July 12, 2017

Wendy Macias
U.S. Department of Education
400 Maryland Avenue, SW
Room 6C111
Washington, DC 20202

*Via electronic submission at regulations.gov*

Re: Comments on Notice of Intent to Establish Negotiated Rulemaking Committees, Docket ID ED–2017–OPE–0076

Dear Ms. Macias:

On behalf of the American Association of Colleges of Osteopathic Medicine (AACOM), I am writing to offer comments on the U.S. Department of Education's recent notice of intent to establish negotiated rulemaking committees to revise the gainful employment (GE) regulations published on October 31, 2014, and to revise the borrower defense to repayment (BDR) regulations published on November 1, 2016.

In addition, AACOM has continued to urge the Department to review and reassess the state authorization regulations, provisions 34 C.F.R. 600.9(a) and (b), implemented on July 1, 2015, as well as the regulations on state authorization of postsecondary distance education slated to take effect on July 1, 2018. These provisions have already had adverse impact on medical education, and AACOM requests that the Department establish a separate negotiated rulemaking committee to determine how to move forward in a manner that best serves graduate students while also enabling institutions to offer high-quality educational programs.

AACOM represents the 33 accredited colleges of osteopathic medicine in the United States. These colleges are accredited to deliver instruction at 48 teaching locations in 31 states. In the 2016-2017 academic year, osteopathic medical colleges are educating more than 27,000 future physicians—more than 20 percent of all U.S. medical students.

AACOM supports the Department in its goal to protect student borrowers and promote principles of accountability in the Title IV student financial aid programs. We also recognize that appropriate oversight is a fundamental function of the Department to ensure that federal funding is properly allocated. Moreover, AACOM strongly supports the Department's willingness to establish these committees to reassess existing statutes and regulations that increase administrative and financial burdens and interfere with the educational missions of postsecondary institutions who train the nation's future physician workforce.

However, as currently written, certain provisions of the GE, BDR, and state authorization regulations do not take into account the unique characteristics of medical education. If the Department continues to link Title IV eligibility decisions to provisions outlined in our comments, it could severely jeopardize or penalize medical students who rely on various federal financial aid assistance programs to help fund their education as they become licensed physicians, further exacerbating the nation's physician workforce shortage.

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Addressing Burdensome Gainful Employment and Borrower Defense to Repayment Provisions

AACOM member institutions pride themselves on exceptional graduate and residency placement rates, and these institutions maintain an exceedingly low record of default rates. Osteopathic medical students follow a common sequence of course work, clinical training, and national board exams, regardless of whether they attend a public, non-profit, or for-profit medical school. These students must attend four years of medical school, and then are required to complete additional graduate medical education training, which takes between three – 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 the future practicing physician's salary. As a result, medical residents depend on federal financial aid options such as income-based repayment and forbearance to postpone or reduce their obligations until they become independently licensed physicians earning a full salary (instead of a stipend).

Furthermore, osteopathic medical education has a proud heritage of both working to address the physician workforce shortage, especially in rural and/or in underserved areas, and producing primary care physicians. According to the most available data, 33 percent of graduates indicate intent to specialize in the primary care specialties of family practice, general internal medicine, or general pediatrics. Unfortunately, the pressure on graduates to quickly repay medical school debt is especially onerous.

AACOM supports the intent of the BDR as it relates to protecting students from fraudulent practices or misrepresentation by an institution and these students' ability to address these claims through the legal process. However, similar to existing GE regulations and the debt-to-earnings test, AACOM previously expressed its serious concerns during the BDR proposed rulemaking process regarding the loan repayment rate calculation methodology and reporting requirements as defined in 34 C.F.R. 668.41(h)(3) of the current BDR regulations. As you are aware, this provision only applies to for-profit institutions, which creates significant implications for highly qualified U.S. for-profit medicals schools, including one of AACOM's member institutions—Rocky Vista College of Osteopathic Medicine (RVUCOM). ***Although AACOM acknowledges the Department's action to adjust the repayment rate calculation to follow the GE standard, per the final BDR regulation published on November 1, 2016, further changes to this calculation methodology are necessary.*** In addition, we continue to have serious concerns should these requirements be revised to apply to all U.S. medical schools.

