ADTALEM
GLOBAL EDUCATION

HB 469 Institutions of Postsecondary Education – Disorderly School Closures

Testimony for the House Appropriations Committee
February 18, 2020

Position: SUPPORT WITH AMENDMENTS

Adtalem Global Education (Adtalem) is a leading global workforce solutions provider committed to empowering its students and members to achieve their goals, find success and make inspiring contributions to our communities. Primarily in healthcare and financial services, Adtalem offers undergraduate, graduate and doctoral programs, as well as certifications and continuing education programs.

Chamberlain University's College of Nursing (CU or Chamberlain), part of Adtalem's education institutions, is the largest nursing school in the country with 22 campus locations across 15 states, as well as online students. With over 51,000 students in 2018-2019, CU plays an important role in filling key nursing workforce needs in the United States. Chamberlain graduated nearly 14,000 students in the 2018-2019 school year and achieved a National Council Licensing Examination (NCLEX) passage rate of 88.35% (2018); national average rate is 91.57%.

In addition, CU was the largest provider of Bachelor of Science in Nursing (BSN) degrees to underrepresented minority students in the U.S., granting 2,950 degrees to these students in the 2018-2019 academic year. CU has operating approval through the Maryland Higher Education Commission (MHEC), which permits students in the Bachelor of Science in Nursing program in Virginia to receive educational training through clinical rotations in Maryland. Chamberlain also offers nursing and other health professions distance education programs to Maryland residents which is covered by CU's membership in the National Council for State Authorization Reciprocity Agreements (NC-SARA).

We agree that students should be protected from disorderly program closure and that it is incumbent on the institution to partner with another institution to offer the program if they are unable to teach out the program themselves. Furthermore, many requirements in this bill are also standards of CU's accreditors and other regulatory bodies. For example, the Higher Learning Commission (HLC), CU's institutional accreditor, requires institutions to submit a provisional teach-out plan when HLC determines that closure of one or more academic programs at an institution raises concerns about the well-being of students in these programs.

While we support the spirit of this bill, we have serious concerns with the following provisions:

Definition of Eligible Transfer Institution

The definition of eligible transfer institution may prove too limiting. CU's cohort default rate (CDR) is 3.5% (as of fiscal year 2016), one of the lowest in the country when compared to similar institutions. As currently written, HB 469 inadvertently punishes successful institutions like CU, thus restricting viable options for Maryland students to complete their program. We recommend, as afforded elsewhere in the bill, that the Commission have the authority to waive the requirements in the eligible transfer institution definition for good cause. We further urge that the requirement that the CDR be less than or equal to the CDR of the closing institution be stricken or aligned appropriately with the federal threshold.

Personal Liability of the CEO and Governing Body

The requirement that the CEO and governing body are personally liable should an institution not meet the requirements of this bill unreasonably punishes for-profit intuitions that are publicly traded. This attempt to pierce the corporate veil and subject the CEO and Board of Directors to personal liability is not appropriate for a publicly traded company. Reaching into the officers and directors for liability is employed in limited occurrence by courts in instances where closely held corporations have not maintained a separate identity between the company and its owners and shareholders and where there are limited corporate assets. It is more appropriate to be applied to closely held corporations and not to publicly traded entities which have a large number of shareholders and resources to fund their debts.

Furthermore, this legislation is unclear regarding deficiencies that exist, under current law, which warrants the introduction of personal liability for the CEO and members of the governing body. Moreover, as a publicly traded company, we are beholden to SEC regulations, which provides an extra layer of monitoring and protection against disorderly closure for Maryland students. As a publicly traded company, we are required to report our financial data quarterly and are subject to review regarding material changes to financial investments. Unlike other recent closures by for-profits, which were privately owned at the time of their demise, any change in the financial solvency of Adtalem will be evident well in advance of any risk to Maryland students.

As a result of Senate Bill 795, in July 2018, CU secured a $100K orderly closure financial guarantee bond and a $1.7 million tuition liability financial guarantee bond in favor of the MHEC in order for its Virginia campus students to complete their clinicals in Maryland. Each year, the bond amount changes based upon the previous year's revenue. The bonds are more than sufficient to cover any tuition lost for the Maryland students if there were an instance of program closure.

We ask that this provision be stricken from the bill or at a minimum publicly traded institutions are exempt from this requirement.

For these reasons, Adtalem supports the spirit of HB 469 and respectfully requests the bill be amended to address the concerns mentioned above.