

November 3, 2021

The Honorable Miguel Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Ave, SW  
Washington, DC 20202

Re: Comments on Notice of Intent to Establish Negotiated Rulemaking Committee,  
Docket ID ED-2021-OPE-0077-1311

Dear Secretary Cardona,

On behalf of the American Association of Colleges of Osteopathic Medicine (AACOM), thank you for the opportunity to provide comments on the U.S. Department of Education's notice of intent to establish a negotiated rulemaking committee to develop regulations on the 90/10 rule as required by Section 2013(c)(2) of the *American Rescue Plan Act of 2021* (ARP).

AACOM leads and advocates for the full continuum of osteopathic medical education (OME) to improve the health of the public. Founded in 1898 to support and assist the nation's osteopathic medical schools, AACOM represents all 37 colleges of osteopathic medicine (COMs)—**educating nearly 34,000 future physicians, 25 percent of all U.S. medical students**—at 58 teaching locations in 33 U.S. states, as well as osteopathic graduate medical education (GME) professionals and trainees at U.S. medical centers, hospitals, clinics and health systems.

AACOM appreciates the Department's willingness to engage stakeholders through negotiated rulemaking to prepare proposed regulations on the 90/10 rule. Additionally, we recognize the importance of appropriate oversight and the Department's commitment to advancing equitable outcomes for all students. We encourage the Department to promote accountability across Title IV federal financial aid programs and ensure students are well-informed.

The nation faces a physician shortage, and federal policies must support the educational pathway of the future healthcare workforce. AACOM asks the Department to consider factors unique to medical education and the training of future physicians as it evaluates existing regulations and devises new regulatory policy.

### **90/10 Rule**

**As the 90/10 rule is modified, AACOM urges the Department to provide exemptions from the new standards for accredited proprietary U.S. medical schools. We further request that the Department of Defense (DoD) Health Professions Scholarship Program (HPSP) funds are excluded from the 90 side of the calculation.**

Enclosed are letters from AACOM's member institutions, the Burrell College of Osteopathic Medicine, the California Health Sciences University College of Osteopathic Medicine, the Idaho College of Osteopathic Medicine, the Noorda College of Osteopathic Medicine and the Rocky Vista University College of Osteopathic Medicine, outlining the impact this rule would have on these medical schools and their students. AACOM endorses the concerns and recommendations in these letters and believes they illustrate the problem these policies would pose for proprietary U.S. medical schools.

AACOM requests that the Department take the factors described below into consideration throughout the negotiated rulemaking process.

#### Modifications to 90/10 Rule Unnecessary for U.S. Medical Schools

AACOM does not believe that Section 2013 of the ARP should apply to U.S. medical schools. The section would expand the 90/10 rule to require that a proprietary institution derive at least 10 percent of its revenue from sources that are not federal education assistance funds. COMs currently operate under the 90/10 rule without complication but expansion of the definition to all federal funds, including veterans and GI bill support, risks limiting access to medical school for these populations.

AACOM understands the intent of the 90/10 rule to promote accountability and oversight of institutions of higher education and address high default and low employment rates. **However, proprietary COMs have exceedingly low loan default rates and achieve exceptional graduate and residency placement rates. The proposed standards are therefore unnecessary for proprietary COMs.**

- AACOM member institutions have extremely low loan default rates. According to AACOM data collected in 2018, reported program loan default rates were between 1.10 percent and 1.43 percent.
- Placement rates for COM students are also exceptionally high. This year had a 98 percent match rate for osteopathic medical students participating in the National Resident Matching Program (NRMP)'s Match Week. Even after the NRMP's Match Week, DO graduates continued to achieve placement in postgraduate training for a total placement rate of 99 percent of those seeking GME by June 30, 2021.
- Further, cohort graduation rates for all COMs were more than 90 percent.

#### Modifications Unfair for Students and Would Exacerbate Physician Shortage

COMs, including proprietary institutions, aim to establish educational programs that target the healthcare needs of rural and underserved populations. More than half, including half of for-profit locations, are located in Primary Care Health Professional Shortage Areas, contributing to more practicing physicians in those areas. Federal financial aid programs play a vital role in recruiting and sustaining a diverse student population to provide culturally appropriate services. Limiting access to federal financial aid for diverse students will exacerbate the shortage of those underrepresented in medicine.

