Written & Verbal Testimony
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Education and the Workforce Committee Field Hearing:
"Reviving our Economy: The Role of Higher Education in Job Growth and Development"

Henry Student Center - Wilkes University

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Introduction

Good morning. My name is Joan Seaman, Executive Director of the Wyoming Valley Campus, of Empire Education Group, located here in the 11th District of Pennsylvania. I would like to begin my testimony by thanking both Representative Lou Barletta and Chairman John Kline for hosting this important hearing on how higher education can help revive the economy through job growth and development.

I think we all agree that the path to a stronger and more competitive workforce is rooted in access to postsecondary education, and the ability and flexibility afforded to our nation's students to choose the education and training that best meets their own individual personal and professional career goals.

In the time that I have with you gentleman this morning, I would like to describe a little bit about my own professional journey, the role that Empire Education plays in helping myself and others achieve success in our chosen professions/careers, and how the Cosmetology School Industry and Professional Beauty Industry can and should be looked upon as a part of the solution to economic recovery and a broader more robust workforce.

And, I would be remiss if I didn't also share with you some of the legislative and regulatory barriers which currently exist that limit/prohibit my institution from helping individuals and their families enroll, pursue, and complete their education, which is the "passport" to a world of "in-demand" employment, financial independence, and personal/professional growth and success.

My Professional Journey

My career, and the pursuit of my passion and dreams, were made possible because of the choice and access provided to me by Empire Beauty Schools.

I graduated from Empire in 1974 prior to the school being accredited and recognized by the U.S. Department of Education as an institution eligible to administer Federal Student Financial Assistance. Upon graduation, the school director helped me find a job in a salon.

While working in the salon, in 1976 I decided to return to Empire, which was now accredited, and I enrolled in the Teacher Training Program with the help of Title IV funding. Upon graduation from the Teacher Training Program I was hired as an instructor and worked in that capacity for 17 years. The help and support I received from Empire also allowed me, in 1983, to realize my life long dream of owning my own salon and becoming a small business owner as well.

I am proud to say that I have been employed by Empire for 35 years and presently serve as the Executive Director of the Wyoming Valley Campus. In my capacity as Executive Director I am responsible for the overall quality of the school. That includes delivery of the education, graduation and placement, community outreach, operation of the facility and anything else that needs to be done to insure our students have a positive learning environment.

Empire Education's Role

I would submit to you that Empire Education, and the broader cosmetology school industry as well, do an outstanding job preparing students that choose to enter the Professional Beauty Industry.

At Wyoming Valley, more than half of our students enroll in school with previous higher education experience and, sadly enough, prior debt – and this is typical of most institutions within the cosmetology community, as we estimate that 20-35% of students enroll with some prior higher education indebtedness.

Many of these individuals are making a transition – whether it be from the pursuit of an education which was not the best fit for them or a new career path based upon the loss of their existing job due to the lagging economy - and are finally getting to follow their passion. Many also see the Professional Beauty Industry as a pathway to independence or are pursuing a dream that they have had since childhood, but either could not, or did not pursue previously. The one thing that they all have in common…. They have all chosen to attend our school and are counting on us to help them achieve their goals and dreams.

And, with some humility, I believe we deliver.

Wyoming Valley has success rates that I am proud of and they are similar to the success enjoyed across Empire's 102 campuses in 23 states. Our graduation rate is 71%, our pass rate on the State mandated licensing test is 86% and our placement rate is 77%. I bring these rates to your attention in part because they are part of the metrics used by Empire Education Group, our accrediting agency, and other large and small cosmetology schools in our sector to determine quality of education.

The Cosmetology School & Professional Beauty Industries' Roles

The cosmetology school industry is more heavily regulated than my peers on this panel, and this is true of cosmetology schools in every state.

Not only must cosmetology institutions meet the federal higher education laws and regulations, but we must also comply with the state regulatory guidelines and licensure testing requirements of our Cosmetology and Barbering Boards. These entities quite literally establish the length of our programs, the curriculum that is to be taught in order to meet the state's licensure requirements, and the independently administered, state approved exams our students must pass in order to enter the profession.

Believe it or not, Empire Education and the cosmetology school industry view this additional level of oversight as a positive. It helps us educate the students and their families on what is expected of them in order to achieve entry into the profession. It enables us to validate the quality of our programs based upon our outcomes and success in preparing individuals for licensure. And, it provides the Professional Beauty Industry with a clear, bright-line indication that the individual has the entry-level skill sets to enter the workforce, and begin their careers.

