

**Written Testimony of Robyn C. Smith, Of Counsel,  
National Consumer Law Center**

**To the Office of the Attorney General of Massachusetts**

**Regarding the Proposed Adoption of 940 CMR 31.00  
and Repeal of 940 CMR 3.10 and Related Definitions  
in 940 CMR 3.01**

**February 21, 2014**

The following statement is submitted on behalf of the National Consumer Law Center's low-income clients. The Boston-based National Consumer Law Center (NCLC) is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys and their clients, as well as community groups and organizations that represent low-income and older individuals on consumer issues.

NCLC's Student Loan Borrower Assistance Project provides information about student rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens and make loan repayment more manageable.<sup>1</sup>

Our policy and advocacy efforts are grounded in our direct legal assistance work with low-income clients in Massachusetts. These clients, many of whom attended for-profit schools, seek our assistance because they are struggling with student loan debt. In addition to our work in Massachusetts, we consult with advocates across the country representing borrowers, many with complaints against for-profit schools. Further, a large percentage of the complaints we get through our Student Loan Borrower Assistance web site involve for-profit schools.

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<sup>1</sup> See the Project's web site at [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org). NCLC also publishes and annually supplements practice treatises which describe the law currently applicable to all types of consumer transactions, including *Student Loan Law* (4<sup>th</sup> ed. 2010 and Supp.). These comments are written by Robyn Smith, Of Counsel with NCLC, where she focuses on for-profit college and student loan issues. She previously worked in the Consumer Law Section of the California Attorney General's office, where she investigated and prosecuted businesses engaged in deceptive business practices, including for-profit colleges. She also represented low-income consumers in a wide range of consumer law matters at Public Counsel in Los Angeles and at the Legal Aid Society of Hawaii.

## **Problems With the For-Profit School Sector**

We applaud Attorney General Coakley for her commitment to protecting consumers from fraudulent for-profit schools, both through law enforcement actions and the proposed unfair and deceptive acts and practices (UDAP) regulations. Unfair and deceptive for-profit school practices are a tremendous source of frustration, financial loss, and loss of opportunity for consumers, particularly low-income consumers hoping to break out of poverty. Many scam for-profit schools exploit federally funded student assistance programs, convincing students to take on thousands of dollars in debt based on false promises of higher paying employment. These students' hopes are shattered when they discover that their credentials are worthless, they are unable to find the high paying employment promised, and they are stuck with a lifetime of debt they cannot afford to repay.

We regularly see the harm caused by deceptive for-profit school practices through our direct client representation work. All of our clients live in Massachusetts and are eligible for free legal assistance. Of the clients we have seen in the past few years, almost 70% attended for-profit schools. Of those who attended for-profit schools, many did not complete their courses. Of our clients who completed their programs, only a few have found work in the field they were supposedly trained in and none have found long-term employment. In fact, few of these clients are employed in any type of job.

Student loan defaults are devastating for borrowers because the consequences of federal loan defaults are so severe. The government has extraordinary powers to collect student loans, far beyond those of most unsecured creditors. The government can garnish a borrower's wages without a judgment, seize her tax refund, even an earned income tax credit, seize portions of federal benefits such as Social Security, and deny her eligibility for new education grants or loans. Even in bankruptcy, most student loans must be paid. Unlike any other type of debt, there is no statute of limitations.

As the Attorney General has recognized by proposing to broaden the scope of the UDAP regulations, for-profit school fraud is by no means only a legacy of the past. New abuses have emerged, many tied to the aggressive push for growth in the sector and proliferation of large, Wall Street-backed public companies. We continue to see new clients who have been harmed by unfair and deceptive practices of for-profit schools. The need for the regulations proposed by the Attorney General, with some clarifications and improvements as described below, has never been greater.

## **Comments and Recommendations**

Some for-profit schools have argued that many of the draft regulations either conflict with or duplicate federal regulations. None of the draft regulations, however, conflict with federal law and, other than a few of the disclosure requirements, none of the draft regulations are duplicative. State governments, not accrediting agencies or the federal government, have the distinct and primary responsibility of protecting students from unfair and deceptive practices as part of the federal financial aid regulatory "triad." The Department of Education affirmed that states retain this responsibility when it clarified the state authorization requirements for

participation in federal aid programs.<sup>2</sup> For this reason, state unfair and deceptive acts and practices statutes constitutes the main line of defense – and too often the only line of defense – protecting consumers from predatory, deceptive, and unscrupulous business practices. By proposing more extensive UDAP regulations, the Attorney General is helping the state to fulfill its critical consumer protection role within the federal oversight scheme.

## **A. Scope and Application of Proposed Regulations**

### ***1. Sections 31.02 and 31.03 (Definition of School): Exclusive Application of Regulations to For-Profit Institutions***

Some for-profit schools argue that they should be treated no differently than private non-profit schools, which the Attorney General has proposed to exclude from the application of the UDAP regulations. This argument, however, ignores the enormous amount of historical and recent evidence demonstrating that the enumerated deceptive and unfair practices have been widespread in the for-profit educational industry, while they have been rare in the non-profit educational sector.