**The ARP's modification to the 90/10 rule, if applied to U.S. medical schools, could severely jeopardize or penalize medical students who rely on federal financial aid assistance programs to help fund their education. This will further exacerbate the nation's physician shortage.**

- Disadvantaged medical school applicants are often troubled by a lack of credit history and poor or no access to co-signers.
- Obtaining private loans for the cost of medical education is difficult. When Title IV is not available, these students may decide to forego medical school entirely.
- Medical schools have high application rates and will fill positions with those who can obtain funding.
- More than 86 percent of osteopathic medical students who attend medical school and participate in residency training in a state will practice in that state, so failure to attract underrepresented in medicine applicants will exacerbate geographic disparities.

#### Health Professions Scholarship Program Should Not Be Included in 90 Percent Calculation

The HPSP is unlike other forms of student aid from the DoD and the Department of Veterans Affairs. HPSP is a competitive scholarship opportunity for students attending medical and dental school that provides full coverage of all tuition and fees, reimbursement of health insurance costs, a monthly living stipend and other school expenses.

**AACOM requests that HPSP funding remain excluded from the 90 percent side to continue to allow the military to recruit more medical students to become military physicians.**

- HPSP has a service requirement following degree completion, rather than being a post-service benefit like G.I. Bill aid.
- Discouraging a proprietary COM from accepting HPSP students would be contrary to the program's mission to attract and train physicians for active-duty military service.
- Because of the uniqueness of the program, continuing to include HPSP in the 10 percent side of the 90/10 calculation will not undermine ED's goal of supporting veterans.

#### **Gainful Employment**

AACOM understands the Department intends to promulgate new policy on gainful employment (GE). Although the GE regulation was rescinded on July 1, 2019, AACOM continues to have [serious concerns](#) with its one-size-fits-all approach, which completely disregarded factors unique to medical education.

**AACOM urges the Department to exempt all U.S. graduate terminal degree medical education programs from any GE-related requirements. It is critical that policies and regulations related to loan repayment rate calculations, debt-to-earnings rates and Title IV eligibility decisions account for the distinctions of medical education training. Failure to do**

**so could severely jeopardize or penalize medical students who rely on these programs to finance their education and exacerbate the nation's physician shortage.**

- Medical students and residents depend on federal financial aid options such as income-based repayment and forbearance to postpone or reduce their obligations until they become licensed physicians earning a full salary.
- Medical school graduates, both osteopathic and allopathic, must attend four years of medical school. To practice, graduates are also required to complete GME training, which takes between three to seven years.
- During this post-graduate training, medical residents earn a stipend. However, that income is generally not sufficient to begin full repayment of educational loans and is certainly not indicative of a future practicing physician's salary.
- Medical schools produce graduates with high income potential and low default rates on student loans, so do not require the federal protections offered by GE.
- According to data in the National Student Loan Data System, borrowers with graduate degrees have the [lowest default rates](#) despite accounting for about half of all student debt.

Thank you for providing the opportunity to share our views. We look forward to working with the Department throughout the regulatory process. If you have any questions or require further information, please contact David Bergman, JD, Vice President of Government Relations, at (301) 968-4174 or [dbergman@acom.org](mailto:dbergman@acom.org).

Respectfully,



Robert A. Cain, DO, FACOI, FAODME  
President and CEO



3501 Arrowhead Drive  
Las Cruces, New Mexico 88001  
[www.burrell.edu](http://www.burrell.edu)

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November 1, 2021

Brian Schelling  
U.S. Department of Education  
400 Maryland Ave. SW, Room 2C188  
Washington, DC 20202

Dear Mr. Schelling,

On behalf of the Burrell College of Osteopathic Medicine (the "Burrell COM") an accredited, for-profit, medical school located in Las Cruces, New Mexico, I am writing to submit comments regarding the upcoming negotiated rulemaking effort that the U.S. Department of Education (ED) will be conducting on the 90/10 rule and possibly other matters.

