

Support

- Preservation of patient privacy and access to appropriate medical care including cosmetic and reconstructive procedures

Oppose

- Taxes on *any* medical procedures including cosmetic, aesthetic and reconstructive.
- Tax auditors access to confidential medical records (e.g., placing the physician in the role of tax collector or providing the tax auditor access to confidential medical records)

The American Society for Dermatologic Surgery Association opposes taxes on cosmetic medical procedures because they:

Violate patient privacy. Cosmetic medical procedure taxes invite tax auditors into the exam room. Enforcement will include tax audits of medical practices to determine whether procedures were elective and/or cosmetic. To date, enforcement of whether these procedures are deductible medical expenses has focused on individuals and the burden of proof has been on the patients. However, cosmetic medical procedures taxes make the physician a tax collector and hold him/her liable for the taxable amount. Thus, audits would be directed at physicians who would need to prove whether or not procedures meet the definition. Presumably, patient medical records, including photographs, would be involved in proving whether a procedure met the definition or not. Tax auditors are not medical professionals and any review of patient charts, which contain personal information and sensitive photographs, is a breach of patient privacy, patient record confidentiality and undermines the trust which is the cornerstone of the physician-patient relationship.

Cost more revenue than they generate. New Jersey passed a 6 percent tax on elective medical procedures and after that, the NJ Department of Taxation experienced a 59 percent shortfall based on projected revenue estimates.ⁱ Later, New Jersey passed a law to repeal the tax on cosmetic medical procedures. In fact, according to independent studies, for every dollar New Jersey collected on the tax the state lost \$3.39 in total revenue. The state lost millions in corporate income tax in addition to “surgical flight” losses. When cosmetic procedures were completed out of state, indirect state revenues – such as taxes on personal income, gas, hotel stays, food and surgical center or hospital fees – were paid to neighboring states. New Jersey policymakers led efforts to repeal the tax in his state and communicated this experience to elected officials all over the country.^{ii iii}

Are arbitrary and difficult to administer. As evidenced with the recent experience in New Jersey, the line between “cosmetic” and “reconstructive” surgery is not always clear and leaves the decision of medical necessity up to tax auditors – a completely inappropriate proposition.

Examples of dermatologic procedures which may be taxed may include, but are not limited to:

- Treatment of HIV-associated facial lipoatrophy (wasting syndrome)
- Tattoo removal (which may impact successful gang tattoo removal programs)
- Keloid scar removal (abnormal scar growth that especially impacts African Americans and Hispanics)
- Birthmark removal

- Treatments to relieve swelling, dermatitis and ulceration associated with varicose veins
- Hair restoration following reconstructive procedures
- Removal of benign lesions
- Acne scar removal
- Laser hair removal on the face of a woman with abnormal hormone-induced hair growth (e.g. due to Polycystic Ovarian Syndrome)
- The use of neurotoxins (e.g. Botox) for the treatment of excessive sweating, muscle spasticity, migraines or other medical conditions.
- Transgender medical treatment

Send patients and physicians outside the state. Just as these taxes provided New Jersey cosmetic surgery patients with a great deal of incentive to bring their business to neighboring states, it made conducting business more expensive and burdensome for physicians.

Negatively impact jobs. As the expense of obtaining procedures increases, some patients will be priced out of the market and this may force medical offices to eliminate additional staff to reduce expenses. Also, many individuals have found cosmetic medical procedures are necessary to remain competitive in the workforce.

Make physicians into tax collectors. Cosmetic medical procedures taxes require physicians to collect the tax and then hold physicians liable should an individual fail or refuse to pay the tax.

ASDSA opposes all taxes on physicians, in any and all forms, due to their harmful effects on health care costs and access to patient care. Taxes on medical and cosmetic services should not be used as a tool to fix broken finances.^{iv}

*Approved by the ASDSA Board of Directors: July 2015
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ⁱ King, Jordan, and Scott Drenkard. "New Jersey Reverses on Cosmetics Tax." Web log post. Tax Foundation. 29 Feb. 2012. Web. 27 May 2015. <<http://taxfoundation.org/blog/new-jersey-reverses-cosmetics-tax>>.

ⁱⁱ Cryan, Joseph. "Joseph Cryan: Learn from My Mistakes and Strip the Cosmetic Tax Provision from the Health Care Reform Bill." Newjerseynewsroom.com. N.p., 22 Dec. 2009. Web. 27 May 2015. <http://www.newjerseynewsroom.com/commentary/joseph-cryan-learn-from-my-mistakes-and-strip-the-cosmetic-tax-provision-from-the-health-care-reform-bil>.

ⁱⁱⁱ Cryan, Joseph. Letter to State Legislatures. Feb. 2013.

^{iv} Silverman, Rachel Emma. "The Nose-Job Tax In Wake of New Jersey Law, States Consider Levies On Botox, Plastic Surgery." Wall Street Journal. N.p., 1 June 2005. Web. 27 May 2015. <<http://www.wsj.com/articles/SB111758224127647595>>.