Congress of the United States

Washington, DC 20515

April 11, 2025

Danielle Turnipseed, JD, MHSA, MPP
Chief Public Policy Officer
Association of American Medical Colleges
655 K Street, NW, Suite 100
Washington, DC 20001

Dear Ms. Turnipseed:

Thank you for your March 31, 2025 letter regarding the *Fair Access in Residency (FAIR) Act*, H.R. 2314. While we appreciate your engagement and your continued commitment to excellence in medical education, we must again take strong exception to several claims presented in the AAMC's letter and offer clarifications to ensure the record is accurate.

As a first matter, you are well aware that the FAIR Act aims to address a longstanding, corrosive problem in taxpayer-funded GME residency programs: discrimination against DO medical students. We found it curious how your letter goes to great lengths to dance around the issue by euphemistically referring to a "potential issue" and "potential concerns about parity." Even the American Medical Association (AMA) has straightforwardly acknowledged it for what it is: "discrimination" against DO students (see attached AMA issue brief: "*Discrimination Against DO Students in Medical Residency*").

Your characterization that the FAIR Act "supersedes [educational] experience in statute" or "jeopardizes patient access to care" misrepresents a plain reading of the legislative language and the fundamental intent of the bill. H.R. 2314 **does not** dictate who programs must accept into residency, **nor** does it mandate the use of any specific examination. It simply requires that residency programs accepting Medicare GME consider applications from qualified DO graduates on equal footing with their MD peers. Likewise, the bill ensures that ***if*** a residency program uses licensing exams to evaluate applicants — and it receives Medicare funding — then both the COMLEX-USA (DO) and USMLE (MD) must be accepted. These are reasonable, long-overdue expectations of fairness, transparency, and non-discrimination in publicly funded programs.

We agree that the transition to residency is an essential and complex phase in a physician's training. However, the data you reference underscores precisely why a legislative solution is necessary. According to AAMC's GME Track data — which we ask you to make available to us and the public in their entirety — the percentage of residency programs requiring USMLE scores dropped from 38% in 2015 to 26% in 2024, a shift of only 1.3 percentage points per year. **At that pace, it would take another 20 years to fully eliminate this inequity**. More troubling, however, is that this figure may significantly understate the problem. According to the publicly-available and verifiable 2024 NRMP Program Director Survey, 73% of programs that accept DO applicants still require those applicants to submit USMLE scores.[1] This reveals a wide gap between the appearance of progress in institutional data and the lived reality faced by osteopathic medical students. These students —

[1] https://www.nrmp.org/match-data/2024/08/charting-outcomes-program-director-survey-results-main-residency-match/

who already spend considerable time, money and energies preparing for and completing the COMLEX exam — are being required to pay for and prepare for an entirely separate exam just to be fairly considered. This is neither equitable nor sustainable.

Equally concerning is the continued reluctance by many programs to even consider DO applicants. As you note, the 2024 NRMP Program Director Survey reports that 29% of residency programs "seldom" or "never" interview DO candidates.[2] We do not see almost a third of all programs being effectively closed off to one-quarter of the nation's medical students as progress. Additional data show that there has been a decline in the percentage of DOs being accepted into surgical specialties and an increase in osteopathic students taking the USMLE since single accreditation.[3] Moreover, an AACOM 2023 survey of osteopathic medical school seniors found that 62% experienced bias in the residency selection process. So, the problem still exists at unacceptable levels, the pace of change is anemic and the problem is actually getting worse in some areas.

The FAIR Act does not attempt to legislate residency selection criteria, nor does it interfere with the discretion of program directors to accept or decline individual applicants. To reinforce and underscore, the plain language of the bill specifically clarifies that:

> *"Nothing in this Act shall be construed as federalizing medical education, or as establishing a mandate for an approved medical residency training program (as defined in section 1886(d)(h)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(h)(A)), to accept students (or to accept a certain number of students) from osteopathic or allopathic medical schools."*

Rather, the FAIR Act merely requires programs to consider applications and exams from both the DO and MD professions. This is a reasonable and necessary expectation for programs supported by more than $16 billion in annual Medicare funding.[4]

Additionally, as is expressly stated in the bill, the FAIR Act does not compel programs to continue using licensing exams as a condition of funding. It simply states that ***if*** a program chooses to require an exam score, it must accept both the USMLE and COMLEX-USA. Programs may move away from exam-based screening entirely, and nothing in the bill prevents them from doing so in the future.

Finally, we strongly object to your assertion that the bill would "jeopardize IME payments" or "undermine patient access to life-saving care." The legislation requires residency programs to **report** application and acceptance data and **affirm** consideration of DOs and the COMLEX. If a program willfully decides not to file the mandated reports, the program will be subject to a two

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[2] *Ibid*.
[3] https://pmc.ncbi.nlm.nih.gov/articles/PMC11142789/; https://www.usmle.org/performance-data
[4] https://www.congress.gov/crs-product/IF10960

percent reduction in IME. The legislation does nothing to impact life-saving care, and it is solely and entirely within the discretion of the program as to whether it incurs the 2% penalty.

We understand your preference for a non-legislative approach. However, despite years of high-level discussion and organizational effort, the data show persistent inequities and discrimination against DO medical students, slow progress in rectifying it, and even regression in some areas. The fact of the matter is that the AAMC along with your partners have been given many opportunities to take bold steps to address this problem, and have been unable or unwilling to do so. The osteopathic community has spent more than a decade working to address these issues through dialogue and education — yet the status quo remains largely unchanged. In our view, legislative accountability is necessary to ensure timely, system-wide change.