Please find enclosed RVUCOM's comments that were submitted in response to this notice on July 11, 2017. AACOM supports RVUCOM's comments and would like to draw your attention to them as illustrative of the problem these policies would pose for all U.S. medical schools. If these GE and BDR regulations were revised to apply to non-profit as well as for-profit U.S. medical schools, then essentially all schools would be deemed ineligible for Title IV student financial aid programs. Therefore, as the Department evaluates and rewrites these regulations, ***AACOM reinstates its*** previous position ***and urges the Department to exempt all U.S. graduate terminal degree medical education programs from any GE related requirements and the loan repayment rate reporting provisions in the BDR regulations.***

Unintended Consequences of State Authorization on Medical Education

***As the Department reviews existing Title IV regulations, AACOM recommends that the Department convene a separate negotiated rulemaking committee on state authorization regulations implemented on July 1, 2015, and state authorization of postsecondary distance education, which is due to take effect on July 1, 2018.***

Osteopathic medical schools must navigate an already complex regulatory system. The implementation of state authorization provisions 34 C.F.R. 600.9(a) and (b) significantly increased the financial and administrative burdens for AACOM's member institutions, specifically as they work to offer robust learning experiences for medical students during core clinical rotations in years three and four.

Osteopathic medical schools, many of which are located in rural areas, often lack in-state training opportunities, and therefore, send their students out-of-state to complete their core clinical rotations. Additionally, some schools participate in multi-state consortium training models and send their students out-of-state to enhance educational experiences and produce physicians capable of practicing in a variety of clinical settings. In doing so, institutions must meet individual states' criteria for physical presence, and since July 1, 2015, many states have begun charging exorbitant fees and applying onerous administrative mandates.

Although AACOM supports state reciprocity agreements, which have helped alleviate some of these challenges while promoting the integrity of Title IV funding, our institutions still face unnecessary burdens, particularly when sending students to rotation sites located in states that do not participate in a reciprocity agreement. Furthermore, AACOM believes that if the Department allows the distance education requirement to be implemented July 1, 2018 in its current form that our member institutions will again face an extremely heavy lift, thus compounding the harmful impacts of existing state authorization regulations to meet state compliance requirements. ***Therefore, AACOM urges the Department to thoroughly evaluate the unintended consequences of these policies on medical education and revise state authorization provisions 34 C.F.R. 600.9(a), (b), and (c), to explicitly exempt clinical rotations as a condition of Title IV eligibility.***

Thank you for providing the opportunity to share our views. As the nation faces a physician workforce shortage, it is critical to educate and sustain a future health care workforce to meet the nation's health care needs. Federal policies must support the educational pathway of the future health care workforce. ***While we understand the importance of accountability and appropriate oversight of Title IV programs, we strongly urge the Department to reject a one-size-fits-all approach as it reassess and devises new regulatory policy.***

AACOM looks forward to working closely with the Department to ensure that medical schools and students are well served by the Title IV federal financial aid programs. If you have any questions or require further information, please contact Pamela Murphy, Senior Vice President of Government Relations, at (202) 844-4217 or pmurphy@aacom.org, or Julie Crockett, Federal Regulatory Affairs Manager, at (202) 844-4231 or jcrockett@aacom.org.

Respectfully,

Stephen C. Shannon, DO, MPH
President and CEO

Enclosure

ROCKY VISTA UNIVERSITY
Office of the President

Rocky Vista University provides quality healthcare education while inspiring students to serve with compassion, integrity and excellence.

July 11, 2017

Wendy Macias
U.S. Department of Education
400 Maryland Ave. SW., Room 6C111
Washington, DC 20202

Dear Ms. Macias:

I am writing to provide Rocky Vista University’s views on the U.S. Department of Education’s (ED’s) intent to establish a negotiated rulemaking committee for the purposes of modifying the Gainful Employment (GE) and Borrower Defense to Repayment (BDR) regulations. We support ED’s effort to conduct new negotiations on these regulations that clearly have a negative impact on the school and the students that we serve.

RVU is a for-profit osteopathic medical school located in Parker, Colorado, with an additional location in Ivins, Utah. The institution trains a significant number of military medical professionals as well as individuals who will be primary care physicians in rural and other underserved areas. We are extremely selective in our admissions to foster quality and excellence in our graduates, accepting students for only 160 slots out of over 5,000 applications annually for our Colorado location.

