

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

NATALIA ORTIZ, on behalf of herself and a
class of similarly situated persons,

Plaintiff,

v.

SABA UNIVERSITY SCHOOL OF
MEDICINE; and R3 EDUCATION, INC.,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT

JURY DEMANDED

COMPLAINT

Plaintiff Natalia Ortiz (“Plaintiff”), individually and on behalf of all others similarly situated, through her counsel, files this Complaint against Saba University School of Medicine (“Saba”) and R3 Education, Inc. (“R3”) (collectively “Defendants”). Plaintiff makes the allegations in this Complaint based on personal knowledge as to herself and her own acts, and on information and belief as to all other matters. Plaintiff’s information and belief is based on, among other things, the independent investigation of undersigned counsel.¹

I. INTRODUCTION

1. From their offices in Massachusetts, Defendants operate a for-profit medical school in the Caribbean called Saba University.

¹ This investigation included, but is not limited to, a review and analysis of: (i) interviews with affected individuals; (ii) public reports and news articles; (iii) other publicly available material and data identified herein; and (iv) documents and information received pursuant to Freedom of Information Act Requests. The investigation into the factual allegations contained herein is continuing, and many of the facts supporting the allegations are known only to Defendants or are exclusively within its custody or control. Plaintiff believes a reasonable opportunity for discovery will afford further substantial evidentiary support for the allegations contained herein.

2. Caribbean medical schools provide students an alternative pathway to becoming a doctor, typically admitting applicants with lower GPAs and MCAT scores than their United States counterparts. As a result, Caribbean medical schools are often perceived as less competitive than their mainland counterparts.

3. To overcome these negative perceptions—since at least 2015—Defendants have induced students to enroll at Saba with false assurances of success by advertising inflated and misleading outcomes that were calculated by excluding large numbers of unsuccessful students.

4. Defendants have and continue to lure potential students with false guarantees of passing the United States Medical Licensing Examination (“USMLE”), a multi-step examination that medical students must pass before obtaining their medical license.

5. Throughout the Class Period, as defined below, Defendants heavily promoted anywhere from a 98% to 100% first-time time passage rate on the USMLE and touted on Saba’s website, social media pages, online advertisements, and in direct communications with consumers that “[v]irtually every student [at Saba] passes the USMLE Step 1 on their first attempt,” that the passage rate was “*better than most U.S. Schools*,”² and that the 98% to 100% passage rate is a “*testament to the quality of [the Saba] education.*”³

6. What Defendants do not disclose to the public is that only approximately half of the students who enroll at Saba even sit for the USMLE because they either drop out of the program

² See e.g., *FAQ: What Is the Success Rate of Your Graduates?*, SABA UNIVERSITY, <https://www.saba.edu/faq/> (last accessed Jan. 30, 2023); *Just Getting to Know Saba—Here are 5 Fast Facts*, SABA UNIVERSITY, <https://www.saba.edu/resources/blog/just-getting-to-know-saba-here-are-5-fast-facts/> (last accessed Aug. 23, 2023).

³ Search Results for “Saba University,” FACEBOOK AD LIBRARY, https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&q=saba%20university (last accessed Aug. 23, 2023).

or because Defendants—in an effort to make their percentages appear high—bar students from taking the exam by requiring them to obtain a certain score on a Saba-administered pretest, something students are not told before they enroll. If students do not pass Saba’s pretest after four attempts, they are automatically dismissed from the program.

7. By concealing the fact that their USMLE calculation excludes the many students who do not take the exam, Defendants deceive prospective and current students about the absolute and relative (as compared to U.S. institutions) quality of the Saba education. In fact, Saba’s USMLE “success” does not come from preparing students well, but from excluding the students it has failed to prepare from its calculations. By contrast, nearly all students at U.S. medical schools sit for and pass Step 1 of the USMLE.⁴

8. Defendants market other aspects of Saba’s program in a deceptive manner as well. For example, since at least 2013, Defendants have advertised that Saba has a residency attainment rate of 94% or more when, in reality, the majority of Saba students do not even make it through their second year to sit for the USMLE, let alone obtain a residency.

9. These representations communicate to students that taking on substantial debt to attend Saba will be worth the risk because at Saba, they are near certain to succeed. But, both Saba and R3 know that many—if not most—of the students who enroll will not make it through even the first half of the program.

⁴ See *Performance Data*, UNITED STATES MEDICAL LICENSING EXAMINATION, <https://www.usmle.org/performance-data> (last accessed Aug. 23, 2023) (providing data that 91-97% of examinees from US/Canadian Schools passed Step 1 from 2019 through 2022); see also *AAMC Data Snapshot: Graduation Rates and Attrition Rates of U.S. Medical Schools*, ASSOCIATION OF AMERICAN MEDICAL COLLEGES (October 2022), <https://www.aamc.org/media/48526/download> (last accessed Aug. 23, 2023) (“The national total attrition rate remained relatively stable at an average of 3.2%” from 1997 through 2017).

10. Plaintiff brings this case on behalf of herself and a class of individuals who enrolled at Saba from September of 2017 to the present (“Class Period”) who: (i) are no longer enrolled and (ii) did not sit for the USMLE Step 1 exam (the “Class”). Plaintiff seeks declaratory and injunctive relief barring Defendants from collecting on any loans or other tuition payment plans of Plaintiff or members of the Class and requiring them to refund payments made by the Class including tuition and fees; for actual or statutory damages; for attorneys’ fees expenses, and costs; and for any additional relief determined by this Court to be just, equitable, and proper.

II. PARTIES

11. Plaintiff Natalia Ortiz (“Plaintiff” or “Ms. Ortiz”) resides in Tampa, Florida. She attended Saba University School of Medicine from September of 2019 through August of 2022, when she was dismissed from the school after failing to pass Saba’s pre-test, which it requires prior to certifying students’ registration for the USMLE.

12. Defendant Saba University School of Medicine (“Saba”) is a for-profit medical school located on Saba Island in the Dutch Caribbean, with its headquarters and principal place of business in Devens, Massachusetts.⁵ Saba was founded in 1986, when the government of Saba Island and two physicians from Florida, Dr. Patricia Lynn Hough and her husband, Dr. David Leon Fredrick, started a non-profit foundation to provide medical education to citizens of the island and neighboring nations, including the United States of America and Canada.⁶ Over the next several

⁵ *Saba University School of Medicine 2020-2022 Catalog*, SABA UNIVERSITY, <https://www.saba.edu/media/1855/saba-catalog.pdf> (last accessed Aug. 23, 2023).

⁶ *See Saba University School of Medicine Site Inspection Team’s Final Report*, MEDICAL BOARD OF CALIFORNIA DIVISION OF LICENSING (May 2004), <https://docplayer.net/14525693-Saba-university-school-of-medicine-site-inspection-team-s-final-report.html> (last accessed Aug. 23, 2023); *see also Caribbean Medical School Founder Guilty on Taxes*, BLOOMBERG NEWS (Oct. 25,

years, the government stepped away from the project as it evolved from a non-profit foundation to a for-profit medical school owned and operated by the physician couple.⁷ The plan came to fruition in 1992 with the opening of Saba University School of Medicine, with the first class of students matriculating in September of 1993.⁸

13. Defendant R3 Education, Inc. (“R3”) is a Massachusetts-based holding company incorporated under the laws of the state of Delaware that manages for-profit medical schools, including Saba.⁹ Like Saba, R3’s headquarters and principal place of business are in Devens, Massachusetts.

III. JURISDICTION AND VENUE

14. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2) because this is a class action with a proposed Class in excess of 100 members, the aggregate claims of the Class members exceed \$5 million exclusive of interest and costs, and one or more members of the Class is a citizen of a different state than one or more Defendants.

15. This Court has personal jurisdiction over Saba and R3 because they both do business in this District and a substantial part of the events or omissions giving rise to the claims occurred in this District.

2013), <https://www.ctinsider.com/news/article/Caribbean-medical-school-founder-guilty-on-taxes-4927048.php> (last accessed Aug. 23, 2023).

⁷ *Id.*

⁸ *Id.*

⁹ *R3 Education Inc.*, BLOOMBERG, <https://www.bloomberg.com/profile/company/1333985D:US> (last accessed Aug. 23, 2023).

16. While basic coursework is administered on the island of Saba, all school administrative functions—including admissions, recruiting, advertising, and financial aid/processing—are based out of Defendants’ office in Devens, Massachusetts.¹⁰

17. Saba employees working in school administration, admissions, marketing, recruitment, and finance are also based in—or if they are remote, report to—Defendants’ office in Devens, Massachusetts.¹¹

18. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in this District.

IV. FACTUAL ALLEGATIONS

A. History and Background of Saba University School of Medicine

19. Saba is a for-profit medical school located on Saba Island, a special municipality of the Netherlands, located in the Caribbean.

