

The nose-job tax: States consider levies on botox, plastic surgery

Wednesday, June 01, 2005

By Rachel Emma Silverman, The Wall Street Journal

That nose job might get more expensive.

A number of states are considering taxing certain cosmetic surgery procedures, including face-lifts, tummy-tucks and Botox injections. The idea behind the taxes -- dubbed "vanity taxes" or "Botaxes" by some -- is to boost state coffers and raise revenue for government initiatives such as health care for poor children. The proposals have stoked the ire of plastic surgeons and their patients, who have been lobbying hard to keep their procedures tax-free.

New Jersey passed the first cosmetic surgery tax law last summer. Since then, lawmakers in states including Texas, Illinois, Washington, Arkansas, Tennessee and New York have introduced bills or budget proposals to install similar taxes, although none of those states has passed the taxes into law. Legislative sessions have just ended in many states, but efforts to reintroduce the tax bills are likely to be revived in some. Proponents of the efforts say that since the taxes are levied on elective procedures, they are relatively painless ways to raise money for state programs.

New Jersey's law levies a 6 percent tax on a litany of procedures including hair transplants, chemical peels and liposuction. So a tummy tuck, which has an average national price tag of \$4,505, now costs an extra \$270. A \$376 Botox injection now costs nearly \$23 more. The tax proposals that have been introduced in other states vary, but they typically impose a sales tax ranging from 6 percent to 7.5 percent on the cost of the procedure. New Jersey's law and all of the other state proposals exempt medically necessary procedures or reconstructive work after disfiguring diseases, accidents or birth defects.

States have been weighing these taxes as plastic surgery continues to grow in popularity, with doctors aggressively marketing their services and as reality-TV programs devoted to cosmetic transformations fill the airwaves. Nationally, there were 9.2 million cosmetic plastic surgery procedures performed last year, a 5 percent increase from a year earlier, and a 24 percent jump from 2000, according to the American Society of Plastic Surgeons, Arlington Heights, Ill. That number includes both surgical procedures, such as face-lifts, and minimally-invasive treatments, such as Botox. Americans spent \$8.4 billion on cosmetic surgery last year.

The cosmetic-surgery taxes are part of a growing effort by states to tax all sorts of other aesthetic services, including tattoos, body piercing, tanning salon sessions and massages. Twenty-one states taxed tanning salons and 10 states taxed massages as of last July,

according to the Federation of Tax Administrators, which tracks state taxes. Last year, Arkansas began imposing a sales tax on body piercing, tattoos and electrolysis.

Both the health-insurance industry and the federal government already treat plastic surgery differently than other medical procedures. In general, health-insurance plans don't cover most elective cosmetic surgery, unless related to a disease, birth defect or accident. Also, patients generally can't include the cost of elective cosmetic surgery as a medical expense deduction on their federal tax returns.

Plastic surgeons and other doctors who perform cosmetic procedures say a tax targeting their work is unfair. Critics of the taxes say the levy would discriminate against women, who accounted for 87 percent of the cosmetic plastic surgery patients in 2004.

And despite the image of plastic surgery as a luxury for the wealthy, many patients have more modest incomes, plastic surgery advocates say. In December, the American Society of Plastic Surgeons surveyed 700 people planning to have cosmetic surgery in the next two years. About 60 percent of respondents reported a household income of \$30,000 to \$90,000 a year, the group found.

What is more, the line between cosmetic and reconstructive surgery isn't always clear, making it tough to judge who should be subject to the tax. For instance, breast-reduction surgery might relieve back-pain in addition to making a patient look better, while surgery to fix droopy eyelids might also help patients see better, doctors say.

The New Jersey law already is spurring a backlash. Peter Hetzler, a Little Silver, N.J., plastic surgeon is asking his patients to write the state's acting governor, Richard Codey, and legislators to "express your outrage over this tax," according to the flyer he is distributing. His office also has a stack of ready-to-send postcards on hand for patients, along with copies of the law and a list of the legislators who voted for it.

Lori Rosenzweig has seen Dr. Hetzler for Botox and Restylane injections, but says the new tax will make her reconsider future cosmetic procedures. "I will either not have a procedure or I will go out of state to New York," says Ms. Rosenzweig, of Long Branch, N.J. (Both Botox and Restylane are used to minimize wrinkles.) Like many New Jersey plastic surgeons, Dr. Hetzler is also licensed in New York and Pennsylvania.

No one knows for sure how many New Jersey patients are declining surgery or are going out of state for treatment since the law was passed. The tax hasn't generated as much revenue as New Jersey originally hoped. When the tax was signed into law last June it was expected to generate \$24 million this fiscal year. The state now thinks the tax will only generate \$7 million this year.

Tom Vincz, a spokesman for the New Jersey Treasurer's office, says revenue from new taxes often differs from original projections. "It's an issue of accurately estimating an unknown," he says. He doesn't think doctors have been lax in collecting the tax. "We don't believe that it is an enforcement issue," he says.

The money from the New Jersey tax is going to help fund hospital care for the uninsured and poor. Under the law, doctors must collect the tax from their patients, and turn the money over to the state every quarter.

Legislators and doctors in other states are closely watching how New Jersey fares with the

tax. Earlier this year, Washington state senator Karen Keiser proposed a bill similar to New Jersey's. The bill, which exempted medically-necessary or reconstructive surgery, enacted a 6.5 percent sales tax for elective cosmetic surgery and was earmarked to fund health care for children.

The Washington bill didn't make it to the floor of the Senate for a vote this year. Senator Keiser says she is considering re-proposing the bill next year.

"I think it does have merit to do this. This is a completely discretionary expenditure that has no medical necessity," says Ms. Keiser, who came up with the proposal last winter after watching reality TV shows about plastic surgery. "All we were talking about is a little sales tax. Anyone who could afford a \$5,000 face lift could probably afford the tax."

[Back](#)