



AMERICAN ASSOCIATION OF
COLLEGES OF OSTEOPATHIC MEDICINE

OFFICE OF THE PRESIDENT

November 21, 2018

Brian G. Kim, JD
Secretary
Commission on Osteopathic College Accreditation
American Osteopathic Association
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Re: AACOM Comments on Report of COCA Taskforce on Professionalism and Sexual Harassment

Dear Secretary Kim:

On behalf of the American Association of Colleges of Osteopathic Medicine (“AACOM”), thank you for the opportunity to address the recommendations of the COCA Taskforce on Professionalism and Sexual Harassment (Appointed by the COCA in April 2018) (the “Taskforce”) as documented in its report (the “Taskforce Report”). As you know, in the wake of Dr. Larry Nasser’s crimes and Michigan State University’s response, AACOM undertook a review process similar to that of the Taskforce. This letter presents AACOM’s comments on the Taskforce Report.

In general, AACOM agrees that within the legitimate scope of the COCA’s role as an educational accreditor of Doctor of Osteopathic Medicine (“DO”) programs, the COCA should address professionalism as defined by the Taskforce (i.e., “the various dimensions of sexual harassment”). COMs should teach students what sexual harassment, assault and abuse (“sexual misconduct”) is, how DOs should treat victims of sexual misconduct, and how DOs must maintain professional relationships with patients, supervisors, and colleagues at all times and in all settings. The “hands-on” nature of Osteopathic Manipulative Medicine (“OMM”) makes it even more important that osteopathic medical students learn how to obtain patient consent to treatment, maintain a professional environment at all times, and protect their patients and themselves.

AACOM views the Taskforce Report as a first step. As the COCA works to translate the general recommendations of the Taskforce Report into concrete standards, AACOM views three overarching principles as essential:

1. **The concept of “professionalism” requires definition.** It goes without saying that you cannot hit a target you cannot see. AACOM is concerned that the Taskforce Report does not define with any degree of particularity the concept of “professionalism” (beyond “the

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various dimensions of sexual harassment”) or when and generally how it should be addressed as part of an accredited DO program. The Taskforce Report, for example at recommendation 1.a, seems to leave it to each COM to develop its own understanding. That approach seems misguided. AACOM strongly encourages the COCA to develop in consultation with all of its stakeholders a clear, workable definition of professionalism and ways to wire it into the curriculum.

2. In its legislative capacity, the COCA must not overstep its legitimate role as an education accreditor. The Taskforce helpfully distinguished between the COCA’s legislative role (promulgating and enforcing standards) and convening role (educating and providing leadership and guidance). It is important that in its legislative role the COCA remember its expertise and not stray into matters that it is not well-suited to legislate or adjudicate.

The law already forbids sexual misconduct, including through Title VII (federal employment law), Title IX (federal law prohibiting discrimination in educational programs), and state laws (both statutory and case law involving assault). In recent years, the U.S. Department of Education Office for Civil Rights (“OCR”) has published extensive guidance that requires colleges and universities to develop processes to review and adjudicate alleged sexual misconduct, and it has spawned significant OCR compliance investigations and significant litigation. Needless to say, allegations of sexual misconduct are sensitive matters, which require legally compliant processes, procedures, and responses.

With all due respect, the COCA must recognize that it is not expert in how best to prevent or adjudicate sexual misconduct and should not try to assume the role of OCR. At a minimum, the COCA should not promulgate standards that would require it to judge the legal sufficiency or quality of a COM’s policies and procedures regarding sexual misconduct. Nor should the COCA investigate or adjudicate particular instances of alleged misconduct.

Rather, in its legislative role, the COCA should focus on developing standards that assure a DO education includes valid and reliable education regarding sexual misconduct and how it relates the work of physicians in general and DOs in particular. The COCA might also require a COM to demonstrate that it has policies and procedures in place to prevent, prohibit and address sexual misconduct or other bright-line standards that do not require a subjective evaluation of a COM’s efforts. AACOM would welcome the COCA in its convening role to provide funding and support to develop resources, help promulgate best practices, and to educate stakeholders.

3. The COCA should not task review teams to evaluate aspects of professionalism that do not align to any accreditation standard. In several areas, the Taskforce seems to contemplate that review teams should verify matters that do not seem to align with any existing accreditation standard or any standard proposed by the Taskforce. In AACOM’s view, review teams should verify only a COM’s compliance with the COCA’s duly promulgated accreditation standards. The COCA should focus first on developing clear, carefully considered standards that respect the COCA’s legitimate role and then on how best to review a COM’s compliance with those standards.

AACOM’s comments on Taskforce proposals follow. The items below correspond to related sections in the Taskforce Report. We anticipate that the COCA will provide adequate opportunity to comment

on any proposed standards revisions or other proposals affecting COMs that may emerge from the Taskforce Report or subsequent discussions.

Item 1.a: Proposed new accreditation standard(s) regarding professionalism.