The for-profit education sector is the only higher education sector that has a long history of engaging in consumer fraud, as described in numerous governmental reports over the years.<sup>3</sup> Most recently, in July 2012 the U.S. Senate Committee on Health, Education, Labor and Pensions issued a report that highlighted widespread problems throughout the for-profit higher education sector.<sup>4</sup> Among other findings, the Committee focused on the huge investment of taxpayer dollars in the industry, predatory recruiting, low completion rates, billions of dollars diverted to marketing, executive salaries and profits, and gaming of the regulatory system to maximize profits.

Federal funding and investor demand for growing profits are at the root of the for-profit educational sector's problems. Federal law allows for-profit schools to earn up to 90% of their revenues from Department of Education federal aid programs.<sup>5</sup> The availability of so much federal financial aid revenue fueled rapid growth in the for-profit school sector in the 2000s, often at the expense of educational quality. Between 2000 and 2009, undergraduate enrollment at degree-granting for-profit schools increased by 293%, while undergraduate enrollment increased

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<sup>2</sup> See 75 Fed. Reg. 66832 (Oct. 29, 2010) (final regulations). See also, 75 Fed. Reg. 34806-02, 34813 (June 18, 2010) (“we are concerned that some States are deferring all, or nearly all, of their oversight responsibilities to accrediting agencies . . . . [W]e are concerned that the checks and balances provided by the separate processes of accreditation and State legal authorization are being compromised.”)

<sup>3</sup> These problems have been documented in numerous investigations and media reports, including recent reports from the U.S. Senate Committee on Health, Education, Labor and Pensions: “Emerging Risk?: An Overview of Growth, Spending, Student Debt and Unanswered Questions in For-Profit Higher Education” (June 24, 2010) and “The Return on the Federal Investment in For-Profit Education: Debt Without a Diploma” (Sept. 30, 2010). See also National Consumer Law Center, Public Advocates and U.S. PIRG, “Comments to the FTC on Vocational School Guides” (Oct. 16, 2009). A summary of media reports on these issues can be found at: <http://protectstudentsandtaxpayers.org>.

<sup>4</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., “For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,” S. Rpt. 112-37 (July 30, 2012).

<sup>5</sup> 20 U.S.C. § 1094(a)(24).

by only 17% at degree-granting non-profit schools and 27% at public schools.<sup>6</sup> Enrollments at all for-profit schools increased from 766,000 in 2001 to 2.4 million in 2011.<sup>7</sup> This rapid increase was due, in large part, to increasing market domination by regional and national chains, many with stock shares traded on Wall Street.<sup>8</sup> By 2009, at least 76% of the students enrolled in for-profit schools were attending schools that were either publicly traded or owned by private equity firms.<sup>9</sup>

Due to this growth, for-profit education companies have taken an increasing share of federal financial aid. In 2009, for example, although for-profit schools enrolled just 13% of students nationally, they received almost one-quarter of all Pell grants, up from just 13% in 1999.<sup>10</sup> Similarly, in 2009-10, the for-profit education sector received 25% of total Department of Education student aid program funds.<sup>11</sup> In addition, for-profit school companies are receiving an increasing share of federal benefits for active duty military and veterans – some may even target military and veteran students because these federal benefits do not count towards the 90% federal financial aid revenue cap applicable to for-profit schools. Between 2006 and 2010, twenty for-profit school companies increased their combined Post-911 GI Bill and Tuition Assistance benefits from \$66.6 million in 2006 to a projected \$521.2 million in 2010, an increase of 683%.<sup>12</sup> Many schools also receive state funds that bring the dependence on government funds closer to 95% of revenues.<sup>13</sup>

This may seem on the surface like a typical business success story, but there are very serious down sides for students and taxpayers. Students at for-profit schools default on their federal students loans at disproportionately high rates – which indicates that these schools are not providing the quality educations or services that they promise. The Department of Education released three year FY 2010 official cohort default rates in September 2013. Although for-profit schools enrolled just 14% of students nationally, 46% of the students who entered repayment in 2010 and defaulted by 2012 were for-profit school students.<sup>14</sup> In addition, the for-profit school sector had a three year average default rate of 21.8%, which was significantly higher than the three year default rates for public schools (13.0%) and private non-profit schools (8.2%).<sup>15</sup>

Some for-profit schools claim that the proposed regulations would essentially penalize

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<sup>6</sup> Nat'l Center for Educ. Statistics, U.S. Dep't of Educ., "The Condition of Education 2013," NCES 2013-037 at 62 (May 2013).

<sup>7</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 at 31 (July 30, 2012).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at p. 1.

<sup>10</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., "Emerging Risk?: An Overview of Growth, Spending, Student Debt and Unanswered Questions in For-Profit Higher Education" at 3 (June 24, 2010).

<sup>11</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 at 2 (July 30, 2012).

<sup>12</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., "Benefitting Whom? For-Profit Education Companies and the Growth of Military Educational Benefits" (Dec. 8, 2010).

<sup>13</sup> U.S. Senate, Health, Educ., Labor and Pensions Comm., "The Return on the Federal Investment in For-Profit Education: Debt Without a Diploma" at 10 (Sept. 30, 2010).

