# Brief Comments On Diploma Mill Legislation Contained In the "Higher Education Opportunity Act," HR 4137

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The "College Opportunity and Affordability Act of 2007" was introduced in the U.S. House of Representatives as House Resolution 4137 on November 9, 2007.[1] Title VIII, Part H of the bill was titled "Diploma Mill Prevention." The original content concerning diploma mills had been carried by House Resolution 773, the "Diploma Integrity Protection Act of 2007" submitted by Congresswoman Betty McCollum to the 110th Congress. Nearly all of it was incorporated into the House version of H.R. 4137, which was approved 354 – 58 in February 2008.[2]

Nearly all provisions of the H.R. 4137 that had focused on problems associated with diploma mills were removed from the final version of the bill approved by the full House and the Senate on July 31, 2008.[3]

Here are highlights of the diploma mill aspects of the version of the H.R. 4137 that went to the conference committee for consideration.

### *Sec. 851. Purpose; Definitions.*

Section 851 carried a reasonably clear definition of the term "diploma mill":

> (2) DIPLOMA MILL- The term 'diploma mill' means any entity that--
>
> (A) lacks valid accreditation by an agency recognized by a Federal agency or a State government or other organization or association that recognizes accrediting agencies as a valid accrediting agency of institutions of higher education; and
>
> (B) offers degrees, diplomas, or certifications, for a fee, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certification has completed a program of education or training beyond secondary education, but little or no education or course work is required to obtain such a degree, diploma, or certification.

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[1] http://thomas.loc.gov/cgi-bin/query/D?c110:1:./temp/~c110ggFca8::

[2] For a comparison of HR 773 and HR 4137 see Briefing materials regarding diploma mills, HR 773 (The Diploma Integrity Protection Act of 2007), and HR 4137, Title VIII, Part H (Diploma Mill Prevention, contained in the College Opportunity and Affordability Act of 2007), George Gollin, http://www.hep.uiuc.edu/home/g-gollin/pigeons/HR_773_advocacy_briefing_new.pdf (November 14, 2007).

[3] See http://thomas.loc.gov/cgi-bin/query/D?c110:6:./temp/~c110oQnUN9::

The version of H.R. 4137 passed by both houses of Congress also contains a definition of "diploma mill" in Section 103(a)(1)(20):

> (20) DIPLOMA MILL.—The term 'diploma mill' means an entity that—
>
> (A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and
>
> (ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and
>
> (B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 102) by—
>
> (i) the Secretary pursuant to subpart 2 of part H of title IV; or
>
> (ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.

The phrase "or other organization or association that recognizes accrediting agencies or associations" is vague. I do not see how it would disqualify a fraudulent organization that "recognizes" accreditation mills.

However, I am glad that the current version of H.R. 4137 does define the term "diploma mill" and hope that this provision of the law carries legal utility in enforcement efforts in spite of a minor lack of clarity.

***Sec. 852. Recognized Accrediting Agencies and Institutions.***

Section 852 of the older version of H.R. 4137 instructed the Department of Education to assemble, maintain, and update lists of recognized accrediting agencies, legitimate U.S. postsecondary institutions, and legitimate foreign postsecondary institutions. The list was to be distributed to federal departments, including Homeland Security. In order to be eligible for Title IV funds, recognized schools would (in addition to other requirements) need to place a (legally protected) mark of recognition on their websites.

This section would have allowed the Secretary of Education to deny legitimacy to entities like St. Regis University which obtain foreign government credentials through bribery.

Nothing from Section 852 made it into the diploma mills section of the current version of H.R. 4137.

***Sec. 853. Accrediting Agencies.***

Section 853 of the older bill declared that an accreditor is not to be considered a reliable authority for Federal purposes unless the accreditor is recognized by USDE. However, imprecise text regarding CHEA suggested that CHEA recognition would also convey the status of "reliable authority" to an accreditor.