We remain open to continued dialogue with the AAMC and its member institutions. However, we continue to insist that the AAMC accurately reflect the content and impact of H.R 2314. Our shared goal is a physician training system that is fair, inclusive, free from discrimination based on medical education background, and responsive to the workforce needs of all communities. We respectfully urge the AAMC to support policies that reflect those values.

Sincerely,

Diana Harshbarger, Pharm.D.
Member of Congress

Chellie Pingree
Member of Congress

Sam Graves
Member of Congress

Carol D. Miller
Member of Congress

Don Davis
Member of Congress

Attachement: AMA Issue Brief: "*Discrimination Against DO Students in Medical Residency*"

cc: David J. Skorton, MD
President and CEO, AAMC

Discrimination Against DO Students in Medical Residency

Issues:

Doctor of osteopathic medicine (DO) trainees experience unique challenges and barriers to pursuing graduate medical education (GME) compared to their allopathic doctor of medicine (MD) counterparts. For example, there exists a longstanding preference for United States Medical Licensing Examination® (USMLE) scores over Comprehensive Osteopathic Medical Licensure Examination (COMLEX-USA) scores as an application metric to GME programs. DO students also tend to experience additional financial and administrative burdens when applying to GME programs.

Currently, there is an effort to pass legislation prohibiting residency programs who receive federal GME funding from discriminating against DOs in the residency selection process. The specific draft federal legislative proposal would make hospital receipt of Medicare GME dollars contingent on hospitals not imposing testing, certification, or accreditation requirements that are in excess of state licensure requirements. Seeking federal legislative intervention could negatively impact physicians' long-standing policy of self-regulation and oversight. The American Medical Association (AMA) supports resolution of the matter by leaders in medical education, rather than the federal government.

Background:

DO compared to MD

In the United States (U.S.), students seeking a medical degree can attend an allopathic medical school, leading to a MD degree, or an osteopathic medical school, leading to a DO degree. About one-quarter of U.S. medical students train at osteopathic medical schools. The curricula of both types of schools reflect a similar structure, with students spending much of their first two years in the classroom and the remainder of their training in a clinical setting. According to the American Osteopathic Association (AOA), the clinical training differs in that DO students also learn osteopathic manipulative treatment, defined as a "set of hands-on techniques used by osteopathic physicians ... to diagnose, treat, and prevent illness or injury." As such, DO students spend an additional 200+ hours of training on the musculoskeletal system.

COMLEX-USA compared to USMLE

Both COMLEX-USA and USMLE test trainees' knowledge of the fundamentals of medicine. The USMLE is administered by the National Board of Medical Examiners (NBME) and is taken by MD students during medical school and residency. The COMLEX-USA is for DO students and is administered by the National Board of Osteopathic Medical Examiners (NBOME). It also integrates knowledge of osteopathic manipulative medicine into its questions. DO trainees must take the COMLEX-USA, but also have the option to take the USMLE if they wish. Some DO trainees do ultimately take the USMLE to support their applications to residency programs.

Historically, some GME programs have accepted only USMLE scores from applicants. While that practice is changing, some program/residency directors give more weight to a USMLE score over a COMLEX-USA score in the selection process. This seems to be particularly true in more competitive specialties. Residency directors who themselves did not take the COMLEX-USA may be less inclined to understand or interpret its scoring. While the NBOME offers scoring principles to aid in this effort, this inequity may be influencing large

numbers of DO students to take both exams in preparation for applying to GME programs. The added cost for another exam puts DO trainees at a financial disadvantage.

Concern for residency matching

2021 data from The Main Residency Match highlights a concern that DO students are less likely to match into competitive specialties/programs

Potential Strategies:

- Promote equitable and holistic review of candidates for residency applicant selection
- Encourage GME program directors to interpret and use the COMLEX-USA score in the same manner in which they use the USMLE score in the residency selection process.
- Encourage key stakeholders to jointly create a no-fee, easily accessible clearinghouse of reliable and valid advice and tools for residency program applicants seeking cost-effective methods for applying to and successfully matching into residency
- Oppose federal intervention in the regulation of the practice of medicine or medical education

Moving Forward:

The AMA has many policies that support DOs. To mitigate negative impacts related to DO access to GME, the AMA:

- promotes the principle that selection of residents should be based on a broad variety of evaluative criteria, and to propose that the ACGME General Requirements state clearly that residency program directors must not use NBME or USMLE ranked passing scores as a screening criterion for residency selection. …Our AMA will: (a) promote equal acceptance of the USMLE and COMLEX at all United States residency programs; (b) work with appropriate stakeholders including but not limited to the National Board of Medical Examiners, Association of American Medical Colleges, National Board of Osteopathic Medical Examiners, Accreditation Council for Graduate Medical Education and American Osteopathic Association to educate Residency Program Directors on how to interpret and use COMLEX scores; and (c) work with Residency Program Directors to promote higher COMLEX utilization with residency program matches in light of the new single accreditation system. (H-275.953)
- supports policies that ensure equity and parity in the undergraduate and graduate educational and professional opportunities available to medical students and graduates from all LCME- and Commission on Osteopathic College Accreditation (COCA)-accredited medical schools. (H-295.854)
- supports collaboration…to raise awareness among policymakers and the public about the importance of expanded GME funding to meet the nation's current and anticipated medical workforce needs. (D-305.967)
- opposes the interference of government in the practice of medicine, including the use of government-mandated physician recitations. (H-270.959)

AMA Resources:

- Council on Medical Education
- Policy Finder
- Reimagining Residency initiative
- FREIDA™
- Health Care Advocacy