20. R3 owns 100% of Saba.¹²

21. Saba and R3 share a corporate office, located at 27 Jackson Road, Suite 301, Devens, Massachusetts 01434.

¹⁰ Saba’s website describes the Massachusetts office as “Saba’s administrative offices.” *See Study at Saba*, SABA UNIVERSITY, <https://www.saba.edu/> (last accessed Aug. 23, 2023).

¹¹ *See, e.g.*, Akim Bell, LinkedIn, <https://www.linkedin.com/in/akim-bell-b7161a4/> (last accessed Aug. 23, 2023); Joey Vigeant, LinkedIn, <https://www.linkedin.com/in/joeyvigeant/> (last accessed Aug. 23, 2023); Terry J. Moya, LinkedIn, <https://www.linkedin.com/in/terryjmoya/> (last accessed Aug. 23, 2023).

¹² *Saba University School of Medicine 2020-2022 Catalog*, SABA UNIVERSITY, <https://www.saba.edu/media/1855/saba-catalog.pdf> (last accessed Aug. 23, 2023).

22. Saba is one of around fifty medical schools located in the Caribbean that are categorized as offshore institutions, meaning they cater primarily to American and Canadian students planning to practice medicine in the United States or Canada.¹³

23. Saba is accredited by an organization of the Netherlands and Flanders named the Nederlands-Vlaamse Accreditatieorganisatie (“NVAO”).¹⁴

24. The Saba curriculum contains ten total semesters, with the first half devoted to basic sciences and the second half to clinical medicine.

25. According to Saba’s student consumer information page, the total cost of attendance increases every year.

26. Saba’s cost of attendance for 2017-2018, with each semester costing at least \$27,395, was as follows:¹⁵

¹³ See Sateesh B. Arja et al., *Impact of Accreditation on Caribbean Medical Schools’ Processes*, 12(4) CAN. MED. EDUC. J. 79, 80 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8463220/> (last accessed Aug. 23, 2023).

¹⁴ *Saba University School of Medicine Assessment Panel Report*, DOCTOR OF MEDICINE PROGRAMME (M.D.) (Jan. 12, 2018), https://publicaties.nvao.net/5bdc6a5c2774d_006619%20report%20SUSOM%20wo-ma%20Medicine.pdf (last accessed Aug. 23, 2023); *Comparability Decisions*, NATIONAL COMMISSION ON FOREIGN MEDICAL EDUCATION AND ACCREDITATION, U.S. DEP’T OF ED., <https://sites.ed.gov/ncfmea/comparability-decisions/> (last accessed Aug. 23, 2023).

¹⁵ See Saba University School of Medicine, *Student Consumer Information*, INTERNET ARCHIVE WAYBACK MACHINE, https://web.archive.org/web/20170720220311/http://saba.edu/images/Saba_Student_Consumer_Information.pdf (last accessed Aug. 23, 2023).

| SUSOM Cost of Attendance 2017-2018 | | | | | | | | | | | |
|------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------|-----------------|-----------------|-----------------|-----------------|------------------|
| Semester | Basic Science | | | | | Clinical Medicine | | | | | |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | TOTAL |
| Tuition | \$15,000 | \$15,000 | \$15,000 | \$15,000 | \$15,000 | \$17,100 | \$17,100 | \$17,100 | \$17,100 | \$17,100 | \$160,500 |
| Fees | 892 | 370 | 530 | 434 | 870 | | | | | 375 | 3,471 |
| Books & Supplies | 950 | 690 | 1486 | 526 | 400 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 9,052 |
| Room & Board | 6,050 | 6,350 | 6,350 | 6,350 | 6,350 | 6,150 | 6,150 | 6,150 | 6,150 | 6,150 | 62,200 |
| Utilities | 900 | 900 | 900 | 900 | 900 | 800 | 800 | 800 | 800 | 800 | 8,500 |
| Phone/net | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 8,800 |
| Malpractice Insurance | - | - | - | - | - | 295 | 295 | 295 | 295 | 295 | 1,475 |
| USMLE Exams | - | - | - | - | 840 | - | - | 2,165 | - | - | 3,005 |
| Transportation | 800 | - | 800 | - | 800 | 800 | 800 | 800 | 800 | 800 | 6,400 |
| Miscellaneous Expenses | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 8,000 |
| Loan Fees* | 1,123 | 1,069 | 1,144 | 1,064 | 1,148 | 1,190 | 1,190 | 1,282 | 1,190 | 1,206 | 11,223 |
| Total | \$27,395 | \$25,059 | \$27,890 | \$25,954 | \$27,988 | \$29,015 | \$29,015 | \$31,272 | \$29,015 | \$29,406 | \$283,008 |

*Estimated loan fees based on Grad Plus origination fees. Actual amount may vary.

27. Saba published similar data for the cost of attendance in 2020-2021, with each semester costing at least \$33,158:¹⁶

| SUSOM Cost of Attendance 2020-2021 | | | | | | | | | | | |
|------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------|-----------------|-----------------|-----------------|-----------------|------------------|
| Semester | Basic Science | | | | | Clinical Medicine | | | | | |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | TOTAL |
| Tuition | \$18,825 | \$18,825 | \$18,825 | \$18,825 | \$18,825 | \$21,950 | \$21,950 | \$21,950 | \$21,950 | \$21,950 | \$203,875 |
| Fees | 841 | 370 | 491 | 370 | 870 | | | | | 500 | 3,442 |
| Books & Supplies | 1,314 | 1,992 | 1,654 | 2,175 | 1,788 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 13,924 |
| Room & Board | 7,450 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 7,400 | 74,050 |
| Utilities | 900 | 900 | 900 | 900 | 900 | 800 | 800 | 800 | 800 | 800 | 8,500 |
| Phone/net | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 8,800 |
| Malpractice Insurance | - | - | - | - | - | 295 | 295 | 295 | 295 | 295 | 1,475 |
| USMLE Exams | - | - | - | - | 1,075 | - | - | 2,520 | - | - | 3,595 |
| Transportation | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 8,000 |
| Miscellaneous Expenses | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 800 | 8,000 |
| Loan Fees* | 1,347 | 1,354 | 1,345 | 1,362 | 1,412 | 1,437 | 1,437 | 1,544 | 1,437 | 1,458 | 14,134 |
| Total | \$33,158 | \$33,322 | \$33,095 | \$33,512 | \$34,750 | \$35,362 | \$35,362 | \$37,989 | \$35,362 | \$35,883 | \$347,795 |

¹⁶ See Saba University School of Medicine, *Student Consumer Information*, INTERNET ARCHIVE WAYBACK MACHINE, <https://sabav3-web-stage.azurewebsites.net/media/1948/student-consumer-info-saba-university-march-2021.pdf> (last accessed Aug. 23, 2023).

28. Saba's cost of attendance for 2021-2022, with each semester costing at least \$41,465, was:¹⁷

| SUSOM Cost of Attendance 2021-22 (for students matriculating in the Fall 2021 term and thereafter) | | | | | | | | | | | |
|--|---------------|----------|----------|----------|----------|-------------------|----------|----------|----------|----------|-----------|
| Semester | Basic Science | | | | | Clinical Medicine | | | | | TOTAL |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | |
| Tuition | \$18,980 | \$18,980 | \$18,980 | \$18,980 | \$18,980 | \$23,300 | \$23,300 | \$23,300 | \$23,300 | \$23,300 | \$211,400 |
| Fees | 6,195 | 6,020 | 6,195 | 6,020 | 6,020 | 3,800 | 3,800 | 3,800 | 3,800 | 4,300 | 49,950 |
| Books & Supplies | 1,414 | 2,073 | 1,751 | 3,292 | 2,160 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 15,690 |
| Room & Board | 8,500 | 8,650 | 8,650 | 8,650 | 8,650 | 8,650 | 8,650 | 8,650 | 8,650 | 8,650 | 86,350 |
| Utilities | 950 | 950 | 950 | 950 | 950 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 9,750 |
| Phone/net | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 880 | 8,800 |
| Malpractice Insurance | - | - | - | - | - | 295 | 295 | 295 | 295 | 295 | 1,475 |
| USMLE Exams | - | - | - | - | 1,075 | - | - | 2,520 | - | - | 3,595 |
| Transportation | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 10,000 |
| Miscellaneous Expenses | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 10,000 |
| Loan Fees* | 2,546 | 2,587 | 2,578 | 2,667 | 2,663 | 2,677 | 2,677 | 2,842 | 2,677 | 2,710 | 26,624 |
| Total | \$41,465 | \$42,140 | \$41,984 | \$43,439 | \$43,378 | \$43,602 | 43,602 | \$46,287 | \$43,602 | \$44,135 | \$433,634 |

*Estimated loan fees based on Federal Direct Grad Plus origination fees. Actual amount may vary.

29. Saba operates on a year-round schedule, starting classes in January, May, and September and admitting approximately 90 students per cohort, or 270 students per year.¹⁸

30. Upon information and belief, from September of 2017 through the present, Saba has enrolled approximately 1,620 students.

