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June 19, 2023

RE: Agency/Docket Number: Docket ID ED-2023-OPE-0089

U.S. Department of Education  
Office of Postsecondary Education  
400 Maryland Avenue SW, 5th floor,  
Washington, DC 20202

***Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)***

The American Massage Therapy Association (AMTA) appreciates the opportunity to submit comments on 34 CFR 600/ 34 CFR the Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB).

AMTA is the oldest and largest national association representing massage therapists and the massage industry profession, representing over 103,000 members and 573 schools across the country. AMTA has worked for over 80 years to advance the massage therapy profession, advocating for responsible state licensure and ethical standards for the industry, clinical research on the efficacy and value of massage therapy for both acute and chronic pain, and greater public and provider awareness of the numerous benefits of massage therapy as a non-opioid alternative for pain management.

**General Comments:**

In general, AMTA is pleased to see the U.S. Department of Education take an active role in *proposing new regulations to promote transparency, competence, stability, and effective outcomes for students in the provision of postsecondary education*. Taking measures to ensure that students have a fair and equitable educational experience is a concept that AMTA and the massage industry fully supports.

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Our concerns which we will outline below center on how the Department of Education came to some of conclusions that they did, specifically but not exclusively, regarding the calculations of the Earnings Premium Measure (§ 668.404) and the DOE's proposal to limit the number of hours in a gainful employment program to the greater of the required minimum number of clock hours, credit hours, or the equivalent required for training in the recognized occupation for which the program prepares the student, as established by the State for which the school operates.

***Calculating Earnings Premium Measure (§ 668.404) We recognize that it may be more challenging for some programs serving students in economically disadvantaged locales to demonstrate that graduates surpass the earnings threshold when the earnings threshold reflects the median statewide earnings, including locales with higher earnings. We invite public comments concerning the possible use of an established list, such as list of persistent poverty counties compiled by the Economic Development Administration, to identify such locales, along with comments on what specific adjustments.***

Calculating an earnings premium measure is more nuanced for the massage industry given the percentage of therapists who willingly choose to work fewer hours and/or utilize their massage education to supplement their full-time (FT) employment. According to industry research conducted by the AMTA in 2022, nearly 54% of all working massage therapists nationwide operated as a secondary career and have income streams outside of their career in massage therapy. Additionally, 42% of all massage therapists have completed a bachelor's degree or higher.<sup>1</sup> Most massage therapists do not work what would be considered "full-time" by the standard definition. It is unfair to use a 40-hour standard for the average therapist as most only work on average roughly 25 hours a week. According to the U.S. Bureau of Labor and Statistics (BLS)<sup>2</sup>, the average full-time massage therapists makes \$46,910 per year which is more than double the calculations used in the proposed rule. Additionally, BLS states, "employment of massage therapists is projected to grow 20 percent from 2021 to 2031, much faster than the average for all occupations." Also, according to AMTA research, when looking at the average of the over 346,000 massage therapists, in the United States, our concern is that by using an inaccurate formula, the proposed rule could severely limit the pool of massage therapists entering the industry due to a lack of available federal financial-aid.

***The Department proposes to measure earnings using only the median of program completers' earnings, rather than the maximum of the mean or median of completers' earnings.***

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<sup>1</sup> <https://www.amtamassage.org/globalassets/documents/publications-and-research/2023-amta-research-report-full.pdf>

<sup>2</sup> <https://www.bls.gov/ooh/healthcare/massage-therapists.htm?ref=nf>

For the massage profession, both metrics may have some issues. Therapists can, and do, set their own hours or work as much or as little as they like and we have concerns with using a median or mean calculation of earnings. Overall, most individuals enter massage schools because they want flexibility in their work, and want to help people. They do want to make a livable wage, but that is often not the main attraction to the profession, and massage therapists often used massage to supplement other income sources.

We request that the DOE provide clarity on who will collect the necessary data needed for DoE to measure the earnings.

