

**This notice was amended on February 23, 2009 by Revenue Notice # 09-01 and technical corrections were made to this notice on December 20, 2010 by Revenue Notice # 10-06.**

## **MINNESOTA DEPARTMENT OF REVENUE**

### **Revenue Notice # 06-12: MinnesotaCare Tax – Patient Services**

#### **– Cosmetology Services**

##### **Introduction**

This revenue notice explains the application of the MinnesotaCare tax when cosmetology services, as defined in Minnesota Statutes, section 155A.03, subdivision 2, are provided by an entity that employs health care providers.

Patient services that are provided by a health care provider are subject to the MinnesotaCare tax. Patient services are defined in Minnesota Statutes, section 295.50, subdivision 9b, to include nursing, medical, and “. . . other diagnostic or therapeutic items or services . . .” provided to a patient or consumer. A health care provider is defined in Minnesota Statutes, section 295.50 subdivision 4, to include a person whose health care occupation is regulated by the state of Minnesota and who furnishes diagnostic or therapeutic services to a patient or consumer; a person who provides goods and services that qualify for reimbursement under the medical assistance program; or a facility that employs such a person. All patient services provided by a health care provider are taxable.

Under Minnesota Statutes, section 155A.08, subdivision 1, a person “who offers cosmetology services for compensation in this state shall be licensed as a salon if not employed by another licensed salon or as an esthetician in connection with medical care in relation to esthology in the office of a licensed physician.”

Under Minnesota Statutes, section 155A.14, a health care provider is not required to be licensed as a salon.

##### **Department Position**

- A. All patient services provided directly by a person who is regulated as a health care provider under *Minnesota Statutes*, 295.50, subdivision 4, are subject to the MinnesotaCare tax.
- B. When a facility employs health care providers and is not licensed as a salon, all patient services performed by the facility’s employees are subject to the MinnesotaCare tax.
- C. When a facility does not employ health care providers, none of the services are taxable.
- D. When a licensed salon provides cosmetology services and employs health care providers, the services provided by employees that are not health care providers are not subject to the MinnesotaCare tax unless one of the following conditions applies:
  1. the cosmetology service includes an assessment of the patient before, during, or after the service, conducted by a health care provider who is employed by the facility;
  2. the service is billed under a medical code;
  3. the service is supervised or ordered by a health care provider employed by the facility;
  4. the service is covered by a health care provider’s medical malpractice insurance; or
  5. the service involves the use of prescription drugs or prescription devices.

##### **Examples**

1. A spa employs a dermatologist. Facials that are ordered by the dermatologist and performed by an esthetician employed by the spa are subject to tax since they are patient services.
2. A plastic surgeon owns and operates a medical spa. The spa is not licensed as a salon. All the services provided by the surgeon or by other employees of the spa are patient services and are subject to tax.
3. A health care provider owns a licensed salon. The health care provider is not employed by the salon and the salon does not employ any other health care providers. Services provided by the salon are not subject to the MinnesotaCare tax.
4. Administration of the following prescription drugs or devices is subject to tax: Botox injections, Collagen injections, Restylane injections, and Sclerotherapy injections. Chemical peels and microdermabrasion facials performed by a nurse are subject to tax.
5. Facials and eyelash tinting performed by an esthetician are not subject to tax if they are not subject to medical oversight.
6. A licensed salon performs facials. The patient is examined by a health care provider who is employed by another facility (none of the other conditions listed above under Department Position D apply). The examination by the provider is subject to the MinnesotaCare tax. The facials are not subject to the MinnesotaCare tax.
7. A fitness center employs a health care provider who advises members on exercise and weight issues. A salon within the fitness center performs cosmetology services. The health care provider is not involved in providing the cosmetology services. The cosmetology services are not subject to tax.

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