RVU also fulfills a critical mission for the states of Colorado and Utah and the Mountain West region. The entire Mountain West 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 fulfill this important need in Colorado, Utah and across the nation.

RVU is only 11 years old but has already demonstrated a strong track record of success. The accomplishments of the institution and most importantly our students include:

- RVU students rank first in the nation on their national board passage scores.
- Our sixth class graduated this May, with all six classes having **100 percent residency placement rates – i.e. they are employed.**
- RVU also has a strong connection with the military with the **largest number of military medical school students** at any civilian medical school in the country.

RVU supports a process to change certain provisions of both the current GE and BDR regulations. We do not anticipate provisions that permit student loan borrowers to seek relief when they have been subjected to fraud or misrepresentation by an institution of higher education, added financial responsibility requirements, or prohibitions on mandatory arbitration to impact our institution. These provisions protect students from fraud, financially unsound institutions and being prevented from pursuing their complaints through legitimate legal channels. We would urge ED to focus instead on the provisions in these regulations which negatively impact our school and many other high-performing institutions of higher education.

First, on GE, RVU has long voiced its concern to ED on the potential loss of Title IV eligibility for our students under this regulation, despite the results we have achieved in student outcomes as described above. RVU is a comparatively low-cost medical school, but our students still make a significant financial decision when deciding to enroll and complete their medical education. Four years of borrowing at RVU to cover tuition and fees leaves an RVU graduate with approximately $210,000 in federal student loan debt upon graduation. This loan debt will also likely grow as many students choose to defer payments while in residencies lasting at least three and as long as eight years. Since most the graduates we educate go on to be primary care physicians, our students are projected to make decent salaries. However, the starting salary level for even a primary care doctor, coupled with the amount of student loan debt, could put future cohorts of graduates at risk of producing an annual debt to earnings ratio that places RVU into the Zone under GE. As you know, multiple years of Zone status render an institution as ineligible to participate in Title IV student aid programs.

As ED proceeds with a negotiated rulemaking effort, it should exempt graduate medical, and possibly other graduate programs, from compliance with any GE related requirements. Our students are mature decision makers who are making lifelong, well thought out, career commitments to attend a graduate medical program. They fully understand the financial costs of doing so. Jeopardizing their ability to borrow under Title IV – the most cost-effective option to our students – will only seek to deny an RVU education to those without the financial means to attend. If an outright exclusion of graduate medical schools is not possible, I would urge ED to work with RVU and other concerned parties to identify other more sensible metrics that are focused on whether our graduates actually have employment that meets their financial needs.

As the BDR regulation was moving through the process, RVU also expressed our strong concern about the loan repayment reporting requirements for for-profit schools included in this regulation. As you know, this regulation requires only for-profit institutions to report whether the median cohort graduate reduces their loan principal by at least one dollar 6 years after graduation from a program which leads to a medical residency. As we explained above, our graduates very often choose to defer payment on their student loans while in residency and are afforded the right to do so under the Higher Education Act. This means that our average graduate is expected to have a higher principal balance (due to capitalization of interest during residency) at the end of their residency and during the period of measurement of the cohort's loan repayment rate. This will lead RVU to have to falsely report that graduates of our institution will be unlikely to repay their student loans. We would urge ED to realize that misinformation provided to our students about past loan repayment practices at RVU does a disservice to our school and our students.

During the regulatory process used to establish the BDR regulation, we objected strongly to the application of loan repayment reporting to just the for-profit sector, but also the process and timing for this reporting that was finalized as a part of the BDR regulation. As part of any new regulatory process, RVU would urge ED to consider a different reporting mechanism that would allow the institution to accurately report its loan repayment rates, or that this reporting requirement be eliminated in its entirety.

When ED announces further steps on negotiated rulemaking, I and our faculty here at RVU stand ready to provide our assistance. I would be pleased to serve on any negotiated rulemaking committee addressing these issues. Thank you for the opportunity to provide our comments.

Sincerely,

Clinton E. Adams, DO, FACHE
Rear Admiral, MC, USN (Ret)
President and CEO