The Burrell COM was founded under a unique public-private partnership with New Mexico State University to address a significant and unmet public need in New Mexico and the borderland region. New Mexico has one of the highest physician shortages in the country and 100% of the counties in New Mexico are designated as medically underserved. The Burrell COM has remained true to its mission to increase diversity within the physician workforce. This is evidenced by the fact that the Burrell COM is ranked #2 in the nation, per AACOM's 2020/2021 academic year data, for minority enrollment among all 40 osteopathic medical school locations.

Since its inception in 2016, the Burrell COM's entering classes have been comprised, on average, of 27% underrepresented minorities versus approximately 12% for traditional allopathic programs. The Burrell COM recently graduated its second class and has prepared a total of 278 graduating physicians to provide healthcare nationally and within its mission region. The Burrell COM has placed 99% of its graduates into residencies, which exceeds the national average. Furthermore, 68% of the Burrell COM's graduates have elected to practice in primary care fields compared to 34% of graduates from allopathic medical degree programs. The Burrell COM has also facilitated the creation of over 150 new residency positions in New Mexico and the borderland region and is assisting with development of additional positions, which will ultimately bring more physicians to the area.

The Burrell COM supports ED's efforts to regulate on the 90/10 rule through an upcoming negotiated rulemaking session to ensure further clarity is provided on how recent changes adopted through the American Rescue Plan Act (ARPA) apply to Federal aid.

Being located within a military region of our nation, the Burrell COM has established excellent relationships with Fort Bliss Army Base, El Paso, Texas, White Sands Missile Range, Las Cruces, NM, Holloman Air Force Base, Alamogordo, NM and Kirtland Air Force Base, Albuquerque, NM. As such, the Burrell COM has seen an incremental increase in military students that are participants in the Health Professions Scholarship Program (HPSP) – which is offered through the Army, Navy, Marines, and Air Force. This competitive scholarship opportunity is for students attending medical and dental school programs and provides full

coverage of all tuition and fees, reimbursement of health insurance costs, a monthly living stipend and other school expenses.

HPSP scholarship funding is unique compared to other funds provided to students from the Department of Defense (DOD) and the Department of Veteran Affairs (VA). HPSP is a competitive program in which students seek to participate and, if selected, determine on their own which medical school to attend. Moreover, HPSP is unlike other forms of student aid in that it has a service requirement following degree completion rather than being a post-service benefit such as the GI Bill aid. We urge ED as it approaches this negotiated rulemaking effort to consider whether HPSP funding should be included under the 90% side of the 90/10 calculation or if other flexibility could be provided to recognize the unique nature of this scholarship program.

As ED knows, there are insufficient seats in US medical schools to meet all civilian and military needs for physicians in our country. Qualified students who are selected for HPSP scholarships must compete for those limited medical school seats. It would be detrimental to the interests of the military to discourage the Burrell COM from accepting HPSP students because those students could endanger the Burrell COM's participation in the Title IV loan program. Continuing to allow HPSP to be included on the 10% side of the 90/10 calculation will not undermine ED's worthwhile goal of supporting veterans and allowing the military to recruit more medical students to become military physicians.

On behalf of the Burrell COM, I would also like to provide some additional thoughts regarding the potential re-instatement of the Gainful Employment regulations.

As a new medical school, the Gainful Employment regulations may put the Burrell COM's program at risk of being placed in high risk "zone". On the contrary, the Burrell COM's graduates have excellent employment after graduation – in fact, as stated above, the Burrell COM has a 99% residency placement rate (employment) for its graduates. The debt-to-income ratios included in previous regulations did not properly consider that medical school generates high debt but produces graduates with high income potential and significantly lower default rates on student loans.

While we would prefer that ED not move forward with new Gainful Employment regulations as a part of this upcoming negotiated rulemaking, we urge the agency to not apply this regulation to graduate level programs such as physician, dental and veterinary programs if ED does move forward with regulating on Gainful Employment,. Administering this regulation across the board, without consideration to the actual programs, will create unintended consequences that would harm the public, as opposed to providing protection.

Thank you for your consideration of our feedback on 90/10 and Gainful Employment regulations.

