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Opponent Testimony on HB2223
Senate Public Health and Welfare
Kansas State Board of Healing Arts
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Chair Gossage and Honorable Committee Members,

Thank you for the opportunity to provide this neutral testimony concerning HB 2223. My name is Susan Gile, and I am the Executive Director for the Kansas State Board of Healing Arts ("KSBHA" or "Board"). The Board is the executive body tasked with licensing and regulating 16 different healthcare professions in Kansas. *See* K.S.A. 65-2801 *et seq*. The Board is composed of 15 members, 12 of whom are licensed healthcare professionals from various professions, including eight licensed physicians, three chiropractors, one podiatrist, and three public members. **The statutory mission of the Board is public protection**.

The Board has several concerns regarding HB2223 and is opposed to passage in its current form.

- Passage of HB2223 allows for members of a Board with no licensed physicians to perform surgery.
    - *K.S.A. 65-2869* defines persons engaged in the practice of medicine and surgery as: "(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings."
    - HB2223 as written explicitly allows for a non-physician to perform surgery.
- Passage of HB2223 gives the Kansas Board of Examiners in Optometry the latitude to add additional procedures without legislative authorization nor oversight;
    - Section 1(a)(5) The practice of optometry means: "(5) the performance of additional procedures that are not otherwise prohibited by subsection (b) that are within the scope of a licensee's education and training for the treatment of any insufficiencies or abnormal conditions of the human eye and its adnexa as authorized pursuant to rules and regulations adopted by the board."
- HB2223 does not require optometrists to participate in the Kansas Healthcare Stabilization Fund (HCSF) (K.S.A. 40-3401).

- Although optometrists are defined as health care providers by K.S.A. 40-3401(f), the Legislature discontinued their compliance requirements in 1991. This means that **optometrists are ineligible for coverage through the stabilization fund**.

- Passage of HB2223 without amendment would require optometrists to submit evidence of professional liability insurance ("PLI") (Sec 3.(b)) at an amount to be determined by the Optometry Board, but their HCSF eligibility would remain unchanged.

    - Should HB2223 be passed, the minimum PLI coverage amounts for optometrists should be raised to an amount commensurate with requirements for other healthcare professionals authorized to perform surgery.

    - KSBHA recommends coverage amounts no less than $500,000 per claim, $1,500,000 annual aggregate.

- Expanding the optometry scope of practice to include laser surgeries introduces a higher potential risk of liability. To compensate for this increased exposure, insurers are required to price in greater potential for loss, leading to increased premiums and higher costs for providers.

There was ample discussion during last year's House Health and Human Services Committee hearing about how ophthalmologists and optometrists are equally trained on the use of the lasers and the performance of the procedures outlined in the bill. However, outlined below, the education and training of these professions is **not** equal.

Below is a high-level overview of the education and training requirements of an optometrist vs. an ophthalmologist:

To obtain a license, **optometrists** must:
- Complete an undergraduate degree
- Attend a four-year Optometry program
- Pass the NBEO Exam
- Optional residency

After receiving their license…
- Optometrists will complete 24 hours of continuing education annually.

To obtain a license, **ophthalmologists** must:
- Complete an undergraduate degree
- Complete medical school
- Complete residency training
- May complete a fellowship in ophthalmology
- Pass the USMLE

After receiving their license…
- The ophthalmologist will complete 50 continuing education hours annually.

But this comparison alone does not sufficiently convey the difference in training between these providers - the most significant of which is the completion of **residency** and **fellowship** programs.

- Prospective ophthalmologists are <u>required</u> to complete no less than 3 years of residency training.

- Many ophthalmologists will complete an optional 1-2 year fellowship for their subspecialty.

- An ophthalmology resident will complete an average of 12,000-16,000 clinical hours over the course of residency training.

- Residents will engage in full-time clinical and surgical training for an average of ~60-80 hours a week.

The Accreditation Council for Graduate Medical Education (ACGME) sets and monitors educational standards for residency and fellowship programs. The ACGME's requirements for ophthalmology residencies can be found here[1]. Among these requirements are:

- "4.5 - Residents must be able to perform all medical, diagnostic, and surgical procedures considered essential for the area of practice"

- "4.5.c. - Residents must demonstrate competence in patient care, including laser procedures, such as YAG capsulotomy, laser trabeculoplasty, laser iridotomy, panretinal laser photocoagulation."

- "4.9.g. – Residents must demonstrate competence in using tools and techniques that **promote patient safety** and disclosure of patient safety events (real or simulated)."

- "4.11.d – Each resident must participate in a minimum of 3,000 ophthalmology outpatient visits."

- "4.11.d.1. – Each resident must perform a substantial portion of the examination for each of these visits, with at least 1,000 of those examinations done with direct supervision."

    - "4.11.d.1.a. – Direct faculty supervision must include the faculty member examining the patient with the resident, and discussing the management of the patient with the resident before the patient leaves the clinic.

For optometrists, completion of residency training is optional. Programs are accredited by the Accreditation Council on Optometric Education (ACOE). In contrast to ACGME standards, the ACOE sets guidelines without specifying the requisite number of patient encounters, time in clinic, or competencies. Notably, the word "safety" is mentioned in these ACOE guidelines only once, in reference to Facility safety policies.[2] Below is a link to the ACOE accreditation standards. I encourage you to review and compare the training requirements of ACGME vs. ACOE residencies.

During residency, ophthalmology residents fine-tune their surgical acumen, assisting and eventually performing thousands of surgical procedures under direct supervision. These surgeries are often performed on actual patients, providing invaluable hands-on experience to residents. Optometrists who

[1] Accreditation Council for Graduate Medical Education (2025) *ACGME Program Requirements for Graduate Medical Education in Ophthalmology* https://www.acgme.org/globalassets/pfassets/programrequirements/2025-reformatted-requirements/240_ophthalmalogy_2025_reformatted.pdf

[2] Accreditation Council on Optometric Education (2025) *Optometric Residency Program Standards* https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Ftheacoe.org%2FAffiliates%2FACOE%2FDocuments%2FACOE%2FCurrent%25202025%2520Optometric%2520Residency%2520Program%2520Standards.docx&wdOrigin=BROWSELINK

do not complete a residency might learn procedure techniques by practicing on animal eyes or plastic models during optometry school, but they will not receive experience on human patients.

But an important aspect to consider is that performing a medical procedure encompasses *far* more than the emulation of a procedure or technique. To provide the highest quality of healthcare, one must also be qualified to assess whether a patient needs surgery; whether this is the right surgical technique for the patient; the risk of complications; and to be prepared to manage any complications which arise. Medical Doctors – through education and clinical training – are the only healthcare provider qualified to provide this. Which is why they are the only professionals trained and qualified to independently perform surgical procedures.

It is our position that in accordance with the Kansas State Board of Healing Arts mission, **public safety** must remain the primary consideration. While proponents of this legislation point towards the potential for increased access in rural communities, no data has been presented to indicate that this is the case. Even if true, the margin for error in rural communities is even smaller, where receiving emergency follow-up care in the event of complications is more difficult.

It is critical to ensure that Kansas patients receive care from professionals possessing the necessary training and experience to provide quality and safe patient care, especially in the context of surgery. As indicated above, ophthalmologists receive the necessary education and training to practice independently, safely perform surgical procedures, and handle all types of emergencies.

The healthcare system is a continuum with all members having equal importance. Every day, optometrists and ophthalmologists practice interdependently, each with their own area of expertise and respect for each other's profession. It is important to maintain the balance of the system by ensuring that each profession maintains this expertise and performs only the procedures they are trained and well qualified to perform.

Sincerely,

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