

## Fair Access in Residency (FAIR) Act – H.R. 8850

### FAQ

**Sponsors:** Reps. Diana Harshbarger (R-TN), Chellie Pingree (D-ME), and Sam Graves (R-MO)

**Purpose:** Bipartisan legislation requires federally funded graduate medical education (GME) programs to equitably assess and accept DO and MD residency candidates

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#### 1. What is a DO?

- Doctors of Osteopathic Medicine, or DOs, are fully licensed physicians who practice in all 50 states. They practice in all types of environments, including the military, and in all specialties, from family medicine and obstetrics, to surgery and aerospace medicine. DOs serve as the chief physicians for NASA and the President.
- DOs are trained to combine the latest advances in the science and practice of medicine with specialized diagnostic and therapeutic hands-on skills (Osteopathic Manipulative Treatment) to offer comprehensive healthcare to patients.
- DOs complete four years of osteopathic medical school, including two years of didactic and two years of clinical training. DOs then enter residency and fellowship programs to obtain the 3-7 years of practice necessary to become licensed physicians.
- Osteopathic medical students take the Comprehensive Osteopathic Medical Licensing Examination of the United States (COMLEX-USA) for state licensure and acceptance to residency programs. COMLEX-USA is equivalent to the United States Medical Licensing Examination (USMLE) taken by allopathic students (MDs).
- Osteopathic medicine is the fastest growing medical field in the U.S., according to the U.S. Bureau of Health Professions. **There has been an 80% increase in the number of DOs over the past decade.**
- **Colleges of osteopathic medicine (COMs) currently educate approximately 36,500 future physicians, which is 25% of all U.S. medical students.** There are 38 COMs at 62 teaching locations in 35 U.S. states.

#### 2. What role do DOs play in the healthcare system?

- The nation faces a critical physician workforce shortage, especially for primary care and in rural and medically underserved areas.
- In 2022, **55.1% of matched U.S. DO seniors went into primary care**, compared to only 36.2% of U.S. MD seniors.
- **41% of graduating 2020-2021 osteopathic medical students plan to practice in a medically underserved or health shortage area; of those, 49% plan to practice in a rural community.**
- DO students gain significant experience training in diverse healthcare settings, such as community hospitals and other health facilities.
- 59% of osteopathic medical schools reside in health professional shortage areas and 64% require clinical rotations in rural and underserved areas.

**3. How does the nation’s graduate medical education (GME) system work, and what barriers do DOs face when applying to residency?**

- All osteopathic (DO) and allopathic (MD) physicians attend four years of medical school followed by 3 to 7 years of GME, which includes residency and fellowship, during which physicians train in their chosen specialty.
- From 2015 to 2020, residency training transitioned to a single accreditor, the Accreditation Council for Graduate Medical Education (ACGME), for all residency and fellowship programs. This transition eliminated the residency programs that were available to only osteopathic medical students.
- Graduating DO and MD seniors now enter a “single match” and compete for acceptance into these programs accredited by ACGME.
- Many residency programs require DO seniors to take the USMLE, an additional licensing exam, which is not required for graduation or practice in any state.
- **According to the 2022 National Residency Matching Program (NRMP) survey, at least 56% of program directors report requiring the USMLE for DO applicants. An additional 34% prefer but do not require a target USMLE score.**
- NRMP data also provides evidence of programs excluding DOs from the application process, as **one-third of residencies (32%) report seldom or never interviewing DO seniors**. 7% of Residency Program Directors (PDs) said that they never interview DO seniors, and an additional 25% said they seldom do.

**4. Why is Congressional action necessary to remove these barriers?**

- **Medicare provides 71% of all GME funding. Taxpayer funded GME should not be used to exclude or place undue burdens against a class of licensed physicians based solely on degree type.**
- DO students are incurring significant financial costs, as well as the commitment of time and emotional energy to take the USMLE, an exam that is not designed for the osteopathic profession or needed for licensure or practice.
- Since 2011, the number of DOs taking the USMLE as well as the COMLEX has increased by 50% (from 44% in 2011 to 66% in 2021).
- DO students spend **over \$6 million** a year on the USMLE.
- The osteopathic community has spent many years pursuing engagement with residency programs that deny access to DOs or require the USMLE. There are more than 6,000 accredited residency programs with changing program directors. Educating the 32% who seldom or never interview DOs, as well as the 56% who require the USMLE, is virtually impossible and should not be necessary given the clear qualifications of DO graduates.
- High-level conversations with leaders in medical education to find effective solutions within the House of Medicine have been unsuccessful in finding agreement on a pathway that achieves the same objectives in a comparable timeframe as a legislative solution.
- The FAIR Act is needed to ensure DOs have equal access to Medicare-funded residency programs and **the nation is leveraging all available physicians to support access to healthcare, particularly for the nation’s underserved communities.**