Armed with this "passport" the cosmetologist has entry into a "world" of opportunity in areas where "employment is expected to grow much faster than the average for all occupations" according to the U.S. Department of Labor's Occupational Outlook Handbook, 2010-2011.

As noted under "Job Outlook" for Barbers, Cosmetologists, and Other Personal Appearance Workers:

> "Overall employment of barbers, cosmetologists, and other personal appearance workers is projected to grow much faster than the average for all occupations. Opportunities for entry-level workers should be favorable, while job candidates at high-end establishments will face keen competition.
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> ***Employment change.*** Personal appearance workers will grow by 20 percent from 2008 to 2018, which is much faster than the average for all occupations.
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> Employment trends are expected to vary among the different occupational specialties. Employment of hairdressers, hairstylists, and cosmetologists will increase by about 20 percent, much faster than average, while the number of barbers will increase by 12 percent, about as fast as average. This growth will primarily come from an increasing population, which will lead to greater demand for basic hair services. Additionally, the demand for hair coloring and other advanced hair treatments has increased in recent years, particularly among baby boomers and young people. This trend is expected to continue, leading to a favorable outlook for hairdressers, hairstylists, and cosmetologists.
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> Continued growth in the number full-service spas and nail salons will also generate numerous job openings for manicurists, pedicurists, and skin care specialists. Estheticians and other skin care specialists will see large gains in employment, and are expected to grow almost 38 percent, much faster than average, primarily due to the popularity of skin treatments for relaxation and medical well-being. Manicurists and pedicurists meanwhile will grow by 19 percent, faster than average.
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> ***Job prospects.*** Job opportunities generally should be good, particularly for licensed personal appearance workers seeking entry-level positions. A large number of job openings will come about from the need to replace workers who transfer to other occupations, retire, or leave the labor force for other reasons. However, workers can expect keen competition for jobs and clients at higher paying salons, as these positions are relatively few and require applicants to compete with a large pool of licensed and experienced cosmetologists. Opportunities will generally be best for those with previous experience and for those licensed to provide a broad range of services."

It is the Professional Beauty Industry that will afford individuals with the ability to use their passport to choose from all manner of career paths and destinations. They can pursue employment in a salon, building up a clientele – which may one day lead to the opening of their own salon just like mine. They may enter into the manufacturing and merchandising side of the industry (wholesale trade), or the customer service and retail professions (retail trade), which are again classified by the U.S. Department of Labor as areas for occupational growth at above the national average. Regardless of their choice, the options are there and so is the demand.

Legislative and Regulatory Barriers

Rep. Barletta and Chairman Kline, I believe that my campus, Empire Education Group, and the rest of the cosmetology school community can help get us back on the right track to full economic recovery, but in order to do so students and schools need your help.

You have already heard me state that my institutions and our industry does not shy away from regulation, in fact, when it is fair and balanced at both the federal and state level we embrace it. But in far too many cases, especially at the federal level, statute and regulations proposed in the name of "program integrity", "the interests of the taxpayers", and "the federal interest" frankly go too far.

These regulations can be unreasonable, unfair, and yes, even unjust, and often times come with unintended consequences which are far more detrimental to the students and schools than originally prescribed or intended.

Today I would like to call to your attention three brief examples which illustrate key legislative and regulatory barriers which limit/prohibit institutions from effectively enrolling, completing, and placing future employees into our nation's workforce. They include:

- Federal statutory prohibitions on an institutions ability to limit student borrowing to only those funds needed/necessary for pursuit of their education;
- Recently promulgated Federal regulations broadly defining "misrepresentation" go well beyond reasonable interpretations of substantial misrepresentation with a clear intent to deceive; and
- Pending Federal regulations seeking to define "gainful employment in a recognized occupation."

<u>Student Over-Borrowing</u>

This may seem counter-intuitive, but in an effort to promote consumer transparency and greater access to student loan information, the Higher Education Act mandates that all institutions disclose to the potential borrower every type and amount of federal student financial that they are eligible to receive and prohibits an institution from limiting the amount the potential student and/or the family can borrow – even if that amount exceeds the funds needed to pay for all tuition, fees, and direct academically-related costs (including child care, transportation, et. al.).