Sincerely,



John L. Hummer  
President

November 2, 2021

Brian Schelling  
U.S. Department of Education  
400 Maryland Ave. SW, Room 2C188  
Washington, DC 20202

Dear Mr. Schelling:

On behalf of California Health Sciences University (CHSU) in Clovis, California, we are providing comments to be considered during the upcoming negotiated 90/10 rule making effort by the US Department of Education. We humbly request that all medical schools, regardless of their tax status, be exempt from the new 90/10 and Gainful Employment requirements.

CHSU is a private, for-profit health sciences university founded by a philanthropic family due to lack of medical education in the region. CHSU currently offers Doctor of Pharmacy and Doctor of Osteopathic Medicine programs. There is capacity for up to 8 additional post-graduate, health sciences programs in the future.

As a Hispanic-serving region with approximately 55% of the population being Hispanic/Latinx, we aim to remedy health care access inequities by educating graduates to serve in these underserved, rural, and inner-city areas; and by promoting practice in primary care.

CHSU is one of several universities and medical schools built in the last decade by investors/families in areas that desperately needed the institution to address health care shortages. It is unfair to disparately impact these institutions by applying the new 90/10 and Gainful Employment rules. The new regulations would hold them to a higher standard than the other 171+ accredited U.S. medical schools, despite meeting the same accreditation and licensing standards, including graduation rates, test scores, and residency placement rates.

Both the Commission on Osteopathic College Accreditation and the Liaison Committee on Medical Education, which accredits osteopathic and allopathic medical schools, have removed statements regarding profit status from their accreditation standards. The tax structure of a school is irrelevant to its quality if all other accreditation standards are met.

More importantly, the medical and pharmacy students attending our university will be unfairly impacted. CHSU students are largely from California's Central Valley, which is designated as a Medically Underserved Area (MUA), a Health Provider Shortage Area (HPSA) and has a severe shortage of primary care physicians. Like many medical and pharmacy students, most CHSU students are dependent on Federal student loans to pay for their higher education.

The new 90/10 rule may dissuade students from choosing CHSU and other private, for-profit institutions, despite the institution being their first or only choice.

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CHSU students and graduates from for-profit institutions, are eligible for all residency programs. However, many students disproportionately select more lucrative specialties over primary care, sometimes based on their indebtedness as the deciding factor. This causes more graduates to practice in urban areas widening the gap of the underserved. These two factors continue to lead to health care disparities as graduates preferentially avoid primary care and underserved areas.

The 90/10 rule is a specific burden for medical schools, especially those that don't have any additional undergraduate programs attached. Undergraduate institutions have other sources of income, such as athletic programs and robust undergraduate research dollar grants.

Like other for-profit universities, I am proud in our ability to establish scholarship funding related to the department of defense and HPSP program. Graduating students with military scholarships should not be counted in the 90/10 rule.

These Gainful employment regulations may inadvertently reduce access to professional health education by creating new burdens while trying to address a harm not typically experienced by graduates pursuing these professional medical careers.

For the reasons stated above, we humbly request the department to exempt all graduate-level health professions programs, such as those that educate and train physicians, pharmacists, dentists, and veterinarians from new 90/10 and Gainful Employment regulations.

Please contact me or Dr. John Graneto at [jgraneto@chsu.edu](mailto:jgraneto@chsu.edu) with any questions.

Sincerely,



Florence T. Dunn  
President



John W. Graneto, DO, MEd  
Dean, College of Osteopathic Medicine





November 3, 2021

Brian Schelling  
U.S. Department of Education  
400 Maryland Ave. SW, Room 2C188  
Washington, DC 20202

Dear Mr. Schelling,

On behalf of the Idaho College of Osteopathic Medicine (ICOM)—a pre-accredited, proprietary medical school located in Meridian, Idaho, I am writing to submit comments regarding the upcoming negotiated rulemaking effort that the U.S. Department of Education will be conducting on the 90/10 Rule and possibly other matters.

ICOM was established in 2018 as a public/private partnership with Idaho State University to address the acute and growing shortage of primary care physicians in Idaho and this rural mountain west region. The College has not yet made application to participate in the Department of Education (ED) Title IV federal student loan program, but we plan to do so upon receipt of full COCA accreditation and graduation of our inaugural class in May, 2022.

