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Taxing Cosmetic Surgery Is Not the Answer

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“Taxing cosmetic surgery is an inappropriate and inherently flawed answer to our state’s fiscal problems,” Texas Medical Association President Robert T. Gunby Jr., MD, said today. “New taxes on medical services should not at all be part of the legislature’s plan to reform our public school finance system and reduce property taxes. The cost of health care is much too high already.”

New Jersey is the only state to have implemented a cosmetic surgery tax to date. Legislators there grossly overestimated potential revenue and underestimated the administrative burden to collect it. The New Jersey Division of Taxation recently reported a 75-percent shortfall in first quarter collections.

“Who is going to determine who pays the tax?” Dr. Gunby asked. “The line between ‘cosmetic’ and ‘reconstructive’ surgery is not always clear, and that would leave it up to state tax auditors to determine medical necessity. Far too many of us have already seen what happens when we leave those clinical decisions up to HMOs.”

Physicians such as plastic surgeons; dermatologists; and ear, nose and throat surgeons perform life-changing procedures, such as facial reconstruction, breast reconstruction following cancer, and burn and hand surgeries. State auditors would have to decide which procedures get taxed and which don’t. “We’ve learned from New Jersey that implementing this subjective tax would require an excessive amount of time and resources with little-to-no return to the state,” Dr. Gunby said.

Throughout the 2005 regular legislative session, TMA staunchly opposed any new taxes on physicians’ services. “We told both the House Ways and Means Committee and Senate Finance Committee that physician practices are not traditional businesses and should not be subject to a business activity tax,” Dr. Gunby said. “Taxing patient care is neither good public policy nor is it in the best interest of Texas.”

Texas physicians already provide a \$1-billion-per-year hidden tax through unreimbursed charity care, including critical trauma and reconstructive surgery. That amounts to a direct, \$1 billion savings for Texas taxpayers.

“No other business is required to give away its products or services for free,” Dr. Gunby said. “Physicians, however, have a legal and ethical obligation to provide emergency care without asking whether the patient can pay.”

A large majority of Texas voters agree that the state should not tax physician practices. Nearly two-thirds oppose a business activity tax on physician services, even if the proceeds are earmarked to help fund public education and lower school property taxes. In comparison, only one-half oppose a

2-percent state income tax for the same purposes. (These statistics come from a voter survey that TMA commissioned in late February 2005.)

TMA is the largest state medical society in the nation. It is located in Austin and has 120 component county medical societies around the state. TMA's key objective since 1853 is to improve the health of all Texans.

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