

March 3, 2011

The Honorable Eileen M. Daily  
The Honorable Patricia M. Widlitz  
Co-Chairs, Finance Review and Bonding Committee  
Room 3700, Legislative Office Building  
Hartford, CT 06106

Re: Oppose Cosmetic Surgery Tax in SB 1007

Dear Senator Daily and Representative Widlitz:

On behalf of the Connecticut Dermatology and Dermatologic Surgery Society (CDS), the American Academy of Dermatology Association (AADA), and the American Society for Dermatologic Surgery Association (ASDSA), we are writing to urge the Joint Finance Review and Bonding Committee to oppose the provision contained within Governor Malloy's budget proposal, SB 1007, which would levy a 6.25 percent sales tax on cosmetic medical procedures (Subparagraph OO, Section 24. Subdivision (37), Subsection (a), Section 12-407, General Statutes.)

While on the surface a cosmetic medical procedures tax may appear to be an attractive solution for addressing state budget concerns, in reality, such a tax not only invades patient privacy and is difficult to administer, but, as demonstrated by New Jersey's experience with a tax on elective cosmetic procedures, it costs the state more revenue than it generates.

**Government bureaucrats should not be making decisions regarding whether procedures are strictly "cosmetic" or "reconstructive."** As it is currently written, SB 1007 deems "cosmetic medical procedures" as taxable, but exempts "reconstructive surgery" from the tax. The distinction between cosmetic and reconstructive is not always clear. For example, the language contained in SB 1007 describes laser treatment of leg veins, and sclerotherapy (injectable vein treatment) as being "cosmetic," and therefore subject to the proposed tax. However, larger varicose vein treatment is primarily a medical treatment to relieve swelling, dermatitis and ulceration. In contrast, treatments for spider veins often connected to these varicose veins are considered cosmetic, but often require a medical procedure to address the contributory varicose veins. There are countless other examples of treatments which blur the lines between cosmetic and reconstructive.

Physicians already face an administrative burden in dealing with insurance companies lacking proficiency in the details of treatments such as those performed for car accident victims, acne scarring victims, or patients with post-breast cancer surgery scarring to prove the medical necessity of these procedures. SB 1007 would place undue additional burden on physicians by requiring them to interact with a government agency experienced with tax collection on goods, but not complex services. This will be not only be a logistical challenge for physicians, but also costly to the state.

**Cosmetic medical procedure taxes violate patient privacy.** Enforcement of cosmetic medical procedure taxes necessitates tax audits of medical practices to determine whether procedures were cosmetic or reconstructive. Presumably patient medical records, including photographs, would be involved in proving whether a procedure met the definition of reconstructive or not, and therefore subject to the 6.25 percent tax. 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. SB 1007 would turn physicians into tax collectors and hold them liable for the taxable amount.

**New Jersey's experience with a cosmetic medical procedures tax should be a cautionary tale to Connecticut.** New Jersey is the only state to adopt a tax on elective medical procedures. In 2004, New Jersey passed a 6 percent tax on elective medical procedures, and since then, the NJ Department of Taxation has experienced a 59 percent shortfall of projected revenue estimates. In fact, according to independent studies, for every \$1 New Jersey collects on the tax, the state loses \$3.39 in total revenue.

**As demonstrated by New Jersey's experience, cosmetic medical procedure taxes lead to indirect state tax revenue loss.** Based on what has occurred in the last seven years in New Jersey, it can be estimated that Connecticut would lose \$6.6 million in corporate income tax, based on its current 7.5 percent rate, in addition to "surgical flight" losses. Furthermore, if cosmetic procedures are completed out of state, then indirect state revenues – such as taxes on personal income, , gas, hotel stays, food, and surgical center or hospital fees – are paid to neighboring states. Based on the losses in indirect taxes and fees experienced by New Jersey, it could be expected that Connecticut will lose an additional \$7.2 million in similar revenue.

**A tax on indoor tanning may be a viable alternative to a cosmetic procedures tax.** When faced with a similar proposal to tax cosmetic medical procedures in the federal health care reform bill, Congress instead determined that imposing a tax on indoor tanning was a better option – largely due to the significant health risks posed by use of indoor tanning devices. The CDS, the AADA, and the ASDSA are supportive of a tax on indoor tanning services as an alternative to the cosmetic medical procedure tax proposed in SB 1007. A fact sheet which further outlines the benefits of a tax on indoor tanning services is attached to this letter.