31. Based on Saba's cost of attendance figures, and accounting only for tuition at 2017-2018 rates, Saba received approximately \$24.3 million from these 1,620 students attending just one semester of classes; this figure increases to \$30.7 million under the 2021-2022 tuition rates.

32. Students have various ways of paying to attend Saba, including federal loans.

¹⁷ See *Student Consumer Information*, SABA UNIVERSITY, <https://www.saba.edu/media/3665/student-consumer-info-saba-university-mar-2023.pdf> (last accessed Aug. 23, 2023).

¹⁸ *Admissions*, SABA UNIVERSITY, <https://www.saba.edu/admissions/> (last accessed Aug. 23, 2023).

33. Saba’s NVAO accreditation grants it eligibility to participate in the Higher Education Act’s (“HEA”) Title IV student aid programs, allowing students to finance their education through federal student loans if all requirements of the HEA are satisfied.¹⁹

34. Since 2013, when it first became eligible to receive Title IV funds, Saba has received over \$120 million in federal student aid revenue.²⁰

35. According to the Department of Education’s most recent data, students that complete the medical program at Saba will incur—on average—\$219,276 in Title IV loan debt.²¹

36. These figures are similar to the Department’s data from 2019, revealing that Saba students who complete the program will incur—on average—\$208,638 in Title IV loan debt.²²

37. Saba retains 100% of the Title IV federal funds it receives on behalf of a medical student at the end of each semester, regardless of whether the student graduates, withdraws, or is dismissed from the institution.

¹⁹ See *Blog – Saba “the European Medical School in the Caribbean”*, SABA UNIVERSITY, <https://www.saba.edu/resources/blog/saba-the-european-medical-school-in-the-caribbean> (last accessed Aug. 23, 2023); *Foreign School Eligibility Criteria*, FEDERAL STUDENT AID, <https://fsapartners.ed.gov/sites/default/files/attachments/2019-07/FSEligEligibilityCriteria.pdf> (last accessed Aug. 23, 2023).

²⁰ This figure is based on counsels’ analysis of publicly available materials available at: *Title IV Program Volume Reports*, FEDERAL STUDENT AID, <https://studentaid.gov/data-center/student/title-iv> (last accessed Aug. 23, 2022).

²¹ *Saba University School of Medicine*, FEDERAL STUDENT AID, <https://studentaid.gov/understand-aid/types/international/saba-university-school-medicine> (last accessed Aug. 23, 2023).

²² *Foreign Medical School Information: Saba University School of Medicine*, FEDERAL STUDENT AID, <https://studentaid.gov/sites/default/files/saba-university-school-medicine.pdf> (last accessed Aug. 23, 2023).

B. History and Background of R3 Education, Inc.

38. R3's principal place of business is 27 Jackson Road, Suite 301, Devens, Massachusetts 01434—the same address as Saba's corporate offices.

39. R3 is registered to do business in Massachusetts.

40. In addition to Saba, R3 owns two other medical schools in the Caribbean, the Medical University of the Americas (Saints Kitts and Nevis) and St. Matthew's University (Cayman Islands).²³

41. Upon information and belief, Equinox Capital purchased Saba for \$37.6 million in April of 2007 from the founders of the medical school, Dr. Hough and Dr. Fredrick.

42. Upon information and belief, Equinox Capital purchased Saba around the time Dr. Hough was falsifying tax returns and conspiring to defraud the Internal Revenue Service. *See United States v. Hough*, 803 F.3d 1181, 1184 (11th Cir. 2015) (affirming convictions of conspiracy to defraud the IRS and filing false income tax returns in 2005, 2007, and 2008, with the Court noting that “[b]y the mid–2000s, [Saba was] generating annual profits in the millions of dollars”).

43. Upon information and belief, Equinox Capital was later renamed R3 Education, Inc.

44. Upon information and belief, R3 is now owned by Trinity BidCo, LLC.

45. Upon information and belief, Trinity BidCo, LLC is owned by Global University Systems Holdings BV.

46. Upon information and belief, R3 continues to enjoy annual profits in the millions of dollars from students like Plaintiff.

²³ See R3 EDUCATION, INC., <https://www.r3education.com/> (last accessed Aug. 23, 2023).

47. According to the “tuition and fees payment policy” set forth in Saba’s course catalog, tuition payments are to be made payable to: “c/o R3Education Inc.” at R3 and Saba’s Devens, Massachusetts headquarters. Tuition invoices sent to students also required checks to be made payable to: “Saba University School of Medicine c/o R3 Education Inc” and sent to R3 and Saba’s headquarters in Devens, Massachusetts.

48. Upon information and belief, R3 and Saba share officers, directors, and other high-level executive personnel including, but not limited to: Steven C. Rodger (CEO and Director of R3 and President and Director of Saba); Terry J. Moya (Chief Financial Officer of both R3 and Saba); Gregory S. Czuba (Director of both R3 and Saba); Donald Donahue (Director of both R3 and Saba); Patrick J. Donnellan (Secretary of R3 and Secretary and Director of Saba); Joseph Chu (Chief Academic Officer of R3 and President of Saba); and Maurice Clifton (Senior Vice President for Medical Education of R3 and Executive Dean of Saba).²⁴

49. Upon information and belief, from its headquarters in Devens, Massachusetts, R3 directs and controls the administration of Saba, including Saba’s advertising, recruitment, admissions, and enrollment, which includes decisions about how and where to advertise the USMLE passage rates at issue in this Complaint, as well as the implementation of all marketing and communications about those rates.

²⁴ See, Maurice Clifton, LINKEDIN, <https://www.linkedin.com/in/mauriceclifton/> (last accessed Aug. 23, 2023); *Meet Our Faculty – Joseph Chu*, SABA UNIVERSITY, <https://www.saba.edu/saba-faculty/administration/joseph-chu> (last accessed Aug. 23, 2023); *Saba University School of Medicine 2020-2022 Catalog* p. 52, SABA UNIVERSITY, <https://www.saba.edu/media/1855/saba-catalog.pdf> (last accessed Aug. 23, 2023); *Business Entity Summary: R3 Education Inc.*, SECRETARY OF THE COMMONWEALTH OF MASSACHUSETTS, https://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?sysvalue=VQwwwBVstZ2kAhBmktBlmaHZEIvoti4_zp8rBMP78Lo- (last accessed Aug. 23, 2023).

50. In comments to the Department of Education, R3 has explained that it implements Title IV requirements for the schools it owns and operates, including Saba.²⁵

51. R3 has stated in federal court that it runs Saba as an alias company.²⁶

52. Defendants have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. Defendants have conducted the business practices described below through interrelated companies that have common ownership, officers, employees, and office locations. Because R3 and Saba have operated as a common enterprise, each of them is liable for the acts and practices alleged below.

C. Defendants’ Deceptive USMLE Marketing Campaign

53. All medical school graduates seeking to practice in the United States are required to pass a series of USMLE exams before obtaining their medical license.²⁷

54. Medical students typically take the USMLE Step 1 after they complete their basic science courses—usually after two years or five semesters.²⁸

²⁵ See Comments from R3 to Wendy Macias of the Department of Education. *Proposed Negotiated [sic] Rulemaking on Foreign Schools*, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2009/comments09/c220.pdf> (stating “R3 Education Inc. owns three foreign medical schools. As such, we have a unique perspective on the implementation of the [Higher Education Opportunity Act]’s changes to the Title IV eligibility provisions for foreign medical schools.”) (last accessed Aug. 23, 2023).

²⁶ *Demmons v. R3 Educ., Inc.*, 547 B.R. 655, 657 (E.D. La. 2016) (“Before the Court is Defendant’s, **R3 Education, Inc. d/b/a Saba University School of Medicine** (‘Saba’), Motion and Incorporated Memorandum in Support of Motion to Withdraw the Reference.”) (emphasis added).

²⁷ Federal Student Aid, *Foreign Schools Handbook*, pg. 3-44 (Oct. 2016), available at <https://fsapartners.ed.gov/sites/default/files/2021-03/FSHandbookMasterFile.pdf>.

²⁸ *Id.*; see also *What is the USMLE?*, THE PRINCETON REVIEW, <https://www.princetonreview.com/med-school-advice/usmle> (last accessed Aug. 23, 2023); 9 *Things to Know Before Taking USMLE Step 1 Exam*, BOARDVITALS,

55. Other than being enrolled in—or a graduate of—a medical school, there are no prerequisites for taking Step 1 of the USMLE. Registration for the exam requires only that the student complete an online application and that the school sign a Certificate of Identification (Form 186) confirming the student’s identification.²⁹

56. The first time USMLE Step 1 passage rate at United States and Canadian medical schools was 97% in 2019, 98% in 2020, 96% in 2021, and 93% in 2022.³⁰

57. Since at least June 2015, Defendants have represented on Saba’s website a USMLE Step 1 passage rate of 95%-100% for first-time test takers.³¹

58. Defendants’ widespread representations regarding Saba students’ USMLE Step 1 passage rate include:

A. “Virtually every student passes the USMLE Step 1 on their first attempt.”³²

<https://www.boardvitals.com/blog/9-things-to-know-before-taking-usmle-step-1-exam/> (last accessed August 23, 2023).

