March 2, 2026

Secretary McMahon
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

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Office of Postsecondary Education
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Re: William D. Ford Federal Direct Student Loan Program Proposed Rule, Docket ID ED-2025-OPE-0944-0001

We, the undersigned Attorneys General of Maryland, Nevada, Colorado, New York, Arizona, California, Connecticut, Delaware, the District of Columbia, Hawai'i, Illinois, Maine, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont, Virginia, Washington, and Wisconsin, and the Governors of Kansas and Kentucky (the States), write in opposition to the U.S. Department of Education's (Department's) Notice of Proposed Rulemaking proposing a definition of "professional degree" for the William D. Ford Federal Direct Loan program (the Proposed Rule or Rule), published in the Federal Register at 91 Fed. Reg. 4254 on January 30, 2026. The Proposed Rule is unlawful, unnecessarily restrictive, and harmful to States. We urge the Department to abandon the proposed definition of "professional degree" in 34 C.F.R. § 685.102 or to adjust the definition so that it would include post-baccalaureate degrees in nursing, physician assistance, physical therapy, and other health professions, as well as similarly situated degrees that fall within the statutory definition.

Health professionals with advanced training through master's or doctoral programs (e.g., MSN, DNP, MPAS, DPT) play critical roles in the U.S. health care system.[1] Serving as researchers, faculty, clinical experts, or Advanced Practice Registered Nurses (APRN), these professionals are experts in their fields.[2] The roles these professionals play vary, but the additional post-baccalaureate education and training allow them to treat and diagnose illnesses, advise the public on health issues, manage chronic disease, and engage in continuing education to remain ahead of any technological, or other developments in the field to ensure they are delivering the best

1 The term "health professionals," as used in this comment, does not include doctors and other providers whose degrees are included in the Proposed Rule's definition of "professional degree."

2 *E.g.*, Annie P. Boehning & Loreliei D. Punsalan, *Advanced Practice Registered Nurse Roles*, Nat'l Library of Med. (Mar. 1 2023), https://www.ncbi.nlm.nih.gov/sites/books/NBK589698/ (last visited Feb. 13, 2026).

evidence-based care. Studies indicate that APRNs and physician assistants (PAs) can deliver care to patients with the same level of quality and positive patient outcomes as physicians.[3]

Among the many direct contributions of non-physician health professionals is improving access to healthcare in rural communities. By 2036 projections indicate there will be a national shortage of physicians ranging from 13,500 to 86,000, with a shortage of primary care physicians ranging from 20,200 to 40,400. Due to the maldistribution of providers, this shortage will be more acutely felt in rural communities, which typically have more chronic health issues and fewer resources.[4] Compared to physicians, nurse practitioners (a type of APRN) are more likely to have professional focus on primary care, and are more likely to serve in rural or medically underserved areas.[5] PAs likewise represent a rapidly growing share of the rural healthcare workforce.[6] As the Bureau of Labor Statistics estimates that the demand for healthcare services will continue to increase from 2024 to 2034, and the number of physicians stagnates, non-physician health professionals are poised to fill this critical care gap.[7] Interruptions in the supply of post-baccalaureate health professionals would have a disruptive impact on healthcare access in rural communities for years to come.

Nurses with advanced degrees also play a pivotal role as nurse faculty, building the critical pipeline of nurses at all education levels. To serve as nurse faculty, one must be a licensed

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[3] *E.g.*, Supakorn Kueakomoldej et. al. *Recruitment and Retention of Primary Care Nurse Practitioners in Underserved Areas: A Scoping Review*, 70 Nursing Outlook 401 (2022), https://pmc.ncbi.nlm.nih.gov/articles/PMC9232900/; Perri A. Morgan et al., *Impact of Physicians, Nurse Practitioners, and Physician Assistants on Utilization and Costs for Complex Patients*, 38 Health Affairs 1028 (2019), https://www.healthaffairs.org/doi/epdf/10.1377/hlthaff.2019.00014.

[4] GlobalData Plc., *The Complexities of Physician Supply and Demand: Projections From 2021 to 2036*, Ass'n of Am. Med. Colls. (2024), https://www.aamc.org/media/75236/download.

[5] Am. Ass'n of Nurse Practitioners, Position Statement, *Nurse Practitioners in Primary Care* (Oct. 2025), https://www.aanp.org/advocacy/advocacy-resource/position-statements/nurse-practitioners-in-primary-care (last visited Feb. 16, 2026).

[6] Univ. of Wash., WWAMI Rural Health Research Ctr., Policy Brief No. 167, *Supply and Distribution of the Primary Care Workforce in Rural America: 2019* (2020), https://familymedicine.uw.edu/wp-content/uploads/sites/open-access/RHRC_PB167_Larson_revised.pdf.