<sup>14</sup> U.S. Dep't of Educ., "National Default Rate Briefings for FY 2011 2-Year Rates and FY 2010 3-Year Rates" at 62 (Sept. 30, 2013).

<sup>15</sup> *Id.*

them for enrolling minority and low-income students. This “demographic determinism” argument – that the for-profit sector serves people who are likely to fail, so why should anyone be surprised when they do fail – is unacceptable. While demographics play a role in the lower completion rates and higher default rates of for-profit colleges, the evidence is clear that demographics are by no means the sole reason for these rates. Among other examples, a 2010 Education Sector report documents the role schools can play in lowering default rates, finding that “...dangerously high default rates for institutions that serve at-risk students are not inevitable....”<sup>16</sup> Similarly, a recent 2014 Education Trust report, which reviewed eight colleges’ efforts to help more of their students succeed, concluded that rather than seeing the “demographics of their students as destiny,” these colleges now understand that they can “radically reshape their student success rates without becoming more selective.”<sup>17</sup> It does much more harm than good to at-risk populations for the government to funnel so much money to schools that, rather than focusing on the success of their vulnerable students, focus on the bottom line – recruiting a constant stream of students to boost their profits.

The new regulations do not in any way penalize schools that enroll minority and low-income students through fair and honest business practices. Instead, they target schools that make false promises to low-income and minority students in order to increase enrollment numbers and bring in federal financial aid dollars. These students deserve better. They deserve schools that follow through on their promises of quality education and job skills that actually lead to high paying employment. They deserve accurate information that allows them to compare educational options before they commit to one of the most important investments of their lives. We support the Attorney General’s effort to hold these schools accountable so that they are providing real opportunity to students seeking to better their lives, not just the illusion of opportunity.

Unlike private non-profit schools, for-profit schools have been subject to a high number of federal and state law enforcement actions based on many of the deceptive practices enumerated in the draft UDAP regulations. For example, the U.S. Justice Department and a number of state attorneys general, including Massachusetts, have intervened in a whistle-blower lawsuit against Education Management Corp. (EDMC). The suit alleges, among other things, that the company illegally falsified job placement rates.<sup>18</sup> Massachusetts is just one of a long list of states, including Arizona, Arkansas, California, Colorado, Connecticut, Florida, Idaho, Illinois, Iowa, Kentucky, Minnesota, Missouri, Nebraska, New York, North Carolina, Oregon, Pennsylvania, Tennessee, and Washington that have recently begun investigations, filed lawsuits, or obtained judgments against schools for unfair and deceptive practices.<sup>19</sup> In addition, four large

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<sup>16</sup> Erin Dillon and Robin V. Smiles, Education Sector, “Lowering Student Loan Default Rates, What One Consortium of Historically Black Colleges Did to Succeed” (Feb. 2010).

<sup>17</sup> Joseph Yeado, Kati Haycock, Rob Johnstone, and Priyadarshini Chaplot, The Education Trust, “Learning From High-Performing and Fast-Gaining Institutions” (Jan. 2014).

<sup>18</sup> See *U.S. v. Educ. Management Corp.*, 871 F.Supp. 2d 433 (W.D. Pa. 2012) (dismissing FCA claims based on company’s compensation plan as written, but allowing claims based on the challenges to the plan as implemented; state FCA claims also allowed to proceed). The following states remain in the case: California, Florida, Illinois, Indiana, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, New York, and Tennessee.

<sup>19</sup> See, e.g., “State Attorneys General Investigating For-Profit Colleges,” California Watch (May 3, 2013) (links to information about various state investigations, lawsuits, and judgments); Press Release, Office of the California Attorney General, “Attorney General Kamala D. Harris Files Suit in Alleged For-Profit College Predatory Scheme”

publicly traded for-profit schools have recently announced that they are currently under investigation by at least twelve states for, among other things, possible deceptive business practices involving student recruiting, job placement rates, and lending activities.<sup>20</sup> The Department of Education recently declined one of these schools' requests to add additional programs and locations and is investigating possible falsification of job placement rates.<sup>21</sup> Many of these same national chains have campuses in Massachusetts or offer distance education programs to Massachusetts residents. In the last year, the Massachusetts Attorney General filed a lawsuit and obtained a consent judgment against Sullivan & Cogliano Training Centers, Inc., for engaging in many of the unfair and deceptive practices targeted by the draft regulations, including misrepresentations regarding the length of its programs, placement rates of graduates, assistance in finding employment, the availability of internships, and the nature of instruction.<sup>22</sup>

The proposed UDAP regulations are therefore appropriately targeted toward the for-profit education sector. Like any other for-profit business, for-profit schools owe their highest fiduciary duty to earning profits for owners or shareholders. Because of this fiduciary duty, many for-profit schools focus on student enrollment numbers rather than on delivering high quality educational programs. Unfortunately, this focus on generating revenue through student enrollment leads too many schools to engage in deceptive high pressure sales techniques in addition to many of the other unfair and deceptive practices described in the proposed regulations. UDAP regulations are therefore necessary to counter-balance the incentives created by the legal duty to generate profits for owners – a duty that does not exist in either the public or private non-profit education sectors.

