy should be clearly identified in the notes for the exam prior to the surgery. Regardless of the place of service (office, ASC or hospital), a consent form and operative note are expected.

The key components of an operative report are: operated eye, indications, pre-op instructions and medications, type of laser (only FDA-approved lasers are appropriate), laser setting (wavelength, power setting), treatment details (size and number of applications, duration of laser, placement of spots) and discharge instructions.
Q. Are repeat YAG procedures during the global surgery period covered?

A. There is no separate payment, but repeat lasers are covered as part of the global surgery fee for the original procedure. Occasionally, the capsular opening is not large enough, or constricts slightly during the postoperative period, and the surgeon will perform a second procedure to remedy this. This is considered a continuation of the initial, failed, treatment.
Q. Is reimbursement made for YAG capsulotomy performed in the global surgery period following cataract surgery?

A. Sometimes. Most Medicare contractors allow payment for this procedure if the visual criteria are met, but expect it to happen rarely. The location where the YAG is performed affects the answer. Related surgical procedures performed in the office during the global period are considered part of the postoperative care and are not separately billable.

Procedures requiring a return to the operating room are reimbursed in the postoperative period; claims are submitted with modifier 78. Note that a dedicated laser suite in the surgeon's office is considered an operating room in this context (MCPM, Ch 12, §40.1B).

Recently, there has been an increase in early YAG capsulotomy in patients who receive presbyopia correcting IOLs (PC IOL). Oftentimes, the patient is symptomatic yet does not meet the visual requirements for YAG outlined in Medicare's policies. These laser surgeries are not covered; however, the surgeon may be compensated for them as part of the “upgrade” package for implanting a PC IOL.
Q. Is 66821 appropriate for YAG laser of the anterior capsule or to remove specks from the surface of the IOL?

A. No. CPT 66821 is specifically defined as treatment on the “opacified posterior lens capsule.” There is no specific code to identify procedures on the anterior capsule or IOL. Use CPT 66999 (unlisted procedure, anterior segment) to describe these services.
An office visit on the same day as SLT is only eligible for reimbursement, using modifier 25, if it is performed for a reason unrelated to the surgery.

Retain a detailed operative note in the patient’s medical record.

Document in the medical record your rational for SLT instead of anti-glaucoma pharmaceuticals.

Notify the patient prior to surgery of financial responsibility if there is reason to believe SLT is not covered by Medicare; document acceptance on an Advance Beneficiary Notice of Non-Coverage form.

If a subsequent treatment is performed as part of the initial plan, it is part of the initial treatment and not billed again.

If the surgeon performs SLT in a facility, including a hospital (HOPD) or ambulatory surgery center (ASC), the surgeon’s Medicare payment rate is lower than when it is performed in the office.