[7] U.S. Dep't of Labor, Bur. of Labor Stats., *Occupational Outlook Handbook*, "Registered Nurses" (Aug 28, 2025), https://www.bls.gov/ooh/healthcare/registered-nurses.htm (visited Feb. 13, 2026); U.S. Dep't of Labor, Bur. of Labor Stats., *Occupational Outlook Handbook*, "Physician Assistants" (Aug. 28, 2025), https://www.bls.gov/ooh/healthcare/physician-assistants.htm (visited Feb. 20, 2026); *see also* State Univ. of N.Y. at Albany, Ctr. for Health Workforce Studies, *Health Care Employment Projections, 2019–2029: An analysis of Bureau of Labor Statistics Projections by Setting and by Occupation* (Aug. 2021), https://www.chwsny.org/wp-content/uploads/2021/08/Health-Care-Employment-Projections-2019%E2%80%932029.pdf.

registered nurse with an advanced degree.[8] Currently, there is a nurse faculty shortage. A 2022 survey from the American Association of Colleges of Nursing identified 2,166 full-time faculty vacancies in a sample of 909 nursing schools.[9] These faculty shortages have limited nursing school enrollments, as nursing schools turned away 47,000 to 68,000 qualified applicants annually.[10] The shortage of nurse faculty is exacerbating the significant nursing shortage among Registered Nurses (RNs), which is expected to continue over the next decade.[11] As a group, nurses comprise the largest component of the healthcare workforce and are essential to advancing public health. Maintaining access to graduate nursing programs is an essential component to building an adequate nursing pipeline.

The Proposed Rule will harm States by making graduate degrees more costly, thereby discouraging aspiring health professionals and reducing the supply of healthcare providers and faculty. These harms will be exacerbated in rural areas that rely most heavily on nurses and PAs to provide care. By reducing the supply of providers, the Proposed Rule also will make it more difficult and expensive to staff State-funded hospitals, clinics, and correctional systems, and result in costlier treatment for residents whose conditions worsen in the absence of routine care.

The work of post-baccalaureate health professionals is vital to communities across the country. Through direct care, education, and work in research and clinical settings, these master's and doctoral level professionals maintain healthcare access and standards. At a time of growing demand for healthcare and ever-rising costs, we entreat the Department to revise the Proposed Rule to ensure that graduate health degrees and similarly situated programs remain fully accessible to all Americans.

I. THE PROPOSED RULE

In July 2025, Congress passed the One Big Beautiful Bill Act (H.R. 1), Pub. L. No. 119-21, 139 Stat. 72 (2025), which, in part, establishes annual and aggregate borrowing limits for federal student loans effective July 1, 2026. H.R. 1 distinguishes between "graduate students" and "professional students" for the purposes of establishing the annual and aggregate loan limits. Prior

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[8] Jan L. Lee et. al., *Addressing the Shortage of Academic Nurse Educators: Enlisting Public and Business Sectors as Advocates*, 29 OJIN: The Online J. of Issues in Nursing, no. 2, May 2024, https://ojin.nursingworld.org/table-of-contents/volume-29-2024/number-2-may-2024/shortage-of-academic-nurse-educators/.

[9] *Id*.

[10] Deena Kelly Costa & Christopher R. Friese, *Policy Strategies for Addressing Threats to the Nursing Workforce*, 386 New Eng. J. Med. 26, 27 (2022), https://www.nejm.org/doi/full/10.1056/NEJMp2202662.

[11] Health Resources & Servs. Admin., Nat'l Ctr. for Health Workforce Analysis, *Nurse Workforce Projections, 2023–2038* (Dec. 2025), https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/data-research/nursing-projections-factsheet.pdf (visited Feb. 13, 2026); *see also* Kueakomoldej et. al., 70 Nurs Outlook 401.

to enactment of H.R. 1, students could borrow up to the full cost of attendance of a graduate program, regardless of whether it was considered a "graduate" or "professional" program.[12] H.R. 1 departs from that framework by imposing fixed borrowing caps based on program type. Under the statute, graduate students now have a $20,500 annual and $100,000 aggregate cap for borrowing, while "professional" students have a $50,000 annual and $200,000 aggregate cap. In drawing this distinction, Congress expressly adopted the definition of "professional degree" from 34 C.F.R. § 668.2 to determine which caps would apply to a loan. *See* 20 U.S.C. § 1087e(C)(ii) (incorporating definition in 34 C.F.R. § 668.2). Under 34 C.F.R. § 668.2, a "professional degree" is defined as:

> A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required.