For-profit schools' unique conflict between producing profits and educating students is demonstrated by the expenditures of many for-profit companies. According to a two year investigation by the U.S. Senate Committee on Health, Education, Labor and Pensions, the 30 for-profit companies investigated spent a combined total of 42.1% of all revenue on marketing and profit (22.7% of marketing, advertising, recruiting, and admissions staffing; 19.4% on pre-tax profit), while they spent only 17.2% on instruction.<sup>23</sup> Thus, while these for-profit companies spent an average of only \$2,050 per student on instruction in 2009, degree-granting public

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(Oct. 10, 2013) (lawsuit against Corinthian Colleges, Inc. for false and predatory advertising); "Argosy Fined \$3.3 Million by Colorado," [www.INSIDEHIGHERED.COM](http://www.INSIDEHIGHERED.COM) (Dec. 6, 2013) (settlement regarding misrepresentations about accreditation); Press Release, Office of the New York Attorney General, "A.G. Schneiderman Announces Groundbreaking \$10.25 Million Dollar Settlement With For-Profit Education Company That Inflated Job Placement Rates To Attract Students" (Aug. 19, 2013) (settlement with Career Education Corp. regarding various unfair and deceptive practices).

<sup>20</sup> Eric Kelderman, "State Attorneys General Open New Investigations into For-Profit Colleges," *The Chronicle of Higher Education* (Jan. 28, 2014) (regarding multi-state investigations of Career Educ. Corp., Corinthian Colleges, Inc., Educ. Management Corp. and ITT Educational Services, Inc.).

<sup>21</sup> Ricardo Lopez, "Corinthian Colleges Discloses Fed's Probe of Job Placement Numbers," *Los Angeles Times* (Feb. 6, 2014).

<sup>22</sup> The Complaint (with exhibits) detailing these deceptive practices and the Final Judgment by Consent are attached to this testimony as Exhibits A and B, respectively.

<sup>23</sup> U.S. Senate, Health, Education, Labor and Pensions Comm., "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 at 5 (July 30, 2012).

schools spent an average of \$7,239 per student and degree-granting non-profit schools spent an average of \$15,321 per student.<sup>24</sup>

For these reasons, we support the Attorney General's proposal to target UDAP regulations toward for-profit schools, the only educational sector that has a continuous and long history of engaging in UDAP violations up to the present.

2. Section 31.03 (Definition of For-Profit School): Application of Proposed Regulations to Regionally Accredited Degree-Granting Schools

Some degree-granting for-profit schools have argued that they should be exempt from the UDAP regulations because they are already subject to oversight by the Massachusetts Board of Higher Education. Although the Board is charged with approving these schools, it does not police the recruiting practices or other business practices of for-profit degree-granting schools. Neither the authorizing statute, nor its underlying regulations, include any provisions regarding or prohibiting unfair or deceptive practices or requiring the disclosure of outcome measures. Instead, the statute and regulations focus primarily on educational standards – standards regarding facilities, equipment, curricula, record maintenance, and instructors.<sup>25</sup> The proposed regulations are therefore necessary to supplement the Board's oversight. The Attorney General's expertise in prosecuting businesses that engage in UDAP violations make her uniquely qualified to promulgate and enforce UDAP regulations against unscrupulous for-profit degree-granting institutions.

Some of these schools have also argued that they should be exempt because they are already subject to oversight by regional accreditation agencies. All of the reasons that for-profit schools should be subject to stricter UDAP regulations, however, apply equally to degree-granting schools, whether accredited or not. These schools also (1) grew rapidly in the 2000s to take advantage of the available federal financial aid, often at the expense of educational quality; (2) have high federal student loan cohort default rates; (3) spend more on advertising and profits than on education; and (4) have a long history of engaging in many of the types of unfair and deceptive practices that are described in the draft regulations:

- As set forth above, between 2000 and 2009, undergraduate enrollment at degree-granting for-profit schools increased by 293%, while undergraduate enrollment increased by only 17% at degree-granting non-profit schools and 27% at public schools.<sup>26</sup>
- Many of the schools investigated by the U.S. Senate Higher Education, Labor and Pensions Committee from 2010 to 2012 were accredited degree-granting schools that are publicly traded or owned by private equity firms.<sup>27</sup>

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<sup>24</sup> *Id.* at p. 87; Nat'l Center for Educ. Statistics, U.S. Dep't of Educ., "The Condition of Education 2012," NCES 2012-045 at 105 (May 2012).

<sup>25</sup> Mass. Gen. Laws ch. 69, §§ 30 to 31C; 603 C.M.R. 3.00.

<sup>26</sup> Nat'l Center for Educ. Statistics, U.S. Dep't of Educ., "The Condition of Education 2013," NCES 2013-037 at 62 (May 2013).