Student financial aid administrators do have the ability to limit student borrowing on a case-by-case basis, but are often cautious about doing so because of the potential adverse consequences if the discretion is overused.

Thus, as currently constructed, the law and regulations actually push more student aid onto the borrower than is necessary, increasing the potential that the student can, and potentially will over-borrow.

I'm certain the irony is not lost on the two of you. At a time when other Members of Congress, student rights and consumer advocates are vocally questioning college tuition increases, student debt, and the harms associated with large indebtedness, the ability to repay, and the potential for default, the fact of the matter is that the institutions are ***required*** to offer more of the taxpayers money than is actually necessary.

Compounding the problem are the pending U.S. Department of Education regulations seeking to define "gainful employment", which focus on a borrower's ability to repay their loan and the relationship of the amount borrowed to the anticipated earnings immediately after graduation. Later in my testimony I discuss the broader implications of the pending regulations, but they are relevant to this concern as well.

Several portions of the higher education community, including the for-profit and community colleges, have requested that both the Department of Education and Congress provide institutions with the ability to limit the amount a student can borrow.

Department of Education officials have repeatedly noted during Federal negotiations that the Secretary requires statutory authority to enable institutions to make such determinations.

To that end, I respectfully request that you consider granting institutions and their financial aid administrators the ability to limit the amount a student and/or their family can borrow. In doing so, you will enable institutions to prevent unneeded and unnecessary student indebtedness, while at the same time protecting the federal fiscal interest in terms of both funds attributed and the default risks associated with the over-awarding of taxpayers' dollars.

<u>Misrepresentation</u>

The Department of Education's October 2010 final regulations implementing a series of changes designed to promote greater program integrity included modifications to the definition of "misrepresentation" which are simply illogical, unrealistic, and will likely open the door to countless lawsuits based upon the expansive terms now contained in the regulations effective this July.

Under the law, the Program Integrity Triad – made up of state authorizers, accrediting agencies, and the U.S. Department of Education – are all responsible in one form or another to prevent institutions from providing the consumer with false or misleading information.

Specifically the HEA directs the U.S. Department of Education to make determinations regarding "misrepresentations" made by institutions of higher education to potential students and their families that are "false, erroneous or misleading statements" in relations to "descriptions of educational programs, its financial charges or employability of its graduates."

For many years, all institutions of higher education have understood and abided by this regulation, and support its intent and that of the underlying statute.

However, as part of the most recent efforts on the part of the Department to expand oversight and enhance program integrity, the Administration sought, and was successful in promulgating new regulations broadly defining "misrepresentation" in a manner that goes well beyond reasonable interpretations of substantial misrepresentation with a clear intent to deceive

The new regulations dramatically expand the definition of "misrepresentation" to include misstatements that have a "likelihood or tendency to deceive or confuse." They also enlarge the scope of actionable misrepresentations to include any statement about the institution as a whole, not the narrower description of the program, financial charges and outcomes noted above. And, not only do the new regulations pertain to representations made to potential students and their families, but now, the new regulations open this up to misrepresentation made to the general public.

Empire Education Group, the cosmetology school industry, and the broader for-profit community all agree that this regulation is a significant over-reach on the part of the Department, one fraught with potentially unintended consequences based upon the most minor of mistakes or even human error.

I urge you to review the underlying law and the new regulations, which go well beyond what the law and Congress appear to have intended and respectfully request that you work with us to find remedies which will dial back this over-reaching and potentially very damaging new regulation.

<u>Gainful Employment</u>
As was clearly demonstrated throughout last Thursday's (March 17, 2011) Full Committee Hearing entitled, "Education Regulations: Roadblocks to Student Choice in Higher Education" the as yet unpublished U.S. Department of Education (Department) "gainful employment" regulations will limit student access and choice.

What is unknown is the degree to which the final regulation will have unintended but profound negative impact on cosmetology schools like mine. While last week's hearings touched on a number of important concerns, one important issue which was not raised at the hearing in Washington, which deeply concerns my institution and the cosmetology school industry, is the fact that the Missouri data used by the Department to assess the impact of their proposed regulations failed to take into consideration ***any*** cosmetology school data. So neither the Department, nor the cosmetology sector can say for sure what impact the final regulations may have on our programs – which leads me to my second concern on gainful employment.