Thus far ICOM has done remarkably well in meeting all COCA standards of accreditation and preparing students for success on their COMLEX USA national board exams. Of the inaugural class, over 93% passed the COMLEX Level-I exam on their first attempt; over 97% passed the Level-2 exam on their first try. Notwithstanding the College's early success, we know that our long-term sustainability and ability to attract quality students who are willing to pursue primary care and practice medicine in rural Idaho is largely dependent upon our ability to receive and administer Title IV funds. Because of this we are keenly interested in potential adjustments to the 90/10 Rule that could invite unintended detrimental effects on our students or ICOM's ability to achieve its mission.

We certainly understand and support ED's efforts to regulate on the 90/10 Rule through an upcoming negotiated rulemaking session to ensure further clarity is provided on how recent changes adopted through the American Rescue Plan Act (ARPA) apply to federal aid.

ICOM has currently enrolled over 70 students connected to the U.S. military. The majority of these students participate in the Health Professions Scholarship Program (HPSP)—a highly competitive scholarship program for students attending medical and dental



schools. While the changes enacted to the 90/10 Rule as part of the ARPA define federal education assistance funds as dollars disbursed or delivered to or on behalf of a student to be used to attend an institution, we believe—with our colleague institutions—the unique nature of HPSP funding should be viewed differently than other forms of federal financial aid. Accordingly, we urge ED to consider whether HPSP funding should be included under the 90% portion of the 90/10 calculation.

As noted, qualified students who receive HPSP scholarships must compete with other medical school candidates for limited medical school seats. Discouraging these students from attending ICOM would be detrimental to the interests of the military and quite unfair to these same students who otherwise earned those scholarships but are now disadvantaged from attending ICOM or any other high quality, propriety college of medicine. Continuing to allow HPSP students to be included in the 10% side of the 90/10 calculation will not negatively affect ED's aim to protect veterans from spurious schools, and it will most certainly enable the military to recruit more medical students to eventually become military physicians.

Finally, I understand that the ED may also have interest in reestablishing regulations regarding Gainful Employment. To be brief, we kindly request that ED not reintroduce the matter of Gainful Employment as part of the upcoming negotiated rulemaking exercise. However, if it does, we urge that the ED not apply this regulation to graduate level programs such as professional medical, dental, and veterinary programs. The simple fact that upon graduation, medical school graduates must then complete 3–7-year residency programs which necessarily delays their ability to eventually command high incomes suggests that application of the Gainful Employment rule to medical students is not appropriate. Moreover, at graduate professional schools such as the Idaho College of Osteopathic Medicine, the DOE cohort default rates have generally been less than one percent.

Thank you for your thoughtful considering of these views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tracy Farnsworth', is written in a cursive style.

Tracy Farnsworth, EdD, MHSA, MBA  
President & Chief Executive Officer



October 28, 2021

Julie Crockett  
Director of Government Relations  
American Association of Colleges of Osteopathic Medicine  
7700 Old Georgetown Road, Suite 250  
Bethesda, Maryland 20814

Dear Ms. Crockett:

Please accept this letter as the formal response by the Noorda College of Osteopathic Medicine (Noorda-COM) to your request for feedback regarding the *American Rescue Plan (ARP) Act of 2021*, the amended 90/10 rule, and the FTC's New Policies for For-profit Institutions.

After consulting with industry experts on this matter, Noorda-COM believes the Department of Education and its Office of Post-secondary Education should add specificity to the proposed changes to the American Rescue Plan of 2021 and the 90/10 rule to provide exemptions for for-profit institutions which are providing post-baccalaureate degree programs and/or terminal degree programs and which have received provisional or full accreditation status by the national accrediting bodies associated with those degree programs.

To be entitled to Title IV funding, all institutions must demonstrate they have received full accreditation status. In Noorda-COM's particular situation, we will be eligible to apply for Title IV funding in 2025 when we graduate our first class of medical students. During the interim period, we have secured private loan options for our students needing financial assistance. As such, our average student payments for tuition and fees, which are derived from private loans or family contributions, currently would fall well within the 90/10 rule even as amended.

