

**Written Testimony by Elizabeth Muennich, MD  
to the House Ways and Means Committee  
in Opposition to HB 49  
Wednesday, March 22, 2017**

My name is Dr. Elizabeth Muennich and I am a board-certified dermatologist practicing in Cincinnati, Ohio and I have seen 19,397 patients in the last 7 years. I am writing in opposition to the proposed cosmetic medical procedure tax in HB 49.

I am concerned about the unintended consequences of this proposed tax. This tax has the ability to harm patients, limit access to needed medical procedures and violate patient confidentiality rights. For all of these reasons I urge this committee to remove this unnecessary tax.

I see middle class patients everyday who could be subject to this tax. Not all medical procedures are cut and dry like this proposal would lead one to believe. If I see a patient who needs laser treatment for rosacea such as patients in the sales force (who do not want to wear cover-up makeup) or a chemical and light (Levulan Photodynamic Therapy) treatments for acne, insurance does not cover these treatments and then it is considered cosmetic. Because these are non-covered medical treatments patients are able to use their HSA Health Savings Accounts /FSA Flexible spending accounts (pre-tax) to help cover the cost of these procedures. It would be a tax nightmare to determine what is pre tax/ post tax/ medical vs. cosmetic. This is true of scarring from acne treated by laser as well. I also do benign mole removals that are not covered by insurance and are therefore considered cosmetic.

Another big concern with this proposal is the enforcement of this tax could include Ohio Department of Taxation audits of medical practices to determine whether procedures were elective and/or cosmetic. The proposed tax provision also makes the physician a tax collector and holds him/her liable for the taxable amount. Thus, audits would be directed at physicians who would need to prove whether or not procedures meet the definition of medically necessary. Presumably patient medical records including photographs would be involved in proving whether a procedure met the definition or not. This is potentially a significant violation of patient rights and confidentiality as outlined by HIPAA.

Are we really going to go down the path in Ohio of taxing patients, and potentially pricing them out of needed medical procedures? Applying the state sales tax on a medical procedure that costs a few thousand dollars could mean the difference between someone being able to afford the procedure or not. This could cause patients to delay getting needed medical care.

I urge this committee to remove this proposed tax from HB 49. Thank you for the consideration of my comments.