- AACOM supports adding one or more new standards or amending existing standards to address sexual misconduct and professionalism, provided the COCA works with COMs and other stakeholders to define that concept at the outset. In this regard and for the reasons described below, the Taskforce's proposal seems as though it could use further development:
 - The proposed addition to Element 5.1 seems to address the curriculum (which is addressed by current Standard 6). The Taskforce's addition might fit better as a new element addressing "Professionalism" in Standard 6. Standard 6 already has elements addressing, for example, "Osteopathic Core Competencies" (6.4), "Scientific Method" (6.5), and "Principles of Osteopathic Medicine" (6.6). One could imagine a new "Professionalism" element in Standard 6 that would spell out expectations for the didactic and the clinical curriculum and would cover both behavior in the school environment and external patient practice. As noted above, the proposed addition also leaves the critical concept of "professionalism" undefined.
 - Although the Taskforce does not propose specific language, at several places including at Item 1.c, the Taskforce seems to suggest that the COCA should promulgate a standard that would require COMs to have policies and procedures that prohibit sexual misconduct. If so, AACOM respectfully submits that a logical place to do so would be Standard 1.4, which addresses a series of required COM-wide policies and procedures. Wherever addressed, the COCA should require simply that a free-standing COM must have policies and procedures prohibiting sexual misconduct in keeping with applicable law and should expressly contemplate that a COM that is part of a larger university may rely on a university-wide approach to addressing sexual misconduct. The COCA might also require a COM to disseminate such policies and/or train faculty and students on them.

Item 1.b: Proposed revision to AOA Code of Ethics.

- AACOM supports in principle reviewing and revising the AOA Code of Ethics to apply to COM faculty and students. In fact, AACOM would urge the COCA to support revising it to cover all individuals who hold a DO degree or who are studying to attain a DO degree.
- AACOM also recommends that the definition of sexual harassment in the Code of Ethics align with the legal definition of that term and broadening the concept to add sexual abuse (which sometimes is understood as a different concept than harassment).
- AACOM recommends that the Code of Ethics include specific language about how to safeguard OMM and other hands-on practices (e.g., one's obligations in the event there is an allegation of improper touching in OMM; standards for OMM where it involves certain sensitive body parts (e.g., a nurse or PA in the room), etc.) The COCA might also address either in the Code of Ethics or as model guidelines consent to teaching and learning OMM.

Item 1.c: Proposed new evaluative criteria for review teams to assess professionalism.

- AACOM supports training review teams on how to confirm that COMs comply with accreditation standards. However, such training presupposes clear standards. The Taskforce's proposal appears to propose training for review teams on verifying availability of sexual misconduct grievance policies, but the Taskforce Report does not propose an accreditation standard regarding such policies.

Items 2.a-d: Governing boards' accountability for legal, financial and reputational exposure.

- AACOM would welcome the COCA—as part of its convening function—to develop a training model for governing boards on issues of professionalism and sexual misconduct. However, AACOM would oppose an accreditation standard that would require a COM to adopt a “proactive stance to avoid sexual harassment claims” because “proactive stance” is a subjective concept. AACOM would also oppose requiring review teams to look for a proactive stance if no corresponding accreditation standard requires it. This example again underscores the need for the COCA to proceed carefully and to define expectations with clarity and understanding of its proper role.

Item 3.b: Accountability structures for the COM.

- AACOM would support a standard that would require a COM to document that it has Title IX policies and procedures that it has distributed to its faculty, staff and students and a Title IX coordinator (see Comment on Item 1.a, above). It may also be appropriate to specify that a COM must explain how allegations of sexual misconduct will be addressed while students are on clinical rotations. If the COCA adopted such a standard, it would make sense for review teams to assess compliance with it (i.e., that the COM has policies and procedures and distributed them). However, the COCA and its review teams should respect the COM's (or its affiliated university's) determination that its policies and procedures comport with Title IX as well as the COM's (or affiliated university's) adjudication of particular cases.

Item 3.c: Accountability structures for students.

- The Taskforce recommended that review teams verify that procedures are in place to hold students accountable for exhibiting a high level of professionalism. Subject to the three overarching principles articulated above, AACOM supports the Taskforce's recommendation under Item 3.c.

Items 4.a–4.d: Faculty and inclusion of professionalism in the curriculum.

- Subject to the three overarching principles articulated above, AACOM supports the Taskforce's recommendations under Item 4.

- With respect to item 4.d, although AACOM questions whether the COCA is the correct body to “prepare” an online training module addressing the “core elements of medical professionalism” and suggested pedagogy, AACOM would welcome the development of such a module by appropriate educators. The need for such a module underscores the importance of defining the “professionalism” concept with greater particularity.

Item 5.a: Students and awareness of issues and options during academic years.

- AACOM would wholeheartedly support efforts by the COCA acting in its convening role to engage with student leaders (or other stakeholders) on issues related to sexual harassment or abuse, as AACOM has done in the past for students on other matters.

Item 5.b: AOA outreach to practitioners.

- AACOM generally supports the Taskforce’s recommendation that the COCA encourage AOA to continue outreach to practitioners. AACOM agrees that the curriculum needs to address not only appropriate behavior on the part of physicians, but also how to deal with patients who are victims of sexual abuse or assault or colleagues who engage in inappropriate behavior. Also, as indicated above, given the role of OMM, it would make sense to help support the development of standards and/or best practices by the AOA (if they do not exist already) and make sure that the COMs are teaching students about those standards and/or best practices.

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Thank you for the opportunity to submit these comments on the Taskforce Report. AACOM would welcome the opportunity to help translate the Report into concrete standards and action items.

Sincerely,



Stephen C. Shannon, D.O., M.P.H.

cc: Lori A. Kemper, DO, Chair, AACOM Board of Deans
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