For the reasons stated above, the CDS, the AADA and the ASDSA oppose the proposed 6.25 percent tax on cosmetic medical procedures, and instead urge the state to levy a tax on indoor tanning services. For further information, please feel free to contact Debbie Osborn, Executive Director at the CDS, at [eyemaster2020@yahoo.com](mailto:eyemaster2020@yahoo.com) or (860) 567- 3787, Kathryn Chandra, Assistant Director of State Policy for the AADA, at [kchandra@aad.org](mailto:kchandra@aad.org) or (202) 712-2615, or Lisle Soukup, Director of Advocacy and Public Policy for the ASDSA, at [lsoukup@asds.net](mailto:lsoukup@asds.net) or (847) 956-9126.

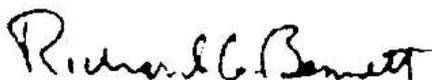
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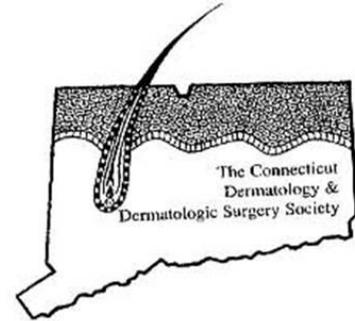
Philip Kerr, MD  
President, Connecticut Dermatology & Dermatologic Surgery Society



Ronald L. Moy, MD, FAAD  
President, American Academy of Dermatology Association



Richard G. Bennett, MD  
President, American Society for Dermatologic Surgery Association



## **Why should Connecticut impose a tax on indoor tanning?**

### **Indoor Tanning is a well-recognized health hazard; a tax would discourage the practice.**

- UV radiation from indoor tanning devices is classified as a known human carcinogen by the U.S. Department of Health and Human Services and the World Health Organization's International Agency for Research on Cancer. Studies have demonstrated that the UV radiation from indoor tanning damages the DNA in the skin and that excessive exposure can lead to skin aging, immune system suppression, and eye damage. Studies also have found that use of indoor tanning by persons younger than 35 increases the person's risk of melanoma by 75 percent.
- During the last 30 years – a period coincident with the growth of indoor tanning – the incidence of melanoma in the United States has steadily increased. Melanoma is now the most common form of cancer for young adults 25-29 years old and the second most common form of cancer for adolescents and young adults 15-29 years old.
- A tax on indoor tanning would serve precisely the same purpose as the tax on cigarettes: It would discourage the practice.

### **A tax on indoor tanning would be especially important for helping to deter young people from the practice.**

- Indoor tanning has become especially popular with teenagers. Thirty-five percent of 17-year-old girls report that they use tanning services, and about 25 percent of all white teenagers report that they have used indoor tanning services at least once. Teenagers who use indoor tanning services essentially become incubators of future skin cancers. A tax on indoor tanning services would serve as a signal from the Connecticut legislature that indoor tanning is dangerous and should be avoided.
- A tax on indoor tanning would reinforce other federal and state efforts to protect the public, especially adolescents, from the practice.
- 36 states regulate the indoor tanning in light of the mounting evidence of the danger of UV radiation. On an annual basis, states continue to strengthen existing laws and enact new laws. Some states require parental consent for indoor tanning; others establish a minimum age. At the same time, the FDA requires indoor tanning facilities to warn customers about the dangers of indoor tanning. A tax on indoor tanning would reinforce, and be fully consistent with, these efforts. In fact, the tax again would be much like the cigarette tax, which reinforces the warning labels on cigarette packs.
- A tax on indoor tanning services would be appropriate in light of the costs that are incurred by the country's health care system in treating melanomas and other skin cancers.
- Each year the cost of treating skin cancers in the United States totals about \$1.8 billion, of which about \$300 million is spent on melanomas alone. Indoor tanning contributes to those costs by increasing the risk of cancers in its users, especially young people. A tax on indoor tanning would effectively help recoup the cost imposed on society by the practice.

### **How would a tax on indoor tanning work?**

A tax on indoor tanning would be simple. It could be imposed as a percentage of amounts paid for indoor tanning services. The tax would be collected by the provider of the tanning services and remitted by that person to the state. The tax would provide exemption for phototherapy services provided under the supervision of a physician. A ten percent federal tax on indoor tanning services went into effect on July 1, 2010. The tanning facilities in Connecticut are already equipped to submit this tax to the federal government, so there would be no additional administrative burden to collect and remit state taxes.