The Department and supporters of the provision have repeatedly stated that the proposal is program specific, and that the institution does not loose eligibility, only the impacted program(s). Within the cosmetology school industry this simply isn't accurate. Wyoming Valley, like a majority or cosmetology schools across the country, offer core curriculum in the cosmetology arts and sciences and related fields. We do not offer multiple disciplines and as a result stand to be more negatively impacted by the proposed regulations – as elimination of our cosmetology programs eligibility will result in institutional ineligibility.

But perhaps my biggest concern is the fact that I, as someone who is responsible for running a total quality school, will have little, if any, control over the outcomes of the two metrics (Annual Loan Repayment Rates and Student Debt-to-Earnings) which will be used to determine my institution's, not just a program's, continued eligibility.

- *Annual Loan Repayment*
  There are many problems with this metric but I will focus on several that are most evident and worrisome. First is the fact that this proposed regulation looks backward and, if implemented, will include students that attended and graduated from my school up to three years ago. I am concerned not only of the unfair nature of such a provision, but also with the precedent it may set for future retroactive regulations.

  Second, as proposed, there are certain classes of performing loans that will not be recognized as such because they are loans in deferment or forbearance. Also, many income contingent options while deemed to be performing statutorily by education law, will count against the institution as not in repayment. Add to the fact that all loans are serviced by the Department of Education and it creates a dichotomy as to how the institution and the Department will work to properly counsel and ultimately service those loans, when what is in the best interest of the student is in direct conflict with the assessment of the institution's compliance with the gainful employment regulation.

  Third, the calculation of median loan debt is not an accurate reflection of the proceeds of the loan debt received by the institution. Students may borrow well beyond the cost of education for living and other educationally related expenses. Institutions could actually charge zero for tuition and by law, the students could borrow up to their eligible maximum. Under the proposed regulation, the institution is held responsible for the student re-paying that debt even if the institution did not receive even a single penny from the proceeds of the loan.

- *Student Debt-to-Earnings*
  Simply put, I am not sure what this metric reflects or is trying to measure. As proposed, the institution will submit a roster of social security numbers to the Department of Education who will then turn that roster over to the Social Security Administration (SSA). The SSA will in return give the Department of Education the average earnings of the graduates on that roster so it can be compared against the median loan debt of recognized occupation(s) in that field.

First, there is no way for the institution – or any external auditor – to identify the source of the income. While this may work to the advantage of the institution, it is not reflective of the difference in the value between what was borrowed and the subsequent earning power of the student as a result of the training that student received because of the loan.

Second, there is no way to check the accuracy of the information coming back to the institution. The exclusion of a few graduates could dramatically impact the average, especially in institutions and programs with small cohorts.

Third, programs with small enrollments will have average earnings and loan values with potentially large outliers that will be more attributable to economics than the quality of education at an institution.

Based upon all of these concerns, and many more too numerous to include in my prepared or verbal testimony, Wyoming Valley, Empire Education Group, the cosmetology school industry, and the Professional Beauty industry all respectfully submit and agree with your statements Rep. Kline that these regulations should be withdrawn by the Department.

I applaud both of you gentleman for taking the lead in seeking to slow down the rush to regulate in this area. The overwhelming House vote on this issue is an important first step. I hope that the Senate will see the wisdom of including the provision in their Fiscal Year 2011 (FY11) Appropriations bill, but even if they do not, I hope you will fight to have the provision maintained in the House & Senate Conference and the final enacted FY11 funding legislation.

The Wyoming Valley Campus, Empire Education Group, the cosmetology school industry, and the Professional Beauty Industry are all committed to working with you to see this regulation at a minimum delayed, and in a perfect world never published. We support accountability, and are not adverse to oversight and regulation, but only when it is fair and balanced, and this regulation is certainly far from that.

Conclusion

Empire Education Group, the cosmetology school industry, and institutions like Wyoming Valley have the ability to help meet the nation's local, as well as national, job growth and development needs, helping to lead to a path of full economic recovery. However, to work at optimum efficiency and effectiveness we need targeted relief from federal legislative and regulatory restrictions that unduly harm students and the institutions they choose to attend.

It is my hope that through your leadership we can, and will, work together to make the necessary changes to the Higher Education Act, which will enable Wyoming Valley, Empire Education Group, the cosmetology school industry, and my peers on this panel representing traditional higher education meet the local and national workforce needs, and do our share to help spur on full economic recovery.