***Amend § 668.14(b)(26)(ii) to limit the number of hours in a GE program to the greater of the required minimum number of clock hours, credit hours, or the equivalent required for training in the recognized occupation for which the program prepares the student, as established by the State in which the institution is located, or the required minimum number of hours required for training in another State, if the institution provides documentation of that State meeting one of three qualifying requirements to use a State in which the institution is not located that is substantiated by the certified public accountant who prepares the institution's compliance audit report as required under § 668.23.***

This proposed rule change would eliminate what is known as the “150% rule” which provides federal aid funding for students choosing to enter a program with a greater number of required hours than is required in their state of residence for schooling. Because there is high mobility in the massage therapy field, with therapists often being licensed in multiple states, or moving at a rate higher than the US average, the proposed elimination of the 150% rule is a substantial concern as states often have vastly different requirements for licensure. For example, Pennsylvania requires 600 hours of entry level education to become a massage therapist, Connecticut requires 750 classroom hours, and New York requires 1,000 hours. Most programs and students have benefited by having the 150% rule, so that if they were living in a state that requires 500 hours of education, by going to a program that could be up to 750 hours, they would still be able to become licensed or work in neighboring states. Page 77 of the proposed rule addresses these issues if a school is within a bordering state, but this would not cover all instances. Page 81 of the document addresses that it may also follow an accrediting agency or Federal agency requirements for hours if applicable. We request clarity on how this proposed rule change maintains a fair and equitable environment for an industry where professionals are mobile, and much like travelling nurses, move from state-to-state where there is a need. Recently the U.S. Department of Defense gave the massage industry a grant, understanding the mobile nature of the industry and the need to create an interstate compact.<sup>3</sup> It is our belief that

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<sup>3</sup> <https://compacts.csg.org/compact-updates/massage-therapy/>

by eliminating the 150% rule, the DOE would severely undermine the intent of the massage therapy interstate compact as 22 states regulate the profession with a 500-hour requirement for entry-level education, yet the average school operates at just over 625 hours and the interstate compact set the requirement to mirror the industry average at 625 hours.

***The GE eligibility criteria are designed to define what it means to prepare students for gainful employment in a recognized occupation, and they tie program eligibility to whether GE programs provide education and training to their title IV, HEA students that lead to earnings beyond those of high school graduates and sufficient to allow students to repay their student loans.***

For comparisons in wage to those who have a high school degree in the area, with no post-secondary training, we respectfully request to know how that population is defined. Would this also assume they do not possess any certifications or online training that may also increase their earning potential? With the rise of jobs in the technology sector, for example, there are many online certificate programs that a high school graduate could take that would vastly increase their earning potential, but would not necessarily be considered post-secondary education. In a similar manner, many students receive massage therapy training in programs that may not traditionally be considered post-secondary education, yet those programs should not automatically be excluded or discounted under the proposed rule. The Department should better clarify how it will make such determinations around those types of programs.

***Section 101(b)(1) of the HEA defines an institution of higher education, in part, as any institution that provides not less than a one-year program of training that prepares students for gainful employment in a recognized occupation.***

We strongly urge DOE to not adopt any rule that would require eligible training programs to be at least one year. Many programs prepare students for gainful employment in programs of one year or longer, but a significant amount of programs have a duration less than one year, and should not be eliminated simply because of duration of program. The one-year minimum could have an adverse impact on some number of massage therapy training programs. A survey of massage schools in 2022 concluded that 23% of program report duration of 4-6 months, 18% 7-9 months, 47% 10-12 months, 6% 13-15 months, and 6% 16 months or more.

***The Department proposes procedures that we believe would be adequate to verify the validity of a student's high school diploma. This standard was last addressed during negotiated rulemaking in 2010. In these proposed regulations, we identify specific documents that can be used to verify the validity of a high school diploma if the institution or the Secretary has reason to believe that the high school diploma is not valid. We also propose criteria to help institutions with identifying a high school diploma that is not valid.***

In some areas of the country, a large percentage of those enrolled in massage programs are from a substantial immigrant population. For these individuals, they may either not have the required documentation about their high-school education, or may not been able to achieve a high-school degree because of factors within the country they were born. As such, this could be difficult for programs in the massage therapy field.

We appreciate the opportunity to comment on the proposed rules and strongly recommend you consider the information we have provided and make appropriate changes as you finalize the rule. Additionally, we request that DoE pause the implementation of this rule and conduct a more robust study on the impacted industries, specifically, the massage therapy industry. Should you have any additional questions or seek clarity on our comments, please view AMTA as a resource for the massage therapy industry.

Respectfully submitted,

A handwritten signature in black ink that reads "James E. Specker". The signature is fluid and cursive, with the first name "James" being the most prominent.

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