<sup>27</sup> U.S. Senate, Health, Education, Labor and Pensions Comm., "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 (July 30, 2012);

- Many accredited for-profit degree-granting schools receive between 70% and 90% of their revenues from Title IV programs.<sup>28</sup>
- The average three year FY 2010 cohort default rates of for-profit schools offering 4-year programs (bachelor degrees or higher, including accredited schools) was 22.1%, compared to 8% for non-profit schools and 9.3% for public schools. 28% of the students who entered repayment in 2010 and defaulted by 2012 went to for-profit schools offering 4-year programs.<sup>29</sup>
- The expenditures on advertising, profits, and instruction highlighted by the U.S. Senate Committee on Health, Education, Labor and Pensions and described above included accredited degree-granting for-profit schools.<sup>30</sup> As just one example, Apollo Group, the owner of the regionally accredited University of Phoenix (UOP), spent \$2,225 per student on marketing, but only \$892 per student on instruction.<sup>31</sup> In addition, in December 2012 UOP was spending as much as \$380,000 per day on internet advertising.<sup>32</sup>
- For-profit degree-granting schools, although regionally accredited, have exhibited the same kinds of unfair and deceptive practices as non-degree granting schools.<sup>33</sup> These schools have also been subject to investigations, lawsuits and settlements involving the federal government, state governments, and others. Apollo Group, for example, agreed to pay \$78.5 million in December 2009 to settle a whistleblower lawsuit that alleged UOP illegally tied recruiters' pay to student enrollment. Apollo Group settled similar allegations with the Department of Education in 2004.<sup>34</sup> EDMC, the subject of a pending lawsuit and multi-state investigations described above, owns the New England Institute of Art in Massachusetts, a degree-granting school accredited by the New England Association of Schools and Colleges. DeVry Education Group, Inc., which also owns regionally accredited degree-granting schools, announced that the Federal Trade Commission has opened an investigation into possible unfair and deceptive practices.<sup>35</sup> It is also being investigated by two state attorneys general (including Massachusetts).<sup>36</sup>

Moreover, as highlighted by the recent U.S. Senate Health, Education, Labor and Pensions Committee report, accrediting agencies are not set up to police for-profit schools' business practices. Rather than establishing and enforcing bright line minimum standards, accrediting agencies focus on helping colleges improve when they fail to meet agency guidelines

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<sup>28</sup> See U.S. Dep't of Educ., "Proprietary School Revenue Percentages for Financial Statements With Fiscal Years Ending Dates Between 7/1/2011 and 6/30/2012."

<sup>29</sup> U.S. Dep't of Educ., "National Default Rate Briefings for FY 2011 2-Year Rates and FY 2010 3-Year Rates" at 62 (Sept. 30, 2013).

<sup>30</sup> U.S. Senate, Health, Education, Labor and Pensions Comm., "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 at 5 (July 30, 2012).

<sup>31</sup> *Id.* at p. 87.

<sup>32</sup> See Kevin Chen, "How For-Profit Colleges Ace Marketing and Flunk Education," *The Motley Fool* (Dec. 4, 2012).

<sup>33</sup> U.S. Senate, Health, Education, Labor and Pensions Comm., "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 (July 30, 2012).

<sup>34</sup> *Id.* at p. 272.

<sup>35</sup> Nick DeSantis, "DeVry Faces Inquiry from Federal Trade Commission," *The Chronicle of Higher Education* (Feb. 5, 2014).

<sup>36</sup> "DeVry Faces Investigations from Attorneys General in 2 States," *The Chron. of Higher Educ.* (Apr. 15, 2013).



or benchmarks.<sup>37</sup> The accreditation process does not therefore place much weight on student outcomes or on compliance with basic consumer protection laws, such as laws regarding false advertising and recruiting practices.<sup>38</sup>

Other characteristics incline accrediting agencies towards leniency with their member schools – including their financial dependence on the schools they accredit, competition among agencies for member schools, and the structure of their organizations.<sup>39</sup> The Senate Committee report described problems inherent in the accrediting agency peer review process, in which the very people who review schools and decide whether to grant or deny accreditation are elected by and come from other institutions accredited by the same agency.<sup>40</sup> The Higher Learning Commission of the North Central Association of Colleges and Schools (HLC), for example, is a regional accrediting agency that accredits schools who enroll the vast majority of publicly traded for-profit school students (including the University of Phoenix, among others that enroll students from Massachusetts).<sup>41</sup> HLC’s peer review teams overlooked red flags at two for-profit schools, including a 1,150% increase in enrollments and dramatic declines in completion rates following a change of ownership and shift to almost exclusive on-line enrollments at one school, and credit hour inflation at the other.<sup>42</sup> Two of the three reviewers on one team, and three of six on another, came from for-profit schools.<sup>43</sup> The report concluded that accrediting agencies’ structures and processes expose them to manipulation by institutions that are “more concerned with their bottom line than academic quality and improvement.”<sup>44</sup>

For these reasons, the Department of Education recently affirmed that the states, not accrediting agencies, have the distinct and primary responsibility of protecting students from unfair and deceptive practices.<sup>45</sup> We therefore support the Attorney General’s decision to apply the UDAP regulations to all for-profit schools, including those that are accredited and degree-granting. Neither accreditation nor the capacity to grant degrees changes the fact that for-profit, regionally accredited degree-granting schools have a legal imperative to produce profits for investors. The UDAP regulations proposed by the Attorney General are a necessary counterbalance to ensure that such schools are not engaging in deceptive practices, which harm students and taxpayers, as well as schools that compete fairly and honestly.