²⁹ See *Who is Eligible to Take the USMLE Steps?*, UNITED STATES MEDICAL LICENSING EXAMINATION, <https://www.usmle.org/bulletin-information/eligibility> (last accessed Aug. 23, 2023); *Interactive Web Applications Frequently Asked Questions*, EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES, <https://iwa2.ecfm.org/iwafaq.asp> (last accessed Aug. 23, 2023).

³⁰ See *Performance Data*, UNITED STATES MEDICAL LICENSING EXAMINATION, <https://www.usmle.org/performance-data>, (last accessed Aug. 23, 2023).

³¹ See, e.g., *USMLE Step 1 Exam Preparation*, SABA UNIVERSITY, <https://web.archive.org/web/20150624115650/http://www.saba.edu/curriculum/academics/mle-test-preperation> (archived on June 24, 2015).

³² *FAQ: What Is the Success Rate of Your Graduates?*, SABA UNIVERSITY, <https://www.saba.edu/faq/> (last accessed Jan. 30, 2023).

What is the success rate of your graduates?

Saba University School of Medicine graduates have an excellent track record. Since 1992, more than 3,000 doctors have received their start at Saba University School of Medicine. Our graduates have an extensive track record of excellent performance on the critical USMLE Step 1 exam. Virtually every student passes the USMLE Step 1 on their first attempt. 100% USMLE Step 1 Exam first-time pass rate (2021) - a consistently strong performance

- B. “98% 1st Time Pass Rate for USMLE Step 1 & 2 (avg. 2018-2022).”³³



- C. “Saba students have a 99% first-time pass rate on the USMLE. Based on data compiled by U.S. News and World Report, that not only exceeds any other Caribbean school, it’s better than most U.S. schools.”³⁴

³³ See *Join an Accredited Med School with 30+ Years of Success*, SABA UNIVERSITY, <https://courses.saba.edu/start-med-school-usa-meta> (last accessed Aug. 23, 2023).

³⁴ *Just Getting to Know Saba—Here are 5 Fast Facts*, SABA UNIVERSITY, <https://www.saba.edu/resources/blog/just-getting-to-know-saba-here-are-5-fast-facts/> (last accessed Aug. 23, 2023).

Just Getting to Know Saba—Here Are 5 Fast Facts

1. **A Leading International School:** Saba has been educating physicians for more than 20 years and is one of the most established and experienced international medical schools in the world.
2. **99% USMLE Pass Rate:** Saba students have a 99% first-time pass rate on the USMLE. Based on data compiled by U.S. News and World Report, that not only exceeds any other Caribbean school, it's better than most U.S. schools.

59. In addition to the school's website, Defendants make similar representations in prominent locations throughout Saba's social media accounts.

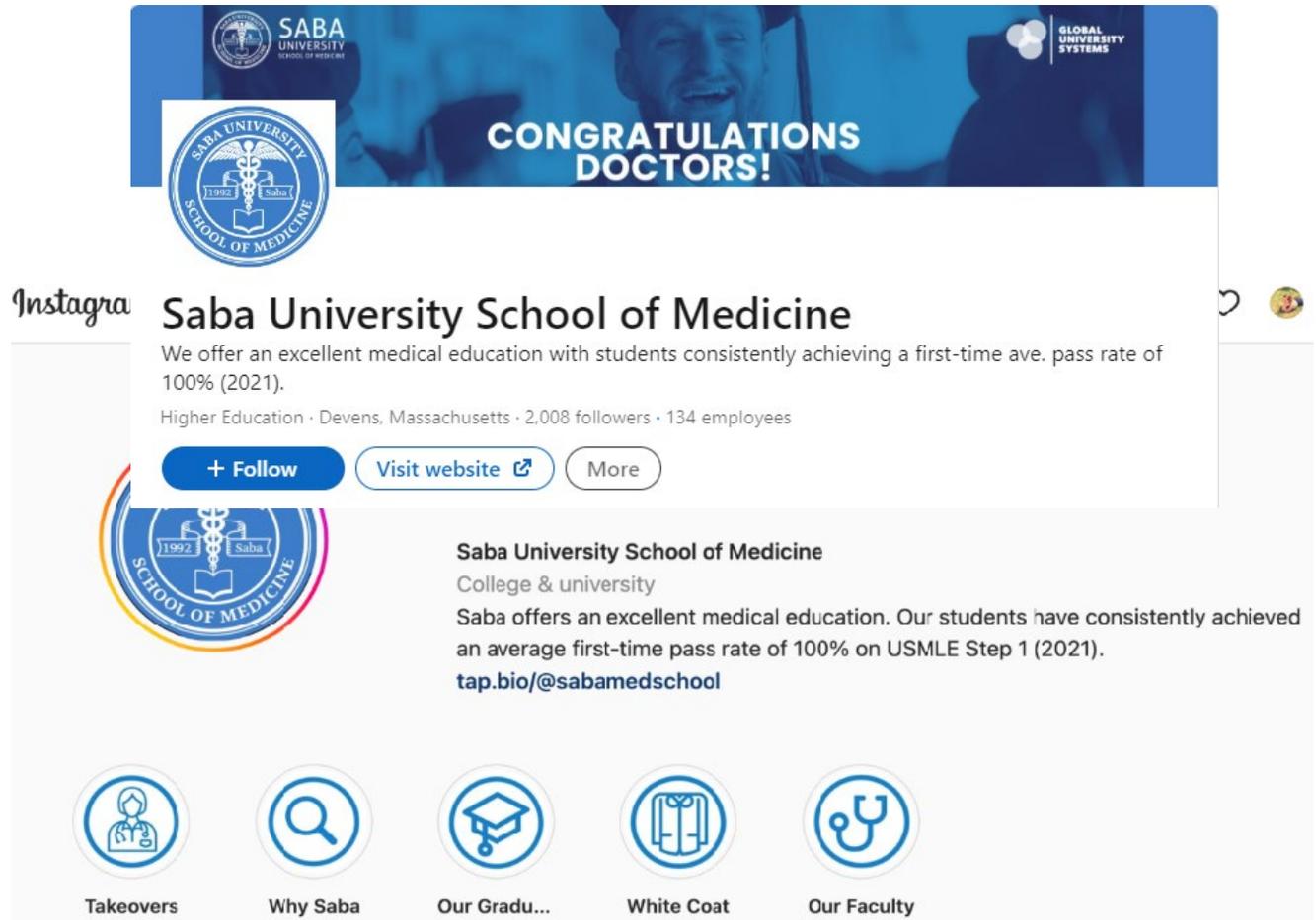
60. As of the date of this Complaint, Saba's profiles on primary social media sites advertise a 100% USMLE passage rate:

- A. Twitter: "Saba offers an excellent medical education with students consistently achieving a first-time average pass rate of 100% on the USMLE Step 1 (2021)."³⁵



³⁵ See @sabamedschool, TWITTER, <https://twitter.com/sabamedschool?s=20&t=hB5-jyQVHaiQrXGEMUQ1UA> (last accessed Aug. 23, 2023).

B. LinkedIn: “We offer an excellent medical education with students consistently achieving a first-time average pass rate of 100% (2021).”³⁶

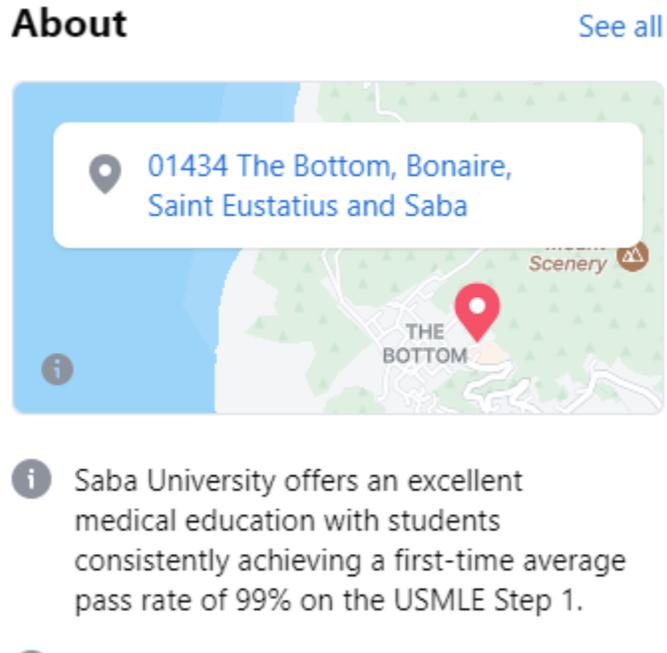


D. Facebook: “Saba University offers an excellent medical education with students consistently achieving a first-time average pass rate of 99% on the USMLE Step 1.”³⁸

³⁶ See Saba University School of Medicine, LINKEDIN, <https://www.linkedin.com/school/sabamedschool/> (last accessed Aug. 23, 2023).