However, the suggested change to include the GI Bill, VA aid, and HPSP funding could negatively impact Noorda-COM's ability to recruit current military service members and veterans. Many military professionals and veterans utilize these funding programs to either continue their education or to pursue their medical education following their service to our country. It would be unfortunate for these funding opportunities to be used against medical schools under the 90/10 rule as it could potentially significantly impact the recruitment of these individuals who prove to be very successful in medical school programs.



Medical students attending Noorda-COM and other institutions – regardless of their for-profit or non-profit status – receive high-quality graduate-level medical education from highly educated, advanced-degreed professionals in faculty positions who deliver the curriculum needed to meet national board standards. The caliber and quality of the education received by students at these institutions is vastly different and at a significantly higher educational level than most other for-profit institutions governed by the Office of Post-Secondary Education. Medical schools invest greatly in the recruitment and retention of students pursuing these advanced degrees and receive thousands of applications for each available class position. Recruitment is coordinated through the national American Association of Colleges of Osteopathic Medicine’s centralized online application service. All marketing to prospective students is also processed through this system and for an institution to participate, it must at least have provisional accreditation by the American Osteopathic Association’s Commission on Osteopathic College Accreditation.

Furthermore, when addressing the concerns expressed regarding deceptive or unfair conduct in the education marketplace, colleges of osteopathic medicine like Noorda-COM and others, should be held to a different standard. By virtue of their success rates in national board scores, placement in residency programs and post-graduate fellowships, and eventual employment rates as physicians, these institutions do not share the same characteristics of other for-profit institutions which have caused the Department of Education to express concern related to deceptive or unfair practices.

Too often, “for-profit” institutions are generalized and institutions like Noorda-COM and other for-profit colleges of medicine, are “lumped in” with more nefarious for-profit organizations who use deceptive or unfair tactics to entice students to their programs. With all marketing to prospective students being coordinated through a national database service and with the intrinsic success rates of placement of medical school graduates in residencies and eventual practice, these concerns are not applicable to colleges of osteopathic medicine.

Furthermore, if the potential gainful employment rules are properly and separately calibrated to apply to graduates of for-profit and non-profit colleges of medicine using a timeframe which accounts for internships, residency programs, fellowships, etc., and by calculating “real earnings” only after that training is completed, then these institutions should easily meet and exceed any reasonable standard. Medical school graduates are always in high demand especially given our nation’s extreme physician shortage, and graduates of colleges of medicine generally have great employment prospects after completing their full undergraduate and graduate medical training both in terms of salary and job security.

We therefore believe the Department of Education and the Office of Post-secondary Education should make all colleges of medicine, regardless of their for-profit or non-profit status, exempt from the American Rescue Plan Act of 2021, the amended 90/10 rule, and



**NOORDA COLLEGE**  
of OSTEOPATHIC MEDICINE

the FTC's new policies for For-profit institutions, as long as those institutions either have received provisional accreditation status or maintain full accreditation status with their governing national accrediting bodies.

We are available to answer any questions you may have or to provide greater detail on this issue. Thank you for providing us with the opportunity to submit feedback on behalf of our institution.

Sincerely,

Norman S. Wright, PhD  
Interim President

John J. Dougherty, DO  
Founding Dean and Chief Academic Officer



ROCKY VISTA UNIVERSITY  
OFFICE OF THE PRESIDENT AND PROVOST  
*Achieving new heights in medical education*

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November 1, 2021

Brian Schelling  
U.S. Department of Education  
400 Maryland Ave. SW, Room 2C188  
Washington, DC 20202

Dear Mr. Schelling:

On behalf of Rocky Vista University (RVU), a for-profit health sciences university located in both Parker, Colorado and Ivins, Utah, I am writing to submit comments regarding the upcoming negotiated rulemaking effort that the U.S. Department of Education (ED) will be conducting on the 90/10 rule and possibly other matters. RVU's two campuses in Utah and Colorado represent half of the medical schools located in these two States. This region has a severe shortage of primary care physicians and other medical providers, with families in rural areas having to travel long distances to receive medical care. RVU works to remedy these issues in the region and across the nation by educating graduates to serve in rural and underserved areas as primary care physicians. In fact, over 60% of RVU's graduates enter a primary care specialty, helping to address this shortage. RVU supports ED's efforts to regulate on the 90/10 rule through an upcoming negotiated rulemaking session to ensure further clarity is provided on how recent changes adopted through the American Rescue Plan Act (ARPA) apply to Federal aid.