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<sup>37</sup> U.S. Senate, Health, Education, Labor & Pensions Comm., “For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,” S. Rpt. 112-37 at 125 (July 30, 2012).

<sup>38</sup> *Id.* at pp. 122, 126.

<sup>39</sup> *Id.* at p. 124.

<sup>40</sup> *Id.* at pp. 122-123.

<sup>41</sup> *Id.* at p. 126.

<sup>42</sup> *Id.* at pp. 127-129.

<sup>43</sup> *Id.* at pp. 127-128.

<sup>44</sup> *Id.* at p. 123.

<sup>45</sup> See 75 Fed. Reg. 66832 (Oct. 29, 2010) (final regulations). See also, 75 Fed. Reg. 34806-02, 34813 (June 18, 2010) (“we are concerned that some States are deferring all, or nearly all, of their oversight responsibilities to accrediting agencies . . . [W]e are concerned that the checks and balances provided by the separate processes of accreditation and State legal authorization are being compromised.”)

3. Section 31.02 (Scope): Application of Regulations to On-Line Schools Without Physical Presence in Massachusetts

We support the Attorney General's proposal to apply the new regulations to for-profit schools that offer distance education programs to Massachusetts residents, even when those schools lack an in-state presence. Because distance education students are as vulnerable, and often more vulnerable, to unfair and deceptive practices as brick-and-mortar students, including distance education programs is essential.

Increasing numbers of students are enrolling in on-line education programs offered by for-profit education companies. The Center for Analysis of Postsecondary Education and Employment issued a report in 2012 dividing for-profit schools into a number of categories, including chains, on-line schools, and smaller independent schools that operate in no more than one state and have no more than five branches. The Center found that from 2000 to 2009, on-line institutions, generally part of national publicly-traded companies, increased from almost nothing to become the largest part of the sector.<sup>46</sup> The rapid increase in for-profit college enrollment in the 2000s was also due in part to this growth of on-line education.<sup>47</sup>

In its recent investigation, the Senate Health, Education, Labor and Pensions Committee found that exclusively on-line students at for-profit institutions have lower retention rates, on average, than students who attend classes at physical locations.<sup>48</sup> In addition, some state attorneys general are investigating or taking action for unfair and deceptive practices against for-profit schools which operate on-line programs. Bridgepoint is currently being investigated by the California Attorney General.<sup>49</sup> The New York Attorney General recently obtained a judgment against Career Education Corp., including for unfair and deceptive practices engaged in by its exclusively on-line schools Colorado Technical University and American InterContinental University.<sup>50</sup>

Currently, for-profit schools that have no physical presence in Massachusetts are not subject to oversight by any Massachusetts' state agency. There is no Massachusetts state agency students may file a complaint with and expect that the complaint will be investigated and addressed, and it is unclear whether the state where an on-line school is physically headquartered would respond to or investigate out-of-state student complaints. It is also unclear whether these students would qualify for some of the federal remedies available to students harmed by for-profit schools, such as the student loan discharges available to students whose schools close. This leaves Massachusetts students who enroll in on-line programs extremely vulnerable to fraud, although they are equally deserving of protection from unfair and deceptive practices. We

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<sup>46</sup> Center for Analysis of Postsecondary Educ. & Employment, "The For-Profit Postsecondary School Sector: Nimble Critters or Agile Predators?" (Feb. 2012).

<sup>47</sup> U.S. Senate, Health, Education, Labor & Pensions Comm., "For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," S. Rpt. 112-37 at 31 (July 30, 2012).

<sup>48</sup> *Id.* at p. 5.

<sup>49</sup> Nick DeSantis, "Calif. Attorney General Investigates Bridgepoint Education Inc.," *The Chron. of Higher Educ.* (Jan. 14, 2013).

<sup>50</sup> Press Release, Office of the New York Attorney General, "A.G. Schneiderman Announces Groundbreaking \$10.25 Million Dollar Settlement With For-Profit Education Company That Inflated Job Placement Rates To Attract Students" (Aug. 19, 2013).

therefore commend Attorney General Coakley's willingness to lead the way to at least providing some protections for these students by ensuring that on-line institutions are subject to the same UDAP regulations as schools with a physical in-state presence.

**B. Section 31.03 - Definitions for Proposed Regulations**

*1. Definition of Occupational Program*

Not only do for-profit schools advertise jobs leading to new careers, they also advertise programs they claim will lead to promotional opportunities or higher wages for students in their pre-existing careers. For this reason, the definition of Occupational Program should be broadened to apply to programs represented to lead to career advancement. We also recommend simplifying the definition to refer only to for-profit schools in order to avoid confusion about which schools' occupational programs are covered. For example, although correspondence schools are listed, schools offering programs through electronic means are not specifically referenced. Furthermore, correspondence schools, private business schools, and private trade schools are not defined. We therefore recommend revising the definition as follows (suggested changes in italics or stricken):

Occupational Program. Any program *offered by a for-profit school* whose principal purpose is to train or prepare individuals for a business, trade, technical, or industrial occupation, or any other vocational purpose including but not limited to *programs represented to lead to higher wages or promotional opportunities in pre-existing employment* ~~occupational certificate, or diploma programs offered by correspondence schools, private business schools, private trade schools and similar entities, and by for-profit schools.~~

*2. Definition of Employment in the Field of Study*

Providing a specific definition of employment for the purpose of placement rate calculations and disclosures is extremely important. Misrepresentations regarding graduate job placement are one of the most common types of for-profit school deceptions, precisely because they go to the heart of what students seek from an education. Our low-income clients enroll in for-profit schools for only one reason – to obtain higher-paying employment in order to improve their lives and the lives of their families. They tell us time and time again that the for-profit schools they attended promised they would have no problem finding employment after graduation, promised they would receive high salaries, and told them that most or all of their graduates obtained jobs. All of these clients later discovered that these representations were false.

