

August 26, 2022

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

Re: Comments on Notice of Proposed Rulemaking, Docket ID ED-2022-OPE-0062

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 (ED) notice of proposed rulemaking to implement statutory changes on the 90/10 rule.

AACOM leads and advocates for the full continuum of osteopathic medical education to improve the health of the public. Founded in 1898 to support the nation's osteopathic medical schools, **AACOM represents all 38 colleges of osteopathic medicine (COMs) at 61 teaching locations in 35 U.S. states**, as well as osteopathic graduate medical education (GME) professionals and trainees at U.S. medical centers, hospitals, clinics and health systems. **COMs educate approximately 36,500 medical students, 25 percent of all U.S future physicians.**

Building upon our [comments from November 3, 2021](#), AACOM appreciates ED's engagement with stakeholders. We recognize the importance of appropriate oversight and ED's commitment to advancing equitable outcomes for all students. As the nation faces a physician shortage, AACOM asks ED to consider factors unique to medical education and the training of future physicians as it hones existing regulations and devises new regulatory policy.

AACOM maintains concerns with the *American Rescue Plan Act's* modification to the 90/10 rule. We encourage ED to strengthen the proposed rule to provide flexibility for accredited proprietary U.S. medical schools. AACOM member institutions, including proprietary COMs, consistently prepare highly qualified physicians who serve as the backbone of the healthcare delivery system, particularly in rural and underserved areas. If the proposed rule is applied to proprietary U.S. medical schools, it could severely jeopardize or penalize medical students who rely on federal financial aid programs to help fund their education, exacerbating the nation's physician shortage.

- Federal financial aid programs play a vital role in recruiting and sustaining a diverse student population to provide culturally appropriate services. However, disadvantaged medical school applicants are often troubled by a lack of credit history and poor or no access to co-signers.

- Without federal financial aid, diverse students may decide to forego medical school, increasing the shortage of those underrepresented in medicine and limiting culturally competent healthcare access for communities across the country.
- One half of our for-profit COMs are located in Primary Care Health Professional Shortage Areas, leading to more practicing physicians in those areas.
- 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 financial aid policies that discourage applicants from rural and underserved areas will worsen geographic healthcare disparities.
- AACOM member institutions, including proprietary COMs, 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.
- GME placement rates for COM students are also exceptionally high. In 2021, osteopathic medical students participating in the National Resident Matching Program (NRMP)'s Match Week had a 98 percent match rate. 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.
- COMs are providing stable, quality education to medical students. The rule needs to provide more flexibility so for-profit medical schools can continue to recruit a diverse pool of qualified candidates, including those who are underrepresented in medicine.

AACOM urges ED to exclude scholarship aid awarded through the Health Professions Scholarship Program (HPSP), the National Health Service Corps (NHSC) Scholarship Program and the Indian Health Service Scholarship (IHSS) Program from the 90 side of the calculation. AACOM recommends ED recognize the unique nature of these competitively awarded programs and not consider this aid as Federal funds for purposes of regulation implementation.

- Proprietary COMs currently operate under the 90/10 rule without complication but expansion of the definition to all federal funds risks limiting access to medical school for populations who rely on federal aid to support their medical education.
- The HPSP, NHSC and IHSS programs are unlike many other forms of federal student financial aid. These are competitive scholarship programs, and medical students apply for these programs separate from the medical school application process.
- HPSP, NHSC and IHSS recipients must also agree to serve in an area of national need following graduation. Other forms of federal student aid, such as the GI Bill, are offered as a post-service benefit.
- These programs provide incentives to offset the cost of medical education for physicians that choose to serve in our armed forces, practice primary care in underserved areas and provide care on Tribal lands.
- Discouraging proprietary COMs from accepting HPSP, NHSC or IHSS students would frustrate the schools' missions to attract and train physicians from underrepresented communities.

Enclosed are letters from AACOM's member institutions, 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 could pose for proprietary U.S. medical schools.

Thank you for providing the opportunity to share our views. We look forward to working with ED throughout the regulatory process and implementation. 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@aacom.org.

Respectfully,

A handwritten signature in black ink that reads "Robert A. Cain, DO". The signature is written in a cursive style.

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



NOORDA COLLEGE
of OSTEOPATHIC MEDICINE

August 22, 2022

Director of Government Relations
U.S. Department of Education,
Office of Postsecondary Education,
400 Maryland Avenue SW, 2nd Floor
Washington, DC 20202

To whom it concerns:

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.



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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.



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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 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
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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The Honorable Miguel Cardona
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Re: Comments Notice of Proposed Rulemaking, Docket ID ED-2022-OPE-0062

Dear Secretary Cardona:

On behalf of Rocky Vista University (“RVU”), I am writing to submit comments regarding the Notice of Proposed Rulemaking (“NPRM”) to revise the 90/10 Rule. We appreciate the opportunity to comment on this regulation and its impact on students who will attend RVU in the coming years.