This section would have protected, for federal purposes, the meaning of "accreditation." It could have been further strengthened to define accreditation in the same sense as appears in the Federal Trade Commission's "Guides for Private vocational and Distance Education Schools"[4] so that it would be a legal violation to issue, or claim, accreditation without proper federal authority.

Nothing from Section 853 appears to have made it into the current version of H.R. 4137.

***Sec. 854 Task Force.***

Section 854 instructed the Secretary of Education to convene a task force to address "issues related to... the detection of new and existing fraudulent degree-granting institutions; recognition and prevention of the practices used by such fraudulent degree-granting institutions to avoid detection; the enforcement of laws and regulations prohibiting such fraudulent degree-granting institutions and practices and the use of fraudulent degrees; and the prosecution of such fraudulent degree-granting institutions and practices and the use of fraudulent degrees"

The other issues to be considered by the task force included foreign diploma mills, public awareness, advocacy for improved state legislation, and participation of the Federal Trade Commission in enforcement efforts.

My sense of things, from attention to the long St. Regis investigation and prosecution, is that enforcement is the most important axis in diploma mill suppression. It is also the most neglected dimension in the legislative process.

Almost nothing from the old version's Section 854 is in HEA, although the new bill's Section 109 does instruct the Secretary of Education to continue to collaborate with federal agencies that might choose to pay attention to diploma mills.

> SEC. 109. DIPLOMA MILLS.
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> Part B of title I (20 U.S.C. 1011 et seq.) is further amended by adding at the end the following:
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> ‘‘SEC. 123. DIPLOMA MILLS.

[4] See http://www.ftc.gov/bcp/guides/vocation-gd.htm

> ‘‘(a) INFORMATION TO THE PUBLIC.—The Secretary shall maintain information and resources on the Department’s website to assist students, families, and employers in understanding what a diploma mill is and how to identify and avoid diploma mills.
>
> ‘‘(b) COLLABORATION.—The Secretary shall continue to collaborate with the United States Postal Service, the Federal Trade Commission, the Department of Justice (including the Federal Bureau of Investigation), the Internal Revenue Service, and the Office of Personnel Management to maximize Federal efforts to—
>
> > ‘‘(1) prevent, identify, and prosecute diploma mills; and
> > ‘‘(2) broadly disseminate to the public information about diploma mills, and resources to identify diploma mills.’’.

I cannot read this as instructing the Secretary to do anything other than continue her/his efforts at the previous level.

### *Sec. 855 Sense of the Congress*

Section 855 expressed the sense of the Congress that the states should adopt standards regarding diploma mills that were at least as stringent as the proposed federal standards.

Nothing from Section 855 appears to have made it into HEA.

### *Sec. 856 Unfair and Deceptive Acts and Practices regarding Diplomas and Professional Certifications*

Section 856 instructed the FTC to develop a plan within 180 days to combat diploma mills.

Nothing from Section 856 appears to have made it into HEA.

### *Concluding comments*

I am disappointed: nothing is left of Congresswoman McCollum’s original legislation except for a definition.

With the publication of the St. Regis buyers list we see something of how diploma mill degrees are used: in Medicine, Engineering, Education. One of the St. Regis "nuclear engineers" is currently working in the control room of a nuclear power plant in Wisconsin.

We would benefit from a federal criminal statute that covers directly and clearly the offenses of operating a diploma mill, operating an accreditation mill, and knowingly

issuing the wildly inaccurate foreign credential evaluations that were used to land St. Regis customers substantial raises and new positions.

In the current regulatory landscape successful prosecution of a diploma mill relies on application of various mail and wire fraud statutes. It can be argued that a mill's customers generally understood that they were buying an instrument meant to facilitate their own dishonest misrepresentations. As such, it could be claimed they were not victims of fraud perpetrated by the diploma mill operators.

Why should we tolerate the projection into our world of untrained teachers, engineers, and health care workers? Do we care so little for the consequences as to willingly succumb to paralysis?