Even if such students are provided with placement disclosures, such disclosures often suffer from a number of problems. There is currently no standardized national definition of what employment may be considered a job placement for the purposes of calculating job placement rates. The U.S. Department of Education has not promulgated a standard definition and is

unlikely to do so anytime soon – it has left this to the states and/or accrediting agencies.<sup>51</sup> National accrediting agencies each have their own vague definitions, while regional accrediting agencies have no definitions because they do not require schools to measure job placement rates. Because of this lack of a clear and precise definition, many for-profit schools are able to manipulate and inflate job placement rates. For example, in a recent lawsuit, the California Attorney General alleged that Corinthian Colleges placed graduates in temporary employment in order to count those students as placements.<sup>52</sup> This is a consistent allegation in the vast majority of state and federal law enforcement investigations and actions, including most of the other actions and investigations referred to in these comments. Thus, it is up to states to step into this void and provide a clear and meaningful definition, which is exactly what Attorney General Coakley seeks to do.

Unfortunately, a precise definition will not guaranty that schools will stop manipulating placement rates. Placement rates must be continuously monitored and audited by the government to ensure their accuracy.<sup>53</sup> A clear definition will make it far easier for the Attorney General to investigate schools that may be misrepresenting placement rates, calculate their actual placement rates, and convince courts to penalize those who engage in placement rate inflation.

The draft definition of “employment in the field of study,” however, should be improved. As currently drafted, the definition could be used by schools to manipulate and inflate their job placement rates. The definition allows schools to count as “employed in the field of study” students who are employed in a “reasonable equivalent” to the job specified in the name of the program or in the certificate, diploma, or degree. The term “reasonable equivalent” itself has no definition. We recommend revising this definition as follows:

Employment in the field of study. Employment in the job specified in the name of the program or in the certificate, diploma, or degree conferred by a school upon graduation from a program, or *a the-reasonable equivalent thereof (a job in which the student is required to use, for a majority of his/her work hours, skills he/she would have been required to use in the job specified in the name of the program or in the certificate, diploma, or degree).*

### 3. Definition of Graduate Placement Rate

This definition could also be strengthened. As drafted, the definition of “graduate placement rate” would allow schools to manipulate placement rates for a number of reasons, leading to inaccurate and deceptive placement rates. First, the term “non-temporary employment” is not defined. As a result, a school could claim that a graduate or employer reported that the graduate is permanently employed, even if reported after a short period of employment (*i.e.*, 2 weeks). A student who did not learn the skills necessary to remain in a

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<sup>51</sup> 34 C.F.R. § 668.6(b)(1)(iv) (the National Center for Education Statistics failed to determine a methodology for calculating placement rates).

<sup>52</sup> See Chris Kirkham, “How a For-Profit College Created Fake Jobs to Get Taxpayer Money,” HuffingtonPost.com (Dec. 16, 2013).

<sup>53</sup> See National Consumer Law Center, “Making the Numbers Count: Why Proprietary School Performance Data Doesn’t Add Up and What Can Be Done About It” (June 2005).

permanent position could lose the job after the school verifies employment. This problem could be addressed by requiring schools to verify a minimum period of employment, for example 90 days.

Second, for graduates unable to remain in permanent positions, some schools may count various periods of employment in multiple jobs toward the minimum employment period. Allowing schools to accumulate periods spent in different jobs would lead to a placement rate that does not accurately represent the school's ability to train a student for long-term employment. This practice could be prevented by requiring continuous employment in one job for a minimum time period.

Finally, schools should only be able to count graduates who find qualifying employment within some maximum time period from the date of graduation, for example 6 months. No student who enrolls in a program represented to lead to a specific occupation imagines that he/she will have to wait almost two years after graduation to find the employment in that occupation. In addition, the student will be expected to start making payments on federal loans after a 6-month grace period expires, and in many cases will have the obligation to repay private student loans from the time he/she enrolled. Most students expect that they will be able to find a job soon after graduating, in time to start making payments on their hefty student loans.

In order to ensure that the placement rate accurately represents the number of graduates who are able to obtain and remain in steady, long-term employment with one employer by the time they are expected to start repaying their federal loans, this definition should be revised as follows:

Graduate placement rate. The number of graduating students ~~obtaining~~*starting* full time (at least 32 hours per week) and non-temporary employment (*continuous employment in one job lasting at least 90 days*) in the field of study *within 6 months of graduation* during the latest two calendar years for which the school has obtained verification, divided by the number of all students graduating from the program during the last 2 calendar years. The graduate placement rate shall be determined within 180 days from the end of each calendar year.