RVU is a proprietary health sciences university located in both Parker, Colorado and Ivins, Utah, with a new campus opening in Billings, Montana in 2023. They operate a large college of osteopathic medicine that graduates hundreds of physicians per year. RVU’s campuses serve a region with a severe shortage of primary care physicians and other medical providers, where families in rural areas travel long distances to receive medical care. RVU works to provide important training, both regionally and across the nation, by preparing graduates to serve in rural and underserved areas as primary care physicians. RVU is a top-performing medical school with a very high post-graduate residency placement rate for all its graduating classes. In addition, over 65% of RVU’s graduates enter primary care careers, higher than the average U.S. medical school. RVU has also played an important role in educating future medical officers for the US military.

We request that the U.S. Department of Education (“ED”) consider allowing institutions to count the Health Professions Scholarship Program (“HPSP”), a discrete program related to U.S. military students and offered through the Army, Navy, Marines and Air Force, as “Ten Money” under the 90/10 Rule. The model for this program is quite unique—particularly that it is based on competitive scholarships to select students who apply on their own and the schools have no involvement in the students’ applications or the decision of the federal military branches to grant the scholarship. The program serves vital national interests and will help fill the physician shortage in the military. Proprietary medical schools admitting these students should not be penalized for accepting students who have successfully applied for and received these awards, which are competitively sought out by qualified individuals who agree to fill a need that is in the nation’s best interest.

To be more specific: at present, RVU serves more military scholars than any nonservice-connected medical school. The University educates more than 100 military-connected students each year, most of which

participate in the HPSP scholarship funding, which is unique from other funds provided to students from the Department of Defense ("DOD") and the Department of Veteran Affairs ("VA"), and our request in this comment has no effect on the treatment of other DOD and VA funding in the 90/10 formula. In addition, while many of the DOD or VA programs, including the GI Bill, are offered as a post-service benefit, HPSP recipients must fulfill a service requirement following degree completion, serving, for every year of scholarship, a service commitment of one-year of active-duty service in a non-training status, with a three-year minimum. The education of these future doctors strengthens our armed forces.

Like the civilian physician shortage across the country, the military branches are similarly experiencing a shortage of medical personnel and the HPSP recipients help fill this gap. A 2018 Government Accountability Office report (GAO-18-77) documented this shortage across all military branches, and these shortages have been further exacerbated by the COVID-19 pandemic. The federal government's commitment to those who serve in the Armed Forces while pursuing their medical degree serves an important national security interest, and the government's continued support of the HPSP recipients is critical to the program's success.

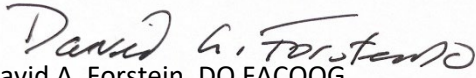
We also want to discuss the impact of the recent changes made by Congress and these regulations to applicants hoping to benefit from RVU's high quality medical school education. With the changes made by the American Rescue Plan Act ("ARPA") that have triggered this rulemaking, RVU will have to consider how to broaden its student applicant pool. This would likely include seeking more well-qualified international students who would cover their tuition and fee costs without U.S. federal student aid or other federally funded programs. While this will help RVU meet its mandate to comply with the 90/10 Rule on behalf of all its students and broaden international access to US medical education, it will also decrease the number of slots available to enroll domestic medical students, including domestic students who qualify for HPSP scholarships. We view this as an unfortunate and unintended consequence of the changes made by ARPA and this rulemaking. We are of course exploring all options to continue to comply with the 90/10 Rule in future years as we must, and to serve as many military students as possible and consistent with our national duty. But, unfortunately, based on the rule as now proposed, it will be challenging to comfortably meet the 10% requirement unless we reserve more slots for international students and hence reduce our domestic student body.

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 that the unique nature of the HPSP funding deserves further consideration by ED as to whether this source should be treated in the same manner as other forms of federal financial aid. We believe the very nature of the student participation in this program, and its direct connection to national interests, suggests it should be treated differently.

As ED considers what changes should be made to the NPRM, we urge that the HPSP funds to not be considered federal funds for the purpose of the 90/10 calculation. Rather, we urge ED to recognize the unique nature of the HPSP program: (i) the funds come from scholarships that are independently sought by students, (ii) the medical schools have no involvement in the application or selection process, (iii) they are awarded on a competitive basis, with our national military branches making the selections, (iv) they are only awarded to students who agree to serve in the armed forces post-graduation, and (v) they serve

a vital national security interest by helping to alleviate a serious shortage of physicians in our armed services. On this basis, they can clearly be differentiated from other federal funding sources, and they should not be included on the 90-side in the 90/10 calculation like other federal aid.
Thank you for your attention to our views on this matter.

Sincerely,



David A. Forstein, DO FACOOG

President, CEO & Provost

Professor of Obstetrics and Gynecology