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White Paper

American Association of Oral and Maxillofacial Surgeons

Cosmetic Surgery Taxes

In recent years, a number of states have considered levying taxes on cosmetic procedures as a means of supplementing state budgets. In 2004, New Jersey became the first state to pass such a law, which levies a 6 percent gross receipts tax on elective surgery procedures, including cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft-tissue fillers, dermabrasion and chemical peel, laser hair removal and cosmetic dentistry. The New Jersey law was later repealed after failing to achieve any significant income and Connecticut remains the only state to date to have a cosmetic surgery tax law in place.

Cosmetic surgery taxes may unfairly harm patients by taxing them for procedures that may be medically necessary. There is no universal definition of "medically necessary." A patient undergoing orthognathic surgery for functional reasons may be denied coverage by an insurance company that terms it a "cosmetic procedure" because it also improves the patient's overall facial appearance. Another insurance company, however, may not view it as a cosmetic procedure. States that enact a cosmetic surgery tax may look to insurance companies for guidance in determining whether procedures are medically necessary. If this becomes the case, patients will be treated differently under the tax depending on their insurance policy.

Cosmetic surgery taxes also may create unfair administrative and financial burdens for physician offices. The original New Jersey law, as well as typical proposed legislation in other states, requires the physician to collect and pay the tax on behalf of the patient. Consequently, physician offices will be required to undertake costly and time-consuming steps to ensure compliance with state revenue departments.

The American Association of Oral and Maxillofacial Surgeons (AAOMS) cautions states considering a gross receipt tax levied on cosmetic surgery procedures that such action may result in unintended consequences for both patients and physicians. In the event that a cosmetic tax is levied, it should most certainly exclude surgery or procedures that are reconstructive in nature or are meant to restore normal form, notwithstanding a possible esthetic benefit. Furthermore, it should not allow state revenue departments to define cosmetic procedures and tax them according to coverage judgments rendered by insurance companies.

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