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AMERICAN ASSOCIATION OF
COLLEGES OF OSTEOPATHIC MEDICINE

August 30, 2018

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Via electronic submission at regulations.gov

Re: Comment on Notice of Proposed Rulemaking, Borrower Defense to Repayment Regulations, Docket ID ED-2018-OPE-0027

Dear Secretary DeVos:

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 Proposed Rulemaking (NPRM) on Borrower Defense to Repayment (BDR).

AACOM represents the 34 accredited colleges of osteopathic medicine in the United States. These colleges are accredited to deliver instruction at 51 teaching locations in 32 states. In the current academic year, these colleges are educating nearly 29,000 future physicians—more than 20 percent of all U.S. medical students. Six of the colleges are public and 28 are private institutions.

AACOM supports the Department in its goal to protect students and promote principles of accountability across the education continuum to ensure that students are well-informed and receive a cost-effective and high-quality education, leading to a skilled workforce for our nation. AACOM supports the intent of the NPRM to establish a single, federal standard and process for BDR claims to protect students from fraudulent institutional practices or misrepresentation.

Additionally, AACOM reiterates its previous position regarding the loan repayment rate reporting provisions included in the 2016 BDR proposed regulations, and we commend the Department's decision to address this issue and rescind these requirements in the 2018 Gainful Employment NPRM, on which we will also be commenting. These regulations, which negatively impact for-profit medical schools, completely disregard factors unique to medical education. Therefore, we continue to stress serious concerns about the impact on our for-profit member institutions. Furthermore, we maintain our concerns with potential federal overreach and the dangerous precedent should these requirements be revised to apply to all U.S. medical schools.

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.

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These students must attend four years of medical school and then are required to complete additional graduate medical education training, which takes between three and 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. Any future policies and regulations proposed by the Department related to loan repayment rate calculations and methodologies should factor in borrowers who depend upon these repayment options after graduation.

Moreover, as the BDR regulations are finalized, it is critical that the Department implement proper protections and procedures for all parties involved – institutions, borrowers, and taxpayers. AACOM also urges the Department to be mindful of provisions that increase unnecessary administrative and financial burdens and interfere with the educational missions of postsecondary institutions that train the nation's future physician workforce. These institutions must already navigate a complex regulatory system. Therefore, the Department should work to streamline regulatory requirements, while working to ensure medical schools and students are well-served by Title IV federal financial aid programs.

Defensive and Affirmative Claims - § 685.206(d)(2)— Alternative B

AACOM strongly supports accountability and transparency for all federal financial aid programs to ensure borrowers are protected and well-informed. As a result, AACOM agrees with *§ 685.206(d)2, Alternative B*, as proposed in the NPRM, and we believe the Department should accept both defensive and affirmative BDR claims. AACOM also supports the NPRM and the guarantee that institutions have the opportunity and right to review and submit documentation during the claims adjudication process, a procedure that was not assured in the 2016 regulations. In addition, it is important that the Department provide reasonable, guaranteed timeframes for institutions to provide responses to claims. Furthermore, in allowing affirmative claims, it is critical that institutional protections remain in place and appropriate policies are developed to deter frivolous claims. There should be some requirement that additional evidence is provided to support the claim by the borrower.

Statute of Limitations for Recovering Funds from Schools (§§ 685.206 and 685.308)

AACOM supports the Department's proposal to impose a three-year time limit on borrowers to file affirmative claims. This aligns with existing regulations that require institutions to retain administrative records for three years. For defensive claims, the Department should work to establish a procedure in which claims must be filed and encourage borrowers to file claims when evidence is most readily available. Should claims be made many years after a student graduates, institutions will likely no longer have information related to a claim, since maintaining records for a long period of time could become a data security issue that puts students' personal data at risk.

To address this concern and balance the needs of both parties, AACOM requests that for defensive claims, the Department consider capping the amount of recovery from an institution at the amount the borrower paid on the loan during the first five years following the last day of enrollment. The five-year limitation aligns with the timeline in the NPRM in which the

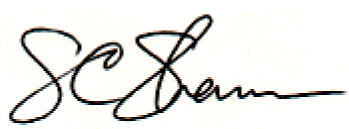
Department may recover losses for the amount of an approved borrower defense to repayment from a school. Moreover, it works to limit the school's exposure to a time period during which they could have provided institutional evidence to address the claim.

<u>Misrepresentation and Considerations for Financial Aid Award Letters</u>

In the NPRM, the Department provides a list of evidence outlining circumstances where a misrepresentation may occur. AACOM generally supports the definition of misrepresentation; however, we encourage the Department to thoroughly evaluate paragraph G of this section which relates to the amount or nature of financial assistance presented to the borrower in the financial aid award letter. Although the Department does explain that it does not view changes to the award letter to ordinarily be construed as misrepresentations, we urge the Department to strengthen this language to help prevent frivolous claims that could be costly to both the institution and the taxpayer. The financial aid award letter provided at the time of enrollment is a compilation of all internal and external financing a student is receiving. Because the financial aid office does not control students' eligibility to receive from other sources, the Department should include allowances and flexibility for institutions under these circumstances.

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. AACOM looks forward to working closely with the Department to ensure that medical schools and students are well served by Title IV federal financial aid programs and policies. 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, Senior Federal Regulatory Affairs Manager, at (202) 844-4231 or jcrockett@aacom.org.

Respectfully,



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