**5. How will the FAIR Act solve this problem?**

- The Fair Act requires programs receiving Medicare GME funds to:
  - i. Report annually the number of applicants for residency from allopathic and osteopathic medical schools and how many such applicants were accepted from each respective type of school; and
  - ii. Affirm annually that they accept applicants from osteopathic and allopathic medical schools, and that if an examination score is required for acceptance, the COMLEX and USMLE will be equally accepted.

**6. What have other stakeholders said about the importance of an equal playing field for DOs?**

- The American Medical Association (AMA) promotes equality in GME for DOs and MDs, including [equal acceptance of the COMLEX and USMLE at all U.S. residency programs](#).
- Further, AMA policy supports “[equity and parity](#) in the undergraduate and graduate educational and professional opportunities available to...” DOs and MD students.
- A [coalition letter](#) signed by 46 national and state organizations in support of the FAIR Act states the legislation is necessary to “increase access to high-quality, patient-centered healthcare in rural and underserved areas.”

**7. In 2022, DOs had a 91.3% match rate, even with current unfair barriers. What is the problem that needs to be fixed and why do we need the FAIR Act?**

- While osteopathic graduates match at respectable rates, they are not matching into their preferred programs or specialties because DOs will not apply to residency programs that exclude them. Medical students must rank order their program preferences so DOs only apply to those that accept DOs. **These impediments restrict the specialty choices of osteopathic graduates.**
- DOs are being required to pay and study for the USMLE to apply for most residency programs. In 2020, roughly **5,200 DOs took the USMLE while 6,500 DOs ranked programs for the match.**
- **Program avoidance through rankings and the hardship for students of requiring the USMLE are not captured by the match rate.**
- Over 86% of osteopathic medical students who attend medical school and do residency training in a state will practice in that state. **More than 73% of DOs will practice in the state where they do residency training.** Practice locations are impacted by residency locations so communities suffer when DOs cannot practice in their preferred specialties.
- The number and percentage of DOs who take the USMLE have increased every year since the transition to single accreditation started.
- The number of DOs matching to surgical residencies has declined since the merge to single accreditation.

**8. Does the FAIR Act require residency programs to accept DOs?**

- No. The bill requires programs to accept applications from DOs and COMLEX scores but does not require that the program accept individual DOs into the residency.
- No program has to accept any student (DO or MD) who does not meet their acceptance criteria; so, a program can have no DOs and be in compliance with the legislation.
- The bill simply requires attestation that a program doesn’t exclude DOs or require them to take the USMLE.

**9. Does the FAIR Act federalize the practice of medicine or force federal government intervention into the regulation of the practice of medicine?**

- **No. The bill does not regulate (or even touch) physician practice or the physician-patient relationship.**
- The bill does not mandate either the (1) provision of care that the physician believes is unnecessary or inappropriate or (2) prohibit a physician from discussing with patients care which may affect their health as the practice of medicine is defined by the AMA (AMA RES H-270.959).
- The federal government already collects data from residency programs through the Health Financial Systems Intern/Resident Information System and this bill will simply add two readily available data elements.

**10. Will the FAIR Act reporting requirements lead to unintended consequences, such as disruptions to the GME funding system?**

- **No, the bill requires programs to consider applicants from both osteopathic and allopathic medical schools and ensures equal acceptance of the DO and MD licensing exams.** Medicare-funded programs must already submit annual reports to maintain their GME funding.
- Every Medicare-funded GME program must attest to the above to be compliant. Every program has the ability to modify past practices to accept DOs and COMLEX if they previously did not.
- If a program refuses to accept DO applicants or the COMLEX, the program risks continued participation in Medicare GME funding; however, there are insufficient funded residency positions to meet the demands of medical school graduates so noncompliant programs will be replaced by new programs that meet the new criteria.
- Any currently noncompliant programs have the opportunity to update their criteria and processes to ensure that they can continue to participate, resulting in no disruption to the system.

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