

Statement on behalf of the
American Academy of Ophthalmology
to the
Connecticut Joint Finance, Revenue and Bonding Committee
Regarding SB 1007
March 3, 2011

On behalf of the 31, 000 members of the American Academy of Ophthalmology, we would like to state our opposition to the proposed cosmetic tax provision within the Governor's budget proposal (SB 1007).

The question of whether these surgical procedures are medically necessary or cosmetic can only be answered by the patient's physician. This is not a question that can be left to the Department of Revenue Service to regulate. Without medical training, they are not qualified to interpret medical records to determine whether or not a procedure is cosmetic and should be taxed.

There are several different types of ophthalmic surgical procedures, many that are often medically necessary, that might be interpreted by someone with no medical training as cosmetic under this proposal. One example might be the surgical tightening of the levator muscle to elevate the eyelid. This could be done for cosmetic reasons or it could be used to correct ptosis, or drooping of the upper eyelid. Ptosis can occur as a result of weakening of the muscle, congenital weakness, trauma, or a neurologic disease. The Department of Revenue Service is not in the position to interpret medical records and made these determinations. Even more, allowing the Department of Revenue Service to examine patient records opens the door to violations of patient privacy rights.

If passed, the bureaucratic nightmare of tax audits and appeals would likely be an unintended consequence of this legislation, placing deeper financial strains on an already budget-strained state of Connecticut. The revenue recouped from this tax is minuscule when compared to the costs the proposal would incur.

We need to look no further than New Jersey to see an example of how this policy has failed. Since passing a cosmetic surgery tax in 2004, New Jersey has consistently failed to produce even a fraction of the projected revenues. The policy has proven, in fact, to be a drain on the state, so much so that the original sponsor of the bill, Assemblyman Joseph Cryan, has repeatedly lead efforts year after year to repeal the tax.

On behalf of patients who would be unfairly taxed by this legislation, we respectfully ask you to oppose the proposed cosmetic tax provision in SB 1007.

Thank you for the opportunity to provide comment. If you have any questions, please contact Bob Palmer, Policy Director for State Governmental Affairs at 202-737-6662. Thank you.