RVU prides itself in being a much sought-after school of medicine, with an acceptance rate of approximately 6 percent, with more than 100 US military-connected students enrolled across current classes. These military students are participants in the Health Professions Scholarship Program (HPSP) – which is offered through the Army, Navy, Marines, and Air Force. This competitive scholarship opportunity is for students attending medical and dental school programs and provides full coverage of all tuition and fees, reimbursement of health insurance costs, a monthly living stipend and other school expenses.

HPSP scholarship funding is unique compared to other funds provided to students from the Department of Defense (DOD) and the Department of Veteran Affairs (VA). HPSP is a competitive program for which students seek to participate and if selected determine on their own which medical school to attend. Moreover, HPSP is unlike other forms of student aid in that it has a service requirement following degree completion rather than being a post-service benefit such as the GI Bill aid. While the changes enacted to the 90/10 rule as a part of the ARPA define Federal education assistance funds as those which are disbursed or delivered to or on behalf of a student to be used to attend an institution, we believe the unique nature of HPSP funding deserves further consideration by the agency as to whether it should be treated in the same manner as other forms of Federal financial aid. We urge ED as it approaches this negotiated rulemaking effort to consider whether HPSP funding should be included under the 90% side of the 90/10 calculation or if other flexibility could be provided to recognize the unique nature of this scholarship program.

As ED knows, there are insufficient seats in US medical schools to meet all civilian and military needs for physicians in our country. Qualified students who are selected for HPSP scholarships must compete for those limited medical school seats. It would be detrimental to the interests of the military to discourage RVU from accepting HPSP students because those students could endanger RVU's participation in the Title IV loan program. Continuing to allow HPSP to be included on the 10% side of the 90/10 calculation will not undermine ED's worthwhile goal of protecting veterans from low quality schools and it will allow the military to recruit more medical students to become military physicians.

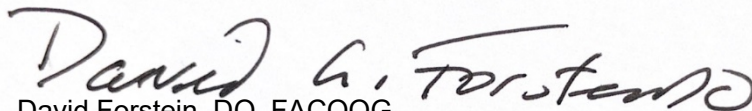
In addition to our thoughts on the 90/10 rule, we want to express our concern about the possibility that ED may seek to reestablish regulations regarding Gainful Employment through this upcoming negotiated rulemaking. The previous iterations of Gainful Employment regulations put RVU's programs at risk of winding up in the "zone." This was not because RVU graduates do not obtain employment – in fact RVU has a 100% residency placement rate for our graduates across all classes. Since RVU educates primary care physicians, who tend to be paid salaries that are generally the lowest of different types of doctors, the debt-to-income ratios included in previous regulations did not properly consider that medical school generates high debt but produces graduates with high income potential.

While we would prefer that ED not move forward with new Gainful Employment regulations as a part of this upcoming negotiated rulemaking. If ED does move forward with regulating on Gainful Employment, we urge the agency to not apply this regulation to graduate level programs such as physician, dental and veterinary programs. Individuals applying to and enrolling in graduate level programs, including graduate medical education, are making educational decisions after they have already earned a bachelor's degree. These are not soon to be recent high school graduates with no postsecondary education. The application of these rules to graduate level programs seems to ignore the level of commitment and effort taken to choose such a graduate program in the first place, especially those who would be embarking on the minimum of seven years to become a licensed and practicing physician post their residency. Additionally, due to the slow ramp up in salary in these professions and the potential for some graduates to practice part-time or suspend practicing due to care-giving responsibilities, Gainful Employment is too blunt an instrument that could reduce access to professional education creating a new harm while trying to address a harm not typically associated with this type of professional career choice. Furthermore, at graduate professional schools such as ours, the resulting DOE cohort default rates are extraordinarily low, less than 1%.

If ED determines that Gainful Employment should apply to graduate programs, then we would urge the agency to address the slow income progression of graduates and consider the various career progressions related to by-choice part-time work and career breaks for things like care-giving responsibilities.

Thank you for your attention to our views on this matter.

Sincerely,



David Forstein, DO, FACOOG  
President and Chief Executive Officer