A different definition is necessary for employment that requires licensure or certification based on an examination. In this case, the definition would be the same, except that the period in which employment must start should begin six months after the date on which the state licensing agency or private certification organization announces the results of the first examination reasonably available to students who graduated.

#### 4. Definition of Graduation Rate and Total Placement Rate

The proposed definition of "graduation rate" should be revised. As drafted, it would result in an incorrect graduation rate. The definition should only count as graduates those who complete their programs within the original time scheduled when the student enrolled. Some schools misrepresent both the time to graduation and, as a result, the cost of obtaining a certificate, diploma or degree. To prevent this practice, the regulations should only allow the

schools to count as graduates those students who complete within the time period the school represents is sufficient.

This number should be divided by the total number of students who enroll and are originally expected to complete within that time period. This will avoid the problems defining the “number of students who left” and simplify the calculation and the definition.

To reflect the rate of students who graduate within the originally scheduled time period to graduation, out of all the students who enroll and expect to graduate within that time period, the graduation rate should be revised as follows:

Graduation rate. The number of students who *were originally scheduled at the time of enrollment to graduate* ~~received certificates, diplomas, or degrees in the program during the latest two calendar years, and who graduated during that period,~~ divided by the number of students who *were originally scheduled at the time of enrollment to graduate* ~~left the program (without returning, including those who received certificates, diplomas or degrees in the program, and those who did not) for any reason during the latest two calendar years.~~

#### 5. Definition of Loan Default Percentage

Unfortunately, some loan default rates are difficult to measure. For federal student loans, a default is defined as a failure to repay a loan for 270 days.<sup>54</sup> The U.S. Department of Education is therefore able to measure and disclose schools’ 3-year cohort default rates with respect to federal loans.<sup>55</sup>

For private loans, however, there is no uniform definition. Default is defined by the individual terms of each loan’s promissory note. The default period for private student loans is usually much shorter than the federal default period – in some cases, a borrower could be in default as soon as he or she misses a single payment. Moreover, other than for institutional loans, schools may not be able to obtain default information from lending institutions or subsequent loan holders.

Therefore, we recommend that to the extent the Attorney General decides to require the disclosure of both federal and private student loan default rates, the definition for loan default percentage be revised to include two default percentages, one for federal loans and one for institutional loans and any other private loans when the school has access to student default information.

#### 6. Definition of Preferred Lender or Preferred Lender List

Some schools grant preferential status to a particular private student loan lender by either (1) exclusively referring students to that lender, or (2) arranging or otherwise facilitating loans from that lender. The school may do this without posting a lending institution’s name on its

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<sup>54</sup> 20 U.S.C. § 1085(l).

<sup>55</sup> The federal government will no longer calculate or report 2-year cohort default rate. See 20 U.S.C. § 1085(m).

website or in informational mailings. In order to capture this situation, the regulation should be revised as follows:

Preferred Lender and Preferred Lender List. Any Lending Institution or selection of Lending Institutions that a school endorses, promotes, chooses, or assigns preferential status to, by, without limitation, posting a Lending Institutions' name or loan product's name on the school's website, ~~or~~ including a Lending Institution's name or loan product's name in informational mailings or brochures or any other document provided to students, or their parents, *exclusively referring students to the Lending Institution, or arranging or otherwise facilitating the origination of loans from the Lending Institution.*

7. *Definition of Total Placement Rate*

The definition of "total placement rate" could be strengthened in the same manner as the definitions of "graduate placement rate" and "graduation rate," as described in Sections B.3. and B.4. above.

C. **Section 31.04 - False or Misleading Statements or Representations**

1. *Section 31.04(1): False Advertising*

Some for-profit schools mislead students by promising that their credits are transferable to other colleges. In most circumstances, however, the credits of for-profits schools, including nationally and regionally accredited schools, will not be accepted by any other college. Therefore, we recommend adding "transferability of credits" to the list of subjects concerning which false, untrue or deceptive statements are considered unfair or deceptive acts or practices.

2. *Sections 31.04(3) and (4): False Advertising as to Expected Salaries*

Many schools orally misrepresent the salaries of their graduates. Such misrepresentations do not appear to be covered by Sections 31.04(3) or 31.04(4), as those target misrepresentations about the expected earnings in a job or occupation or particular position. We recommend adding the following to Section 31.04(3) to cover any type of misrepresentation about the salaries of a school's graduates:

It is an unfair or deceptive act or practice for a school to make any false, untrue, unsubstantiated, or deceptive statement or representation or any statement or representation which has the tendency or capacity to mislead or deceive students, prospective students, or any other person regarding actual or probable earnings in any job or occupation, *or actual earnings of the school's graduates.*

3. *Recommendations for Additional Types of False or Misleading Statements*

Other common statements that the Attorney General should consider adding as false or misleading include misrepresentations about:

- equipment available to students, such as whether the equipment is up-to-date and state-of-the-art, whether the equipment is well maintained, and whether enough equipment is available for all students to use;
- students' refund rights under state and federal law;
- whether a program represented to lead to a particular occupation will qualify a student, or has the necessary accreditation to qualify a student, to take a state licensