

March 3, 2011

**Statement from the American Society of Ophthalmic Plastic and Reconstructive Surgery  
for consideration by the Joint Finance, Revenue and Bonding Committee Regarding  
Governor's Bill 1007 at the March 7, 2011 hearing**

On behalf of the American Society of Ophthalmic Plastic and Reconstructive Surgery, we write in strong opposition to the proposed cosmetic surgery tax currently under consideration. This tax discriminates against women and the middle class and state experience has demonstrated that it is a failed policy, one that will not result in the projected revenue.

**Discriminates Against Women and the Middle Class**

Contrary to popular belief, cosmetic surgery is **not an exclusive luxury of the very wealthy**. Eighty six percent (86%) of cosmetic surgery patients are working women and this five percent tax discriminates against these women. In the first research of its kind, conducted with people planning to have cosmetic surgery within the next two years, 60% of respondents reported a household income of \$30,000-\$90,000 a year. Most importantly, 40% of the 60% reported income of \$30,000-\$60,000. Only 10% of respondents reported household income over \$90,000.<sup>1</sup> These data clearly refute the suggestion that elective surgery taxes are “luxury” or “sin” taxes affecting a privileged few.

**State Experience = Failure**

Since New Jersey – the only state to adopt a tax on elective medical procedures – passed a 6% tax on elective medical procedures in 2004, the NJ Department of Taxation has experienced a 59% shortfall based on projected revenue estimates. In fact, New Jersey Assemblyman Joseph Cryan, the sponsor of the 2004 bill, is leading efforts to repeal the tax.

**Arbitrary and Difficult to Administer**

This bill inserts state government directly into the physician-patient relationship – specifically, the Internal Revenue Service will become an arbiter of what is cosmetic and what is medically necessary, a completely inappropriate proposition. As evidenced by the recent failed experience in New Jersey, the line between “cosmetic” and “reconstructive” surgery is not always clear, particularly when that determination is made by persons other than trained medical professionals. The implementation of this subjectively imposed tax will require an inordinate amount of time to interpret and administer with questionable return. Simply, it is an auditing nightmare.

**Physicians as Tax Collectors**

This provision places physicians in the role of tax collector and holds physicians liable should an individual fail or refuse to pay the tax.

The undersigned strongly oppose the tax on cosmetic medical procedures for these reasons. Indeed, the taxing of physician services, in any and all forms, has immediate deleterious effects on health care costs and jeopardizes access to patient care. Medical care should not be used as a tool to fix broken finances.

If you have questions, please contact Tisha Kehn, Executive Director at tishakehn@llmsi.com .

Sincerely,

A handwritten signature in black ink that reads "Jan W. Kronish". The signature is written in a cursive style with a large, prominent initial 'J'.

Jan W. Kronish, MD, FACS  
President, ASOPRS

A handwritten signature in black ink that reads "Stuart R. Seiff". The signature is written in a cursive style with a large, prominent initial 'S'.

Stuart R. Seiff, MD, FACS  
Chair, ASOPRS Committee for Society and Legislative Affairs

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<sup>i</sup> *American Society of Plastic Surgeons Public Education Campaign Mental Models Research Report, 12/14/04.*