³⁷ See @sabamedschool, INSTAGRAM, <https://www.instagram.com/sabamedschool/> (last accessed Aug. 23, 2023).

³⁸ Saba University School of Medicine, INTERNET ARCHIVE WAYBACK MACHINE, <https://web.archive.org/web/20230522134731/https://www.facebook.com/sabamedschool> (last accessed Aug. 23, 2023).



61. Defendants' representations on social media and Saba's website were nearly identical in 2019:

- A. Saba's Website as of April 4, 2019: "Saba University Medical School graduates have an excellent track record. Since 1993, more than 2,500 doctors have received their start at Saba University School of Medicine. Our graduates have an extensive track record of excellent performance on the critical USMLE Step 1 exam. In 2017, the first-time passing rate of Saba students on the USMLE Step 1 was 100%."³⁹

FAQs

What is the success rate of your graduates?

Saba University Medical School graduates have an excellent track record. Since 1993, more than 2,500 doctors have received their start at Saba University School of Medicine. Our graduates have an extensive track record of excellent performance on the critical USMLE Step 1 exam. In 2017, the first-time passing rate of Saba students on the USMLE Step 1 was 100%.

- B. Saba's Website as of April 4, 2019: "Saba graduates have achieved a record of success unmatched by graduates of other international medical schools. In

³⁹ *FAQs*, archived in April 4, 2019, INTERNET ARCHIVE WAYBACK MACHINE, https://web.archive.org/web/20190404064227mp_/https://www.saba.edu/faqs#faqnoanchor (last accessed Aug. 23, 2023).

recent years, 99% of our students have passed the USMLE Step 1 exam on their first attempt.”⁴⁰

A Record of Success

Saba graduates have achieved a record of success unmatched by graduates of other international medical schools. In recent years, 99% of our students have passed the USMLE Step 1 exam on their first attempt. In 2017, our students went one step further, scoring a perfect 100% pass-rate. Furthermore, our graduates attained residency placements in the U.S. and Canada at a rate that's on par with graduates of U.S. schools, and much higher than graduates of other international schools.

C. Saba's Website as of June 14, 2017: “In recent years, 99% of our students have passed the USMLE Step 1 Exam on their first attempt.”

A Record of Success

Saba graduates have achieved a record of success unmatched by graduates of other international medical schools. In recent years, 99% of our students have passed the USMLE Step 1 exam on their first attempt—and they've attained residency placements in the U.S. and Canada at a rate that's on par with graduates of U.S. schools, and much higher than graduates of other international schools.

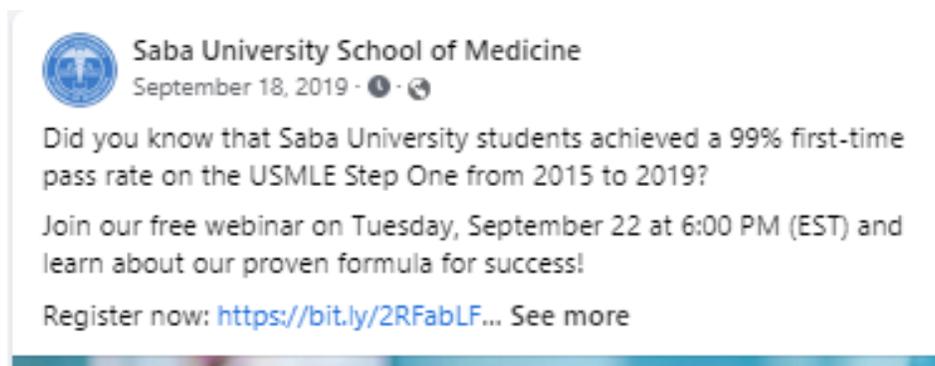
D. Saba's Website as of June 14, 2017 and July 22, 2019: “100% USMLE Step 1 First-Time Pass Rate.”⁴¹



⁴⁰ *Life at Saba*, archived on April 14, 2019, INTERNET ARCHIVE WAYBACK MACHINE, <https://web.archive.org/web/20190414221205/https://www.saba.edu/about-us> (last accessed Aug. 23, 2023).

⁴¹ *Why Saba*, archived June 24, 2017 & July 23, 2020, <https://web.archive.org/web/20200723042504/https://www.saba.edu/why-saba/> (last accessed Aug. 23, 2023).

- E. Facebook as of September 18, 2019: “Did you know that Saba University students achieved a 99% first-time pass rate on the USMLE Step One from 2015 to 2019?”⁴²



62. The representations also appear in paid advertisements.⁴³
63. For example, one Saba Facebook advertisement that launched in May of 2023 provides: “Between 2018-2022, the first-time pass rate among Saba students was 98% on the USMLE Step 1 & 2. *This is a testament to the quality of our education.*”⁴⁴

⁴² Saba University School of Medicine, FACEBOOK, <https://www.facebook.com/sabamedschool> (last accessed Aug. 23, 2023).

⁴³ Search Results for “Saba University,” FACEBOOK AD LIBRARY, https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&q=saba%20university (last accessed Aug. 23, 2023) (emphasis added).

⁴⁴ *Id.*

Active

Started running on May 10, 2023

Platforms

This ad has multiple versions

ID: 615446287274633

2 ads use this creative and text

See ad details

 **Saba University School of Medicine**
Sponsored

Between 2018-2022, the first-time pass rate among Saba students was 98% on the USMLE Step 1 & 2. This is a testament to the quality of our education.

"Saba gave me the base to do well on my USMLE and by doing well on that exam, the door is open for great residency positions." - Dr. Amit Kainth

What are you waiting for? Join Saba University School of Medicine today!



COURSES.SABA.EDU
Strong USMLE Track Record
Proven track record of success

Learn More

64. An ad released in July of 2023 claims: “Here are 4 top reasons to start your application today with Saba University School of Medicine . . . 98% USMLE Step 1 & 2 first-time pass rate (2018-2022).”⁴⁵

⁴⁵

Id.

✔ Active



Started running on Jul 21, 2023

Platforms    

ID: 862762268539034

[See ad details](#)



Saba University School of Medicine

Sponsored

Still looking for a med school? Here are 4 top reasons to start your application today with Saba University School of Medicine:

- Join over 3,000 successful graduates
- 98% USMLE Step 1 & 2 first-time pass rate (2018-2022)
- 97% of eligible graduates attain residencies (2021-2023)
- 7:1 student-to-faculty ratio

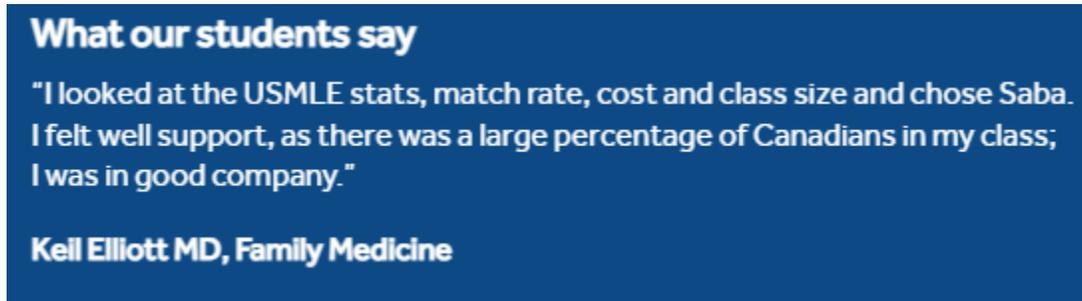
Don't have your official documents ready? Start your application nonetheless, and our friendly advisors can contact you in as early as 2 working days to help you complete it.



R3EDU.MY.SITE.COM
Start your application today
Aug 4 Deadline - Sept Term

[Apply now](#)

65. Defendants marketing also emphasizes the importance of the published USMLE rates.⁴⁶



66. As set forth in more detail below, Defendants make additional misrepresentations regarding Saba's USMLE passage rates in emails sent directly to prospective students and during in-person recruitment events.

D. Defendants Misrepresented Saba's USMLE Passage Rates to Plaintiff

67. Ms. Ortiz has long wanted to become a physician. In pursuit of that goal, she earned a BA in chemistry from Florida International University. She also took the MCAT and researched medical schools. After conducting online research and talking to friends and family, she learned about Saba.

68. On or around November of 2018, Ms. Ortiz visited Saba's website and was immediately impressed by the high USMLE passage rate. She requested more information about the school's curriculum, academic programs, and general atmosphere.

69. On November 2, 2018, Chris Cebula, Saba's Director of Admissions, responded via email to Ms. Ortiz's request for more information.

⁴⁶ *What our students say*, INTERNET ARCHIVE WAYBACK MACHINE, archived July 23, 2020, <https://web.archive.org/web/20200723042542/https://www.saba.edu/> (last accessed Aug. 23, 2023).

70. In this email, Mr. Cebula represented to Ms. Ortiz that “virtually **every Saba student passes the USMLE** on their first attempt.”