The regulation further provides ten illustrative examples, stating: "Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.)." *Id.* In Fall 2025, the Department held a statutorily-required negotiated rulemaking. 20 U.S.C. § 1098a(b).

Despite Congress's decision to adopt an established regulatory definition, the Department now proposes to redefine "professional degree" through new requirements not found in the statute or the incorporated regulation. The Rule's proposed definition reads:

> (1) A professional degree is a degree that:
> (i) Signifies both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree;
> (ii) Is generally at the doctoral level, and that requires at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework;
> (iii) Generally requires professional licensure to begin practice; and
> (iv) Includes a four-digit program CIP code, as assigned by the institution or determined by the Secretary, in the same intermediate group as the [same ten fields listed above, plus Clinical Psychology (Psy.D. or Ph.D.)].

[12] Dep't of Educ., Press Release, *U.S. Department of Education Concludes Negotiated Rulemaking Session to Implement the One Big Beautiful Bill Act's Loan Provisions* (Nov. 6, 2025), https://www.ed.gov/about/news/press-release/us-department-of-education-concludes-negotiated-rulemaking-session-implement-one-big-beautiful-bill-acts-loan-provisions (visited Feb. 26, 2026).

91 Fed. Reg. at 4332 (proposed 34 C.F.R. § 685.102).

II. THE PROPOSED RULE IS UNLAWFUL

The Proposed Rule contravenes Congress's clear statutory command as to what constitutes a professional degree. As explained above, the only criteria for a program of study to be considered a professional degree are that (1) it "signifies completion of the academic requirements for beginning practice in a given profession"; (2) signifies "a level of professional skill beyond that normally required for a bachelor's degree"; and (3) and must "generally require[]" professional licensure. 34 C.F.R. § 668.2. Nothing more and nothing less. To illustrate degrees that would meet these criteria, Congress provided a non-exhaustive list of examples. *Id.* Now the Department seeks to do what Congress did not: add new criteria to the definition of professional degrees.

The Proposed Rule would impermissibly add three more requirements to the definition of "professional degree." First, it would require that the degree "[i]s generally at the doctoral level." Second, it would mandate that the degree "requires at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework." 91 Fed. Reg. 4254, 4332–33. Congress did not include either of these requirements in its definition.

Third, it would require that the degree fall within "a four-digit program CIP code, as assigned by the institution or determined by the Secretary, in the same intermediate group as the fields listed in [the illustrative example list and Clinical Psychology]."[13] *Id*. Thus, the Rule impermissibly limits "professional degree[s]" to only the illustrative examples, plus a lone addition. Congress stated that examples of professional degrees "included but were not limited to" ten fields of study. *Id.* This contravenes Congress' intent that these examples merely illuminate, rather than constrain, what can be defined as a professional degree.

Further, in the preamble, the Department suggests that additional criteria might apply that are found nowhere in the statute or even the proposed Rule itself. For example, the Department repeatedly considers whether "the employee must be supervised by another professional who has . . . more education, training, and qualifications than the person being supervised" as a factor in determining whether a program is a "professional degree," even though that criterion does not appear either in the statute or in the proposed definition of "professional degree." 91 Fed. Reg. at 4265; *see, e.g.*, *id.* at 4266 (asserting that nurse practitioners' training is "very different" from medical residents' even though both are supervised by physicians because medical residents are "supervised by another member of their own profession").

By narrowing the definition of "professional degree" with these additional criteria and a constrained list, the Proposed Rule would exclude many healthcare and other professionals that

[13] Clinical Psychology (Psy.D. or Ph.D.) was added to this list during the Negotiated Rulemaking and maintained in the Proposed Rule. *See* 91 Fed. Reg. at 4332–33.

meet the statutory criteria. *All* programs that fall within the statutory definition of "professional degree" must be included in any regulatory definition. *See Cent. United Life Ins. Co. v. Burwell*, 827 F.3d 70, 73–74 (D.C. Cir. 2016) (explaining that a federal agency has no authority "to tack on additional criteria" to a statute because "[d]isagreeing with Congress's expressly codified policy choices isn't a luxury administrative agencies enjoy").

III. THE PROPOSED RULE IS ARBITRARY AND CAPRICIOUS

A. THE DEPARTMENT IGNORED IMPORTANT ASPECTS OF THE PROBLEM

The Proposed Rule also entirely ignores several important matters bearing on the definition of "professional degree." Most importantly, in determining which programs should be classified as "professional," the Department expressly "did not consider the need for workers in a given field." 91 Fed. Reg. at 4264. The Department has rationalized that omission by claiming that "Congress did not instruct the Department to take need into account when determining which programs are eligible for the higher loan limits." *Id.* at 4264–65. But the Department acknowledges that Congress enacted the loan caps in part to "reduce the number of degree programs that result in low earnings relative to the prices institutions charge."[14] *Id.* at 4299. Because Congress sought to push students "towards programs that provide a stronger return on investment," *id.* at 4300, market demand is relevant to which programs should be able to access the higher loan caps imposed by H.R. 1.

Had the Department taken the need for workers into account, it surely would have defined "professional degree" to include *all* post-baccalaureate health professions degrees and other programs that lead to high-need professions. To take just two examples, nurse practitioners and PAs are in high demand to provide health care for an aging U.S. population.[15] The U.S. Bureau of Labor Statistics lists both jobs among the ten occupations projected to grow the fastest from 2024 to 2034,[16] and the Health Resources & Services Administration projects a national shortage of registered nurses through 2036.[17] Recognizing that need, Congress recently appropriated more than $305 million for nursing workforce development programs under Title VIII of the Public

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[14] *See also* Dep't of Educ., Office of Postsecondary Educ., Negotiated Rulemaking, *Reimagining and Improving Student Education (RISE)*, Session 2, Day 4, Morning 21 (Nov. 6, 2025) (Undersecretary of Education Nicholas Kent: "[W]e are particularly concerned with programs that do not provide appropriate return on investment."), https://www.ed.gov/media/document/2025-rise-transcript-thurs-11-6-am-112570.pdf.

[15] Health Resources & Servs. Admin., Nat'l Ctr. for Health Workforce Analysis, *State of the Primary Care Workforce, 2025*, at 4 (Dec. 2025), https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/data-research/State-of-the-Primary-Care-Workforce-2025.pdf.

[16] U.S. Bur. of Lab. Stats., *Occupational Outlook Handbook*, "Fastest Growing Occupations" (2025), https://www.bls.gov/ooh/fastest-growing.htm.

[17] *Nurse Workforce Projections*, *supra* note 11.

Health Service Act, Consolidated Appropriations Act, 2026, div. B, tit. II, Pub. L. No. 119-75 (Feb. 3, 2026) (citing Joint Explanatory Statement to Consolidated Appropriations Act, 2026, 172 Cong. Rec. H1633–34 (Feb. 3, 2026)), and States such as Maryland incentivize students to become nurses or PAs (especially in rural areas) by offering grants or loan repayment assistance.[18] Yet the Department unaccountably did not consider demand to be relevant in determining which programs should be eligible for the larger loan amount.

The Proposed Rule ignores other aspects of the problem, as well. The Department assumes that H.R. 1's loan caps will "put downward pressure on tuition prices at institution" by "encourag[ing] institutions to evaluate the true cost of their programs." 91 Fed. Reg. at 4255. But the Department provides no evidence that post-baccalaureate health professions programs or other unlawfully excluded programs will be able to "create efficiencies" that would allow them to substantially reduce tuition. *See id.* Health professions programs are notoriously costly to operate, which is why the Secretary has long deemed them to constitute "specialized training requiring exceptionally high costs of education" for which she has exercised authority to increase aggregate loan limits under section 428H(d)(2)(A) of the Higher Education Act (HEA). *See id.* at 4277; *cf.* 20 U.S.C. § 1078-8(d)(2)(A). To illustrate, a mid-2010s demonstration project funded by the Centers for Medicare & Medicaid Services found that nurse practitioners' clinical training alone—excluding classroom training, certification, and licensure fees—costs more than $47,000.[19] Those costs cannot easily be reduced because the National Task Force for Quality Nurse Practitioner Education mandates a faculty-to-student ratio of no more than 1:8 in clinical courses to ensure patient safety.[20] Likewise, in 2017–18, the Physician Assistant Education Association estimated that PA graduates' clinical training cost exceeded $45,000 per student and in-kind contributions (such as preceptors' time) were worth an additional $11,300.[21] Taking into account the additional cost of classroom instruction, housing, and living expenses, these programs' true cost of attendance can easily exceed the annual and aggregate limits for non-professional graduate degrees. The Department does not appear even to have considered whether programs could realistically reduce tuition without compromising program quality.

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[18] *See, e.g.*, Md. Loan Assistance Repayment Program Advisory Council for Physicians and Physician Assistants, *2023 Annual Report* 7 (Oct. 2023), https://health.maryland.gov/pophealth/Documents/MLARP/MLRP%20PPA%20Advisory%20Meetings/MLARP-Advisory-Council-PPA-General-Assembly-Report-2023-FINAL.pdf.

[19] *See* U.S. GAO, GAO-20-162, *Health Care Workforce: Views on Expanding Medicare Graduate Medical Education Funding to Nurse Practitioners and Physician Assistants* 13 (Dec. 2019), https://www.gao.gov/assets/gao-20-162.pdf (citing CMS, Ctr. for Medicare & Medicaid Innovation, *The Graduate Nurse Education Demonstration Project: Final Evaluation Report* (Aug. 2019)).

[20] Nat'l Org. of Nurse Practitioner Faculties, Nat'l Task Force for Quality Nurse Practitioner Educ., *2022 Standards* 10 (6th ed.), https://www.aacnnursing.org/Portals/0/PDFs/CCNE/NTFS-NP-Final.pdf. Many States have adopted that ratio by regulation. *See, e.g.*, Md. Code Regs. 10.39.02.06(C)(4); Nev. Admin. Code § 632.675(5);.

[21] *See* U.S. GAO, *supra* note 19, at 15 (citing Physician Assistant Education Association, *By the Numbers: Program Report 33—Data from the 2017 Program Survey* (2018); Physician Assistant Educ. Ass'n, *By the Numbers: Program Report 34—Data from the 2018 Program Survey* (2019)).

B. THE DEPARTMENT ARBITRARILY RELIED ON HISTORICAL PRACTICE

The Department heavily relies on "its own historical practice" in defining professional degrees without addressing decades of change since the definition was first adopted. *See* 91 Fed. Reg. at 4265. The Department promulgated its definition of "professional degree" in 2007, adopting the definition of "first-professional degree" used by the National Center for Education Statistics' Integrated Postsecondary Education Data System (IPEDS). *Id.* at 4262–63. At the time, the IPEDS definition and its list of degrees had not been changed since the 1950s,[22] which is why it prominently included one degree (the L.L.B.) that is "no longer conferred by American institutions of higher education." *Id.* at 4262. Graduate programs in nursing, physician assistance, and other health professions barely existed when the list was created.[23] IPEDS has since replaced its definition of "first-professional degree" with "doctor's degree—professional practice," a term that encompasses health professions programs such as physical therapists, nurse practitioners, occupational therapists, PAs, and audiologists that have been excluded from the Department's definition.[24]

Nor did the Department consider the evolution of academic requirements and practice authority among the different professions. For physical therapists, the Department regarded as "dispositive" that "historically, licensed therapists did not require doctoral degrees," *id.* at 4266, even though for the past 10 years a Doctorate in Physical Therapy has been "the required degree for all . . . accredited entry-level physical therapist education programs."[25] For nurse practitioners,

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[22] CRS, R48768, *The Department of Education's Proposed Rule to Define "Professional Student": Frequently Asked Questions* 9 (2026), https://www.congress.gov/crs-product/R48768 (quoting IPEDS Technical Review Panel, *Report and Suggestions from IPEDS Technical Review Panel #7: First-Professional Degree Classification* 1 (2004), *available at* https://edsurveys.rti.org/IPEDS_TRP_DOCS/prod/documents/trp_Technical_Review_04052004_26.pdf).

[23] For nursing, "[m]aster's programs were few and relatively small in the 1950s" and did not become common until the late 1970s. *See* Susan M. Ervin, *History of Nursing Education in the United States*, *in* Sarah B. Keating & Stephanie S. DeBoor, eds., *Curriculum Development and Evaluation in Nursing Education* 18–19 (4th ed. 2017), *available at* https://connect.springerpub.com/binary/sgrworks/f9e7d03b90a28474/7b82f5ec994fd20f46f33d1c8836681b252d462fcbb2c0b6b46de0ed537fd03f/9780826174420_0001.pdf. The Doctor of Nursing Practice (DNP) practitioner degree did not become widespread until 2004. *Id.* at 21.

[24] *See* CRS, *supra* note 22, at 9–10; *see also* Alex Holt & Andrew Gillen (Taxpayers and the Public Interest Constituency), Mem. on the Proposed Definition of a Prof'l Degree Submitted to the RISE Negotiated Rulemaking Comm. 3–5 (Sept. 30, 2025), https://www.ed.gov/media/document/rise-2025-proposed-professional-degree-definition-submitted-taxpayer-and-public-interest-private-nonprofit-institutions-proprietary-institutions-public.pdf.

[25] Am. Physical Therapy Ass'n, *Timeline—2016—The Clinical Doctorate (or "DPT") Becomes the Only Degree Conferred by CAPTE-Accredited Educational Institution*,

the Department observed that "a substantial portion of states substantially restrict the types of work that can be performed by nurse practitioners and require them to be supervised by physicians," *id.* at 4265, but ignored that such restrictions have decreased in recent decades.[26] Over half the States now "allow all NPs to evaluate patients, diagnose patients, order and interpret diagnostic tests, and initiate and manage treatments" without supervision by a physician.[27] Similarly, an increasing number of States allow PAs to provide healthcare without supervision.[28] By readopting an out-of-date list from the 1950s, the Department has frozen academic requirements and practice authority in amber and needlessly excluded many programs from its definition of "professional degree."

C. THE DEPARTMENT FAILED TO ADEQUATELY EXPLAIN ITS REJECTION OF A SUPERIOR ALTERNATIVE

The Department's readoption of a decades-old list is all the more inexplicable because it was presented with a better alternative. During the negotiated rulemaking, the Taxpayers and the Public Interest Constituency proposed the following definition of "professional degree":

> A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.). The remaining professional degrees under this definition are those substantially similar to the examples listed above in both length and field of study, defined as a program of at least 80 credit hours and that is either classified within the same two-digit Classification of Instructional Programs (CIP) code of any of the degrees named above or as a degree in Clinical Psychology (Psy.D., etc.).[29]

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https://timeline.apta.org/timeline/the-clinical-doctorate-or-dpt-becomes-the-only-degree-conferred-by-capte-accredited-educational-institutions/.

[26] Peter Buerhaus, *Nurse Practitioners: A Solution to America's Primary Care Crisis*, Am. Enter. Inst. 5 (2018), https://www.aei.org/wp-content/uploads/2018/09/Nurse-practitioners.pdf (citing Hilary Barnes et al., *Rural and Nonrural Primary Care Physician Practices Increasingly Rely on Nurse Practitioners*, 37 Health Affairs 908 (June 2018)).

[27] *Id.*; *see* Am. Ass'n of Nurse Practitioners, *Issues at a Glance: Full Practice Authority* (2025), https://storage.aanp.org/www/documents/FPA.pdf?_gl=1*1s5g6jy*_gcl_au*NTIxNTY0NTk3LjE3NzAxNDY0MDA.

[28] *See* Am. Ass'n of Physician Assocs., *PA State Practice Environment* (2025), https://www.aapa.org/advocacy-central/state-advocacy/state-maps/pa-state-practice-environment/.

[29] Alex Holt & Andrew Gillen (Taxpayers and the Public Interest Constituency), Mem. on a Revised Prof'l Degree Definition Submitted to the RISE Negotiated Rulemaking Comm. 1–2 (Oct. 10,

Compared to the Department's definition, this proposal more closely tracks the statutory language. Further, according to the Taxpayer Constituency, this definition would capture health professions such as physical therapists, nurse practitioners, occupational therapists, PAs, audiologists, and others whose degree programs are overwhelmingly characterized as "Doctor's Degree—Professional Practice" in IPEDS.[30]

Yet the Department rejected this proposal with little explanation. The Department appears to have been concerned that using two- rather than four-digit CIP codes "would sweep in too many programs,"[31] thereby increasing student loan disbursements relative to the Department's proposal. *See* 91 Fed. Reg. 4315–16. The only evidence presented to the Department, however, indicated that the Taxpayer Constituency's proposal "could possibly generate additional *revenue* for the federal government," because health professionals are likely to repay their loans in full.[32] The Department has not explained why it focused on the increase in loan disbursements in the face of unrefuted evidence that the Taxpayer Constituency's definition was "unlikely to lead to an economically significant increase in costs to the federal government."[33]

D. THE DEPARTMENT FAILED TO RECOGNIZE ITS DISCRETION TO SET HIGHER LOAN LIMITS FOR CERTAIN PROGRAMS

The Department's error in narrowly defining "professional degree" is compounded by its mistaken belief that the Act superseded the Secretary's authority under section 428H(d)(2)(A) of the HEA to increase loan limits for "specialized training requiring exceptionally high costs of education." 91 Fed. Reg. at 4277 (quoting 20 U.S.C. § 1078-8(d)(2)(A)). For decades, the Secretary has "increased the aggregate loan limits for graduate and professional students enrolled in certain approved health profession programs," *see id.*, including physicians, clinical psychologists, health administrators, and public health graduates (such as epidemiologists).[34] Although the Department initially thought that the Secretary's authority "was not touched . . . or

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2025), https://www.ed.gov/media/document/2025-rise-memo-revised-professional-degree-definition-and-aligning-definitions-code-of-federal-regulations-10102025-submitted-alex-holt-and-andrew-gillen.

[30] *Id.* at 3–5.

[31] *See* Dep't of Educ., Office of Postsecondary Educ., Negotiated Rulemaking, *Reimagining and Improving Student Education (RISE)*, Session 2, Day 3, Afternoon 9–10 (Nov. 5, 2025) (Undersecretary Kent), https://www.ed.gov/media/document/2025-rise-transcript-wed-11-5-pm-112569.pdf.

[32] Mem. on the Proposed Definition of a Prof'l Degree, *supra* note 24, at 5–6.

[33] *Id.* at 6.

[34] *2025–2026 Federal Student Aid Handbook*, vol. 8, at 38–39 (2024), https://fsapartners.ed.gov/sites/default/files/2025-2026/2025-2026_Federal_Student_Aid_Handbook/_knowledge-center_fsa-handbook_2025-2026_vol8.pdf.

impacted by" H.R. 1,[35] the Department now asserts in the Proposed Rule that "[b]ecause the limits set forth in [H.R. 1] explicitly apply to all Federal Direct Unsubsidized Stafford Loans made to graduate and professional students . . . the increased annual and aggregate loan limits established by the Secretary for . . . certain approved health profession programs will not apply to loans made on or after July 1, 2026." *Id.* In other words, the Department appears to believe that the Secretary's authority under section 428H(d)(2)(A) was impliedly repealed by H.R. 1.

The Department is wrong. "'[R]epeals by implication are not favored' and will not be presumed unless the 'intention of the legislature to repeal [is] clear and manifest.'" *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 662 (2007) (alterations in original) (quoting *Watt v. Alaska*, 451 U.S. 259, 267 (1981)). "An implied repeal will only be found where provisions in two statutes are in 'irreconcilable conflict,' or where the latter Act covers the whole subject of the earlier one and 'is clearly intended as a substitute.'" *Id.* (quoting *Branch v. Smith*, 538 U.S. 254, 273 (2003)). Here, H.R. 1 did not expressly repeal section 428H(d)(2)(A), nor does it "irreconcilabl[y] conflict" with it." *Cf. id.* H.R. 1 imposes general loan limits, but it does not expressly or impliedly preclude the Secretary from "determin[ing] that a higher amount is warranted . . . with respect to students engaged in specialized training requiring exceptionally high costs of education." 20 U.S.C. § 1078-8(d)(2)(A). The Department's failure to recognize the Secretary's authority to allow higher loan limits for certain degrees is also arbitrary and capricious.

IV. THE PROPOSED RULE WILL HARM THE STATES

The Proposed Rule threatens a vital element of the States' healthcare systems, drastically reducing the ability of their residents—especially those in rural or underserved communities—to access adequate medical care. Across the nation, health care systems are drowning, often lacking sufficient physicians to handle the influx of cases. Nurses, PAs, and other health professionals have stepped in to provide the core medical care that patients need. The Proposed Rule, however, imposes new, unnecessary barriers to entry that will exacerbate this ongoing healthcare crisis.

The Proposed Rule will reduce the number of health professionals available to treat patients in two ways. First, by forcing students to rely on private financing, the Proposed Rule will discourage students from seeking graduate health degrees by making such degrees more expensive (or even inaccessible for those who cannot obtain private loans). Second, it will discourage health professionals who have graduate degrees from taking teaching positions, which will reduce universities' capacity to train the next generation of providers.

Nurses, PAs, and other graduate health professionals can fill healthcare gaps by, among many other things, seeing patients, prescribing medication, and staffing helplines. They also can assist in cutting-edge research into new medical techniques and treatments. And they are essential

[35] *See* Dep't of Educ., Office of Postsecondary Educ., Negotiated Rulemaking, *Reimagining and Improving Student Education (RISE)*, Session 1, Day 2, Morning 20–21 (Sept. 30, 2025), https://www.ed.gov/media/document/2025-negreg-rise-9-30-am-session-112468.pdf.

in fields that attract too few doctors because of relatively low pay, like family medicine, as well as in subspecialties that require years of specific training.

But there will be fewer graduate health professionals under the Proposed Rule. Graduate health programs are unavoidably expensive due to low student-teacher ratios, sophisticated simulation equipment that allows students to "fail safely," and relatively high faculty salaries. As a result, if graduate health programs are not included in the "professional degree" definition, many students will face the prospect of exceeding the federal-loan caps. Some of those students will be unable to obtain private loans; others will determine that the higher costs of private loans outweigh the benefits of a graduate degree. The result will be fewer nurses, PAs, and physical therapists obtaining graduate degrees each year and therefore fewer master's- and doctorate-prepared health professionals to provide healthcare in the States. Those who do obtain graduate degrees will be more burdened by debt and hence more likely to seek higher-paying jobs as specialists, worsening existing shortages of primary care providers.

For the same reasons, there will be fewer qualified health professionals to join university faculties. And even more than for primary care providers, the Proposed Rule will shrink the pool of available faculty because that teaching often pays much less than practicing. Health professionals who need to take out higher interest private loans will be less willing or able to take a pay cut to teach future generations of providers. As one example, U.S. nursing schools are already turning away tens of thousands of qualified applicants due to a lack of faculty.[36] Because there is no plausible way to teach more nurses with fewer teachers—state laws,[37] accreditation standards, and the complexity of teaching in a clinical setting all require low student-teacher ratios—that number will only grow if the Proposed Rule is finalized. Thus, the Proposed Rule will reduce the flow of new health professionals in the States.[38]

The Proposed Rule's shrinking of the pool of health providers will harm the States' residents. It will cause longer waits and give providers less time to treat each particular patient. It will cause shortages of nurses and PAs in complex subspecialities, forcing more residents to travel long distances to find providers. And it will make it more difficult to provide preventative care and discover issues early. Health problems that would have been easy to treat in the beginning will become devastating late-stage conditions.

These harms will be magnified in rural areas. Rural communities already struggle to both recruit and retain healthcare providers, especially physicians. They therefore rely on master's-prepared nurses and PAs to provide timely care to their residents. But because rural health systems generally pay less than urban health systems, health professionals burdened with private loans will

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[36] *See* Costa & Friese, *supra* note 10 and accompanying text.

[37] *E.g.*, Md. Code Regs. 10.39.02.06(C)(4); Nev. Admin. Code § 632.675(5); Ill. Admin Code tit. 68, § 1300.340(g)(11); Tex. Admin. Code § 214.10(g); Wash. Rev. Code Ann. § 246-840-532.

[38] *See, e.g.*, Am. Ass'n of Colls. of Nursing, *Nursing Faculty Shortage Fact Sheet* (May 2024), https://www.aacnnursing.org/Portals/0/PDFs/Fact-Sheets/Faculty-Shortage-Factsheet.pdf.

be less likely to serve these high-need areas. In other words, while the Proposed Rule will reduce the number of health professionals everywhere, rural areas will lose a disproportionate share of their providers. The result will be even longer waits and even less care for rural residents.

The Proposed Rule would likewise impose significant financial costs on the States. If there are fewer provider applicants, State-funded hospitals and clinics and State correctional systems will have to pay higher salaries to avoid losing nurses, PAs, and other health professionals to competitors. In addition, because the Proposed Rule favors physicians over other health professionals, it is likely to distort physician-to-nurse and physician-to-PA ratios. It follows that States will pay more through programs like Medicaid for services to be performed by physicians when those services could have more affordably been provided by nurses if there were an adequate supply of nurses and PAs. After all, nurse practitioners—who must possess a graduate degree—provide primary care services at 20–35% lower costs than physicians.[39] And the States will have to pay for their residents' worsening health outcomes as well. Public hospitals and Medicaid providers will be responsible for treating residents with late-stage conditions that could have been prevented or mitigated if more providers were available to offer preventative and routine care.

These effects are not limited to nursing and health professions programs. A wide swath of public universities' professional programs are unlawfully and arbitrarily excluded from the definition, which will have similar effects across disciplines, particularly in high-need areas. The Department should abandon its proposed definition of "professional degree" in 34 C.F.R. § 685.102 and devise one that properly encompasses *all* degrees envisioned by Congress.

Sincerely,

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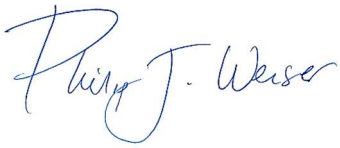

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[39] Moaven Razavi et al., *Drivers of Cost Differences Between Nurse Practitioner and Physician Attributed Medicare Beneficiaries*, 59 Med. Care 177, 177 (2021), https://pmc.ncbi.nlm.nih.gov/articles/PMC7899223/pdf/mlr-59-177.pdf.

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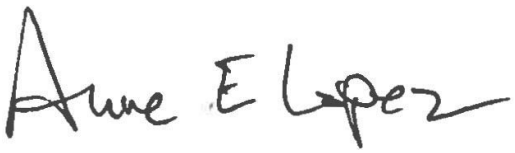

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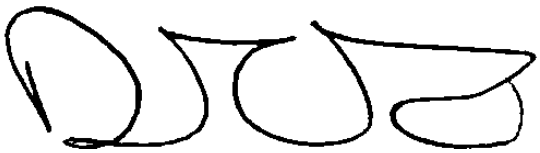

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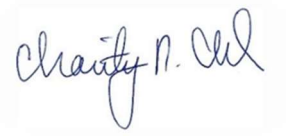

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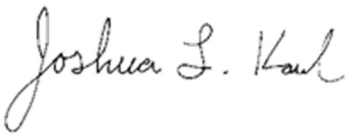

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