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April 20, 2012

The Honorable Judith Zaffirini, PhD
Chair, Senate Higher Education Committee
Texas Senate
P.O. Box 12068
Austin, TX 78711

Dear Chair Zaffirini:

I am responding to your letter opposing the request of the American University of the Caribbean (AUC) for a Certificate of Authority to offer courses in Texas leading to a medical degree.

As you know, Commissioner Paredes will be recommending to the Coordinating Board the approval of AUC's request based on eight conditions (see enclosure). The proposed conditions address the primary concerns raised by Texas medical schools regarding the potential displacement of 3rd and 4th year Texas medical students in clinical rotations. Coordinating Board staff consulted staff at the Liaison Committee on Medical Education (LCME), which is the national accrediting body for U.S. and Canadian medical schools. LCME staff's feedback was that the eight conditions are reasonable and provide enough safeguards to protect the interests of Texas medical schools.

Regarding your concerns relating to setting a precedent, I plan to make a motion to impose a moratorium on any future requests from foreign medical schools for a Certificate of Authority until the Board evaluates AUC's activities at the time their two-year Certificate of Authority expires and since the Board does not know how many of the approximate 1,400 clinical slots are available, if any, in Texas. Furthermore, Coordinating Board staff plan to propose rules in September that will significantly tighten the requirements for foreign institutions to operate in Texas.

You also raise an issue as to legislative intent underpinning the statutory authority of the Coordinating Board to grant Certificates of Authority to foreign medical schools. We have searched but found no prohibition on the authority of the Coordinating Board to grant such a Certificate of Authority. As you know, section 61.306, Issuance of Certificate, was enacted in 1975. It provides:

- (a) The board may issue a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree if it finds that the applicant meets the standards established by the board for certification.

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(b) A certificate of authority to grant a degree or degrees is valid for a period of two years from the date of issuance.

The Coordinating Board staff, aided by prominent outside consultants, has determined that AUC "meets the standards established by the board for certification." Hence, the Commissioner has proposed providing a Certificate of Authority to AUC for a period of two years.

Additionally, Section 61.304 of the Texas Education Code, Requisite Authority to Grant Degrees and Offer Courses; Offenses, subsection (c) states:

"The board is empowered to specify and regulate the manner, condition, and language used by an institution or person or agents thereof in making known that the person or institution holds a certificate of authority and the interpretation of the significance of such certificate."

That is precisely what the Coordinating Board will consider doing here. In the opinion of our general counsel, to refuse to consider the AUC application in good faith could well lead to adverse unintended consequences. It is also important to note that if the Coordinating Board did not have statutory authority to approve AUC's Certificate of Authority, then we would also not have the authority to prohibit AUC from offering courses in Texas that lead to a degree.

As always, I appreciate your steadfast commitment to medical education in Texas and I look forward to continue working with you to strengthen the quality and excellence of our institutions of higher education.

Sincerely,



Fred W. Heldenfels IV

Enclosure

c: Raymund A. Paredes, Commissioner