Thank you for your interest in **Saba University School of Medicine** -- a school known for its academic excellence and graduate achievement.

- Each year, virtually **every Saba student passes the USMLE** on their first attempt -- an unprecedented achievement unmatched by any other international medical school.
- And our graduates **consistently earn** coveted residencies, significantly outpacing the placement rate of other international medical schools.

(See Exhibit 1).⁴⁷

71. As Ms. Ortiz continued to research medical schools, Saba sent her another email on May 31, 2019, which stated that Saba has a “**100% USMLE Step 1 first-time pass rate.**” (See Exhibit 2) (emphasis in original).

72. On June 6, 2019, Ms. Ortiz received another email from Saba, this time inviting her to attend an admissions open house hosted by Saba on June 6, 2019. The invitation touted Saba’s USMLE passage rate:

- The average USMLE Step1 pass rate for the past five years for **Saba** Students is >99%

(See Exhibit 3).

73. Ms. Ortiz attended the open house, where Defendants’ employees reiterated Saba’s 100% pass rate for the USMLE Step 1.

74. After Ms. Ortiz attended the open house, Defendants continued to recruit her by emphasizing Saba’s high USMLE passage rates. On June 8, 2019, she received an email stating

⁴⁷ The highlights that appear in Exhibits 1 – 5 were already in the documents when Ms. Ortiz provided the files to counsel.

“Saba’s 100% first-time pass rate on the USMLE Step 1 outperformed most medical schools – and is the clear leader among international schools.” (See Exhibit 4) (emphasis added).

75. On June 16, 2019, Defendants sent another email to Ms. Ortiz representing in bold that Saba has a “100% USMLE Step 1 first-time pass rate.”

For more than 25 years, we’ve built a reputation as one of the world’s leading international medical schools, based on our commitment to providing future physicians with a top-quality medical education.

It’s a mission we’ve lived up to, with a **100% USMLE Step 1 first-time pass rate** and residency placements at some of the most prestigious and competitive teaching hospitals in North America.

(See Exhibit 5).

76. Because of these apparent high-performance metrics, Ms. Ortiz applied to Saba a few days after the open house.

77. Ms. Ortiz was promptly accepted, and, in September 2019, she started classes at Saba.

E. Defendants’ USMLE Rates Were—and Continue to be— False and Misleading

78. What Defendants do not disclose when making these USMLE representations is that many students who enroll at Saba never actually take the USMLE—an alarming statistic that has been getting progressively worse in recent years.

79. According to data produced to undersigned counsel by the Department of Education pursuant to the Freedom of Information Act (“FOIA”), since 2015, the following number of Saba students have sat for the USMLE Step 1 exam, per year:

| Year | Saba Students Sitting for the USMLE Step 1 Exam (data provided by U.S. Department of Education) | Percentage of Saba Students Taking the USMLE Step 1 (assuming 270 students enroll per year) |
|------|---|---|
| 2015 | 172 | 64% |
| 2016 | 169 | 63% |

| | | |
|----------------|------------|------------|
| 2017 | 152 | 56% |
| 2018 | 144 | 53% |
| 2019 | 154 | 57% |
| 2020 | 71 | 26% |
| 2021 | 89 | 33% |
| Average | 136 | 50% |

80. According to this data, of the approximately 270 students who matriculate at Saba each year, an average of 50% (or 136 students per year) never sit for the USMLE Step 1. That is an attrition rate of nearly 50% over the first two years.

81. By contrast, of the 64,830 students that matriculated at U.S. medical schools from 2017-2019,⁴⁸ 57,864 students (89.3%) sat for Step 1 and 55,517 students (85.6%) passed in their first attempt.⁴⁹

82. Saba's repeated representations of a 99% or 100% USMLE Step 1 passage rate were, and continue to be, materially false and misleading as they omit that approximately half of all students who enroll at Saba never sit for the exam.

⁴⁸ *2020 Fall Applicant, Matriculant, and Enrollment Data Tables*, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, <https://www.aamc.org/media/49911/download> (last accessed Aug. 23, 2023). The attrition rate at U.S. medical schools for the entire program—let alone the first two years—is less than 20%. *See also Graduation Rates and Attrition Rates of U.S. Medical Students*, ASSOCIATION OF AMERICAN MEDICAL COLLEGES (Oct. 2022), <https://www.aamc.org/media/48526/download> (last accessed Aug. 23, 2023).

⁴⁹ *National Data on Medical Student Outcomes by MCAT and GPA*, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, <https://www.aamc.org/services/mcat-admissions-officers/mcat-outcomes-data> (last accessed Aug. 23, 2023).

83. This critical data is not disclosed when Saba represents, for example, that “virtually every student passes the USMLE Step 1 on their first attempt” or that Saba’s passage rates are “better than most U.S. schools.”⁵⁰

84. If Defendants had disclosed the truth about the number of Saba students who matriculate but do *not* sit for the USMLE, Ms. Ortiz would not have enrolled at Saba and taken on large amounts of student loan debt to attend.

85. Instead, relying on Saba’s false and misleading representations, Ms. Ortiz took out approximately \$135,000 in federal loans to attend Saba for two years, her family additionally paid over \$20,000 in tuition and fees, and—as explained further below—she has nothing to show for it.⁵¹

F. In Order to Protect Access to Title IV Funding, Saba Requires Students to Pass an Internal Pretest Before Certifying Students’ Identities to Complete the Application for the USMLE

86. In order to receive Title IV funding, foreign medical schools such as Saba must have at least a 75% annual passage rate on each part of the USMLE.⁵²

⁵⁰ See *FAQ: What Is the Success Rate of Your Graduates?*, SABA UNIVERSITY, <https://www.saba.edu/faq/> (last accessed Aug. 23, 2023); *Just Getting to Know Saba—Here are 5 Fast Facts*, Saba Univ., <https://www.saba.edu/resources/blog/just-getting-to-know-saba-here-are-5-fast-facts/> (last accessed Aug. 23, 2023).

⁵¹ On average, under the 2021 rates described above, students who make it through two years at Saba will have paid approximately \$165,000 to attend (a minimum of \$41,465 per semester over four semesters).

⁵² Federal Student Aid, *Foreign Schools Handbook*, pg. 3-44 (Oct. 2016), available at <https://fsapartners.ed.gov/sites/default/files/2021-03/FSHandbookMasterFile.pdf>; see also 34 C.F.R. § 600.55(f)(1)(ii) (“for a foreign graduate medical school outside of Canada, for Step 1, Step 2–CS, and Step 2–CK, or the successor examinations, of the USMLE administered by the ECFMG, at least 75 percent of the school’s students and graduates who took that step/test of the examination in the year preceding the year for which any of the school’s students seeks a title IV, HEA program loan must have received a passing score on that step/test and are taking the step/test for the first time...”).

87. Upon information and belief, to ensure that Saba's rates remain above the 75% threshold necessary to secure access to federal student aid, Defendants require students who make it through the first two years (five semesters) to pass a Saba-administered pretest before Saba will certify their registration, *i.e.*, complete the Form 186, so the students may sit for the USMLE Step 1 exam.

88. If students do not obtain a high enough score on Saba's pretest, Saba will not certify them for the USMLE and, after four failed attempts, will automatically dismiss them from the program.

89. The pretest prevents students who might jeopardize Saba's USMLE passage rates from even taking the exam. Although this practice seriously misleads prospective students, it serves at least two business purposes of Defendants.

90. First, it allows Saba to promote a much higher passage rate to prospective students than would be the case if this barrier did not exist.

91. Second, culling out weaker test-takers with the pretest allows Saba to meet the 75% passage eligibility threshold for foreign medical schools to participate in the Title IV federal financial aid programs, an essential source of revenue for Saba.⁵³ This scheme to weed out some students ensures that Saba retains Title IV eligibility, while also continuing to profit from two years of tuition paid by students who will ultimately be dismissed from the program without ever having the opportunity to sit for the USMLE while at Saba.

92. The existence of this internal Saba pretest is not disclosed to potential students in Saba's advertising and promotional materials, nor is it clearly set out in its course catalog or during the first semesters of their education.

⁵³ 20 U.S.C. § 1002(a)(2)(A)9(i)(I); 34 C.F.R. § 600.55(f)(1)(ii).

93. At no point during the recruitment, application, or enrollment process did Defendants disclose to Ms. Ortiz that she would be required to achieve a predetermined score on an internal pretest before she could register for the USMLE Step 1.

94. After finishing two years of coursework, in August of 2021, Ms. Ortiz successfully completed the requirements of the basic science curriculum.

95. Ms. Ortiz took her first pretest after her fifth semester in August of 2021 but did not achieve Saba's required score. She made second and third attempts at the pretest in the Fall of 2021 and Spring of 2022—after twice retaking her fifth semester course and paying additional tuition—and she made a final attempt in August of 2022.

96. Ms. Ortiz did not achieve Saba's required score on any of these pretests and, as a result, was dismissed from Saba in August of 2022 without ever being able to register for the USMLE Step 1 while at Saba.

V. CLASS ACTION ALLEGATIONS

97. Plaintiff brings this action on behalf of herself and all other individuals who are similarly situated pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of the following proposed Class:

All individuals who enrolled at Saba from September of 2017 to the present who:
(i) are no longer enrolled at Saba and (ii) did not sit for the USMLE Step 1 exam.

98. The Class excludes Defendants and any entity in which Defendants have a controlling interest, and their officers, directors, legal representatives, successors, and assigns.

99. The proposed Class satisfies the requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

A. Rule 23(a)(1): Numerosity

100. The potential number of Class members are so numerous that joinder would be impracticable.

101. While the precise number of Class members enrolled at Saba from September of 2017 to the present is known only to Defendants, on information and belief, there were over 1,500 Class members.⁵⁴

102. The precise number of Class members can easily be determined through documents and records maintained by Defendants.

B. Rule 23(a)(2): Commonality

103. The nature of the relief sought is common to all members of the Class and common questions of law and fact exist as to all members of the Class.

104. These common legal and factual questions arise from Defendants' misrepresentations to, and concealments from, the public regarding the truth about Saba's USMLE passage rate.

105. As alleged herein, these representations were widely disseminated on Saba's website, on social media, in emails to students, and at open houses around the country, among other places.

106. The common questions of law and fact to the Class, the answers to which will advance the resolution of the claims of all Class members include, but are not limited to:

- A. Whether Defendants or their agents or employees made the misrepresentations regarding the USMLE passage rate described above;
- B. Whether the misrepresentations regarding the USMLE passage rate were unfair or deceptive;

⁵⁴ See discussion regarding enrollment figures, *supra* Part IV.A.

- C. Whether Defendants or their agents or employees omitted information regarding the USMLE passage rate described above;
- D. Whether the omissions regarding the USMLE passage rate were unfair or deceptive;
- E. Whether Defendants' marketing and advertising of Saba was untrue, deceptive, and/or misleading; and
- F. Whether Defendants received an unjust benefit to the detriment of the members of the Classes through the misrepresentations described above.

C. Rule 23(a)(3): Typicality

107. Plaintiff's claims are typical of the claims of the Class members.

108. Plaintiff and Class members' claims are based on the same legal and factual theories, in that: (i) Defendants' misrepresentations and omissions have caused significant damage to Plaintiff and members of the Class who have paid tuition and other fees to attend Saba since at least September of 2017 and (ii) Plaintiff and members of the Class sustained damages arising out of Defendants' common course of unlawful conduct.

D. Rule 23(a)(4): Adequacy

109. Plaintiff is an adequate representative of, and will fairly, adequately, and vigorously protect the interests of the Class because her interests in the vindication of her legal claims are entirely aligned with the interests of the other members of the Class. Plaintiff is a member of the Class and her interests coincide with, and are not antagonistic to, those of the Class.

110. Plaintiff is represented by counsel who are experienced in litigating complex consumer protection cases and class action matters in federal courts and who have extensive knowledge on issues of higher education law, consumer protection, and student debt.

111. The interests of the members of the Class will be fairly and adequately protected by the Plaintiff and her counsel.

E. Rule 23(b)(3): Predominance

112. Class action status is warranted under Rule 23(b)(3) because the common questions of law and fact identified above predominate over any questions affecting individual members of the Class.

F. Rule 23(b)(3): Superiority

113. Class action status is warranted under Rule 23(b)(3) because a class action is superior to all other available methods for the fair and efficient adjudication of this matter in that:

- A. Defendants have acted in the same unlawful manner with respect to all members of the Class;
- B. A legal ruling concerning the unlawfulness of Defendants' representations and omissions since September of 2017 would vindicate the rights of every Class member; and
- C. Due to the numerous members of the Class and the existence of common questions of fact and law, a class action will serve the economies of time, effort, and expense as well as prevent possible inconsistent results. Litigating individual lawsuits in the present case would be a waste of judicial resources and addressing the common issues in one action would aid judicial administration.

VI. CAUSES OF ACTION

**COUNT I: VIOLATIONS OF MASSACHUSETTS CONSUMER PROTECTION ACT
MASS. GEN. LAWS ANN. CH. 93A, § 2
(On behalf of Plaintiff and the Class Against Defendants)**

114. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

115. Plaintiff brings this Count against Defendants on behalf of herself and the Class.

116. Defendants' conduct, as alleged herein, constitutes unfair or deceptive acts or practices and unfair methods of competition in trade or commerce in violation of Mass. Gen. Laws Ann. ch. 93A, § 2 and the regulations promulgated thereunder pursuant to Mass. Gen. Laws Ann. ch. 93A, § 2(c), including without limitation, 940 C.M.R. §§ 3.02 (2), 3.05(1) and 3.16.

117. Mass. Gen. Laws Ann. ch. 93A § 2 provides that “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.” Mass. Gen. Laws Ann. ch. 93A § 9 permits any consumer injured by a violation of Mass. Gen. Laws Ann. ch. 93A §2 to bring a civil action, including a class action, for damages and injunctive relief.

118. Defendants engaged in unfair and deceptive acts and/or practices in the conduct of trade or commerce in violation of Mass. Gen. Laws Ann. ch. 93A § 2.

119. As alleged above, Defendants engaged in “unfair or deceptive acts or practices” in Massachusetts by repeatedly making assertions to consumers that over 98% of Saba’s students passed the USMLE Step 1.

120. These deceptive representations and omissions caused individuals such as Plaintiff and members of the Class, acting reasonably under the circumstances, to enroll at Saba when they otherwise would not have.

121. Such misrepresentations and omissions were also unfair because they were unethical, unscrupulous, and caused substantial injury to Plaintiff and the Class.

122. Defendants’ unfair and deceptive acts or practices, as alleged herein, were willful or knowing violations of Mass. Gen. Laws Ann. ch. 93A, § 2, within the meaning of Mass. Gen. Laws Ann. ch. 93A, § 9(3).

123. In accordance with Mass. Gen. Laws Ann. ch. 93A, § 9(3), on July 28, 2023, a proper written demand for relief was delivered to Defendants under Mass. Gen. Laws Ann. ch.93A, on behalf of Plaintiff and the Class. The demand letter explains the nature of the unfair or deceptive acts or practices, the injuries suffered by Plaintiff and the other members of the Class she seeks to represent, and demands compensation for those injuries and other relief.

124. Defendants did not make any offer of relief to Plaintiff or the Class.

125. As a result of Defendants' unfair and deceptive acts or practices, Plaintiff and members of the Class were harmed by their decision to attend Saba by taking out loans and paying tuition and fees.

126. Pursuant to Mass. Gen. Laws Ann. ch. 93A, §§ 9(3) and 9(4), Plaintiff and each of the other members of the Class are entitled to recover double or treble the amount of their actual damages, or statutory damages, whichever is greater, plus their reasonable attorneys' fees and the costs of this action.

**COUNT II: VIOLATIONS OF MASS. GEN. LAWS ANN. CH. 266, § 91
(On behalf of Plaintiff and the Class Against Defendants)**

127. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

128. Plaintiff brings this Count against Defendants on behalf of herself and the Class.

129. Defendants' marketing and advertising of Saba is untrue, deceptive, and misleading, in violation of Mass. Gen. Laws ch. 266, § 91.

130. At all times relevant to this action, Defendants knew, or could, upon reasonable investigation have ascertained, that their marketing and advertising of Saba was untrue, deceptive, and misleading.

131. Defendants' untrue, deceptive, and misleading marketing and advertising of Saba has continued throughout the Class Period and is continuing as of the filing of this Complaint.

132. Defendants' untrue, deceptive, and misleading marketing and advertising of Saba caused Plaintiff and members of the Class harm when they decided to attend Saba including taking out loans and paying tuition and fees.

133. As a student of Saba who was damaged by Defendants' untrue, deceptive and misleading advertising and marketing, Plaintiff is entitled to and does bring this class action to seek all available remedies under Mass. Gen. Laws ch. 266, § 91.

**COUNT III: UNJUST ENRICHMENT
(On behalf of Plaintiff and the Class Against Defendants)**

134. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

135. This claim is pled in the alternative if the Court finds that no further remedy at law is found to exist.

136. Plaintiff brings this Count against Defendants on behalf of herself and the Class.

137. As alleged above, Plaintiff and the members of the Class have conferred benefits upon Defendants including, but not limited to, tuition and fees.

138. Defendants have actual knowledge of such benefits, voluntarily accepted, and retained the benefits.

139. Such benefits were conferred upon Defendants without sufficient justification at the expense of Plaintiff and members of the Class.

140. Under the circumstances set forth above, it would be inequitable for Defendants to retain the benefits of Plaintiff and Class members' tuition and fees, which Plaintiff and the Class would not have paid if Defendants had provided truthful and accurate information regarding the USMLE Step 1 pass rate.

141. Plaintiff, on behalf of herself and the Class, seeks restitution or, in the alternative, imposition of a constructive trust on the funds inequitably received and retained.

VII. PRAYER FOR RELIEF

WHEREFORE, in accordance with the above claims, Plaintiff requests judgment against Defendants in her favor, and in favor of the members of the Class as follows:

1. Certifying this action as a class action pursuant to Federal Rule of Civil Procedure Rule 23(b)(3), appointing Plaintiff as representative of the Class, providing Plaintiff compensation as a class representative if the Court deems appropriate, and appointing Plaintiff's counsel as counsel for the Class;

2. Declaring, adjudging, and decreeing that the conduct alleged herein is unlawful, including, but not limited to, Defendants' misrepresentation of its USMLE passage rates is unlawful in violation of Mass. Gen. Laws Ann. ch. 93A, § 2 and Mass. Gen. Laws Ann. ch. 266, § 91;

3. Enjoining Defendants from continuing to misrepresent Saba's USMLE passage rate;

4. Awarding restitution to Plaintiff and the Class for all payments of tuition and fees made to Defendants;

5. Awarding actual or statutory damages, whichever results in a greater recovery, and multiple damages to Plaintiff and the Class, including pre- and post-judgment interest;

6. Enjoining Defendants from ever collecting on any private loans or other tuition payment plans of Plaintiff or members of the Class;

7. Granting Plaintiff the costs of suit, including reasonable attorneys' fees, expenses, and costs; and

8. Affording Plaintiff and members of the Class with such other, further, and different relief as the nature of the case may require or as may be determined by this Court to be just, equitable, and proper.

VIII. JURY DEMAND

Plaintiff hereby demands trial by jury.

Dated: August 30, 2023

Respectfully submitted,

/s/ Patrick T. Egan

BERMAN TABACCO
Patrick T. Egan (BBO #637477)
Christina L. Gregg (BBO#709220)
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Boston, MA 02109
(617) 542-8300
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MAYNARD NEXSEN PC
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(629) 258-2253
msiller@maynardnexsen.com

NATIONAL STUDENT LEGAL DEFENSE NETWORK
Alexander S. Elson (*pro hac vice forthcoming*)
1701 Rhode Island Ave. NW
Washington, DC 20036
(202) 734-7495
alex@defendstudents.org

Counsel for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Natalia Ortiz

(b) County of Residence of First Listed Plaintiff Hillsborough, FL (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Patrick T. Egan, Berman Tabacco, One Liberty Square, Boston, MA 02109, (617) 542-8300

DEFENDANTS

Saba University School of Medicine and R3 Education, Inc.

County of Residence of First Listed Defendant Worcester, MA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each category contains a list of legal codes with checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332(d)(2). Brief description of cause: Plaintiff brings this action for violations of Mass. Gen. Laws Ann. ch. 93A, § 2 and ch. 266, § 91.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ over 5,000,000. CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 8/30/2023 SIGNATURE OF ATTORNEY OF RECORD: /s/ Patrick T. Egan

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Natalia Oritz v. Saba University School of Medicine, et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 400, 410, 441, 535, 830*, 835*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.
 - II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.
 - III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.
- *Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Patrick T. Egan

ADDRESS One Liberty Square Boston, MA 02109

TELEPHONE NO. (617) 542-8300

EXHIBIT 1

**Saba University School of Medicine**

Admission <do-not-reply@saba.edu>

To: norti044@fiu.edu



Fri 11/2/2018 6:02 PM

Thank you for your interest in **Saba University School of Medicine** -- a school known for its academic excellence and graduate achievement.

- Each year, virtually **every Saba student passes the USMLE** on their first attempt -- an unprecedented achievement unmatched by any other international medical school.
- And our graduates **consistently earn** coveted residencies, significantly outpacing the placement rate of other international medical schools.

Our website (www.saba.edu) can provide you with the information you need on our curriculum, campus, faculty, tuition, admissions requirements, recent residency placements and more.

- [Download the Saba Viewbook.](#)
- View the **Saba Webinar**; it takes less than 15 minutes. [Register Here.](#)
- Apply now: [Click Here](#) to apply for any of our three upcoming semesters: September, January and May.

Feel free to reach out to the Admissions Department—we are here to help you every step of the way.

Yours truly,
Chris Cebula
Director of Admissions
Saba University School of Medicine
978-862-9600
admissions@saba.edu

Reply

Forward

EXHIBIT 2



Saba University School of Medicine <admissions@saba.edu>



To: Nort044@fiu.edu

Fri 5/31/2019 5:34 AM

[APPLY NOW](#) [LEARN MORE](#)

For more than 25 years, we've built a reputation as one of the world's leading international medical schools, based on our commitment to providing future physicians with a top-quality medical education.

It's a mission we've lived up to, with a **100% USMLE Step 1 first-time pass rate** and residency placements at some of the most prestigious and competitive teaching hospitals in North America.

Our approach is simple and effective. **Saba gets you "thinking like a Doctor" from the moment you step foot on campus.** We offer:

- Small class sizes with more extensive student-teacher interaction
- A distinguished faculty, with exceptional qualifications along with a personal commitment to your education
- Modern curriculum and a technologically advanced campus, anatomy classes taught with real cadavers, and state-of-the-art test centers

We also believe in starting your clinical skills early and developing your research muscle through our unique **Research Literature and Analysis program (RLRA)** in your fourth semester. All this leads to creating **Saba** Doctors who are ready to show their worth in residencies from the moment they walk through the door.

Fill out your Application. We have three start dates: January, May and September. It will just take a few minutes, but it could be the most important step in becoming the doctor you wish to be!

EXHIBIT 3

Saba, Your Education Comes First.

With this single-minded focus on the success of our students, Saba achieves results other schools simply can't match:

- The average USMLE Step1 pass rate for the past five years for Saba Students is >99%
- 94% of grads obtain US or Canadian Residencies (among eligible graduates between 2013 -18)
- Approvals and recognition that enable Saba graduates to practice in all 50 US states and the 10 provinces of Canada

Saba's entire Open House schedule, including location, dates and registration, [can be viewed here](#).

This is the best way to get a first-hand introduction to our curriculum, faculty, campus, clinical program and more.

Take advantage of this opportunity to meet with our Admissions Team and learn about openings in our upcoming semesters.



Image

SUMMER OPEN HOUSE DATES



Image

Orlando, FL

Orlando Airport Marriott Lakeside
7499 Augusta National Dr
June 5, 2019 | 7:30-8:30 PM

[REGISTER NOW](#)

Miami, FL

Miami Marriott Biscayne Bay
1633 N Bayshore Dr
June 6, 2019 | 7:30-8:30 PM

[REGISTER NOW](#)

Carlsbad, CA

Westin Carlsbad Resort
5480 Grand Pacific Dr
Tuesday, June 25, 2019 | 6:00-7:15pm

[REGISTER NOW](#)

Los Angeles, CA

Westin Los Angeles Airport
5400 W Century Blvd
Thursday, June 27, 2019 | 6:00-7:15pm

[REGISTER NOW](#)



Image



Image

[Residencies](#)

Saba graduates consistently earn residencies at a rate on par with U.S. medical schools and significantly outpacing graduates of other international medical schools.



Image

[Financing](#)

Saba is one of the select few international schools approved for U.S. Federal Student Loans and in Canada for provincial loans.



Image

[Curriculum](#)

Saba's curriculum, structured to US/Canadian standards, is taught in a close-knit community with extensive one-on-one interaction with your professors.

EXHIBIT 4

 Saba University School of Medicine <admissions@saba.edu>
To: Nort044@fiu.edu

😊 📧 ⏪ ⏩ ⋮
Sat 6/8/2019 5:35 AM

 [APPLY NOW](#) [LEARN MORE](#)



Saba's 100% first-time pass rate on the USMLE Step 1 outperforms most medical schools—and is the clear leader among international schools.



Saba gets you where you want to go: from 2013-2018, 94% of eligible Saba grads attained residency and are currently practicing across the U.S. and Canada.



For an idea of where you can go with a medical degree from Saba look no further than the top appointment Saba graduates earned in 2018 at Cleveland Clinic (Orthopedic Surgery), MedStar/Johns Hopkins (General Surgery), University of Ottawa (Head & Neck Surgery, Bridgeport Hospital/Yale (Internal Medicine) and other top institutions. See the complete [list](#) here.



Take advantage of Saba's reputation and experience gained over more than 25 years of educating doctors—a proven environment for medical education that puts you and your success first.



Saba University School Of Medicine | P.O Box 1000, Saba, Dutch Caribbean | (978) 862-9600 | Email Admissions

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EXHIBIT 5



The First Step to a Saba MD!

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Saba University School of Medicine <admissions@saba.edu>

To: Nortio44@fiu.edu



Sun 6/16/2019 5:35 AM

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For more than 25 years, we've built a reputation as one of the world's leading international medical schools, based on our commitment to providing future physicians with a top-quality medical education.

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