

# BRAD SMOOT

ATTORNEY AT LAW

800 SW JACKSON STREET, SUITE 808  
TOPEKA, KANSAS 66612  
bradsmoot@smootlawoffice.com

(785) 233-0016(OFFICE)  
(785) 224-1200 (CELL)

Statement of Brad Smoot  
Legislative Counsel  
Kansas Society of Eye Physicians & Surgeons  
Senate Public Health and Welfare Committee  
Regarding 2025 House Bill 2223  
March 24, 2025

Madam chair and members of the committee, my name is Brad Smoot and I am appearing today representing the Kansas Society of Eye Physicians and Surgeons in opposition to HB 2223. Thank you for this opportunity to comment on a couple of matters of concern.

From what I know about lawmakers, they first want to be confident that they know what's in the bill they are being asked to support. Then, they want to be confident that the laws they're enacting are good for Kansans, most especially medically vulnerable patients. And finally, they want to be confident that the public can understand the changes they have made. Let me point out a few items in HB 2223 that leave me less than confident.

First, the Legislature has been advised that 12 other states have enacted the proposed expansion of optometric practice that is provided for in this bill. My information is that fewer jurisdictions have enacted all the procedures enumerated in Section 1(a)(1)-(4) of HB 2223. Actually, no more than 4 states go as far as this bill. Not a confidence builder to me.

Second, Subsection (5) of Section 1(a), appears to grant the Board of Optometry authority to allow by Rules and Regulations for licensees to perform any surgical procedure on the human eye and surrounding areas that is within the licensee's "education and training." Education and training may vary from school to school, class to class, and time to time. This appears to be an unbridled grant of authority to an unelected administrative body. Knowing how many Kansas lawmakers feel about the excesses of administrative agencies and the duty of the Legislature to provide real direction for the administration of the law, inclusion of this provision gives me no confidence that any of us know what this could mean in the future or even at this moment. I certainly don't.

Third, regardless of "education and training," licensed optometrists all hang the same license on their office wall. There appears to be no defined specialty to which the Board might certify that a given licensee is qualified to perform whatever surgical procedures are allowed. Is there going to be a special certificate issued by those out-of-state colleges we hear about? Will there be special testing for those who wish to perform these newly permitted procedures? Where is that stated in the bill or is it just left to Board of Optometry? It would certainly add to my confidence as a patient to know that the Legislature specifically laid out these requirements in detail and that there is some official document I could read on the wall. I'd like to be confident that my eyes are not the first human eyes my optometrist has operated on.

While we're discussing the Board of Optometry, are we all confident that the Board of Optometry as currently structured is the best and only body to make these consequently decisions about eye surgeries? The board is composed of 5 members, 4 of whom are practicing optometrists with 5 years of experience, residents of Kansas and nominated by the Kansas Optometric Association. One is a member of the public and all are appointed by the Governor. Nothing in HB 2223 requires that the members of the Board that oversees the authorizing of surgical procedures, the review of educational and training requirements, the promulgation of Rules and Regs or the performance of those licensees have any knowledge or experience whatsoever of these new surgical procedures. Fortunately, there is already established the Interprofessional Advisory Committee with ophthalmologists and optometrists on the it. See K.S.A. 74-1505. Maybe that body should be specifically required to weigh in on many of these issues or even be given the power to approve various procedures, Rules and Regs, education and training requirements as well as disciplinary matters. That would make a lot of us more confident.

Finally, your predecessors saw fit to require optometrists to perform at the standard of care of a physician when diagnosing and treating glaucoma. See K.S.A. 65-1501(a)(c) at page 2, lines 27-32. Why have the proponents not included a similar standard of care for these procedures which they wish to perform (currently done only by physicians)? Wouldn't you and your constituents feel more confident knowing the highest standard of care is required for these new privileges you are being asked to grant?

I think we all want to feel totally confident about this bill. So please reject HB 2223 until you have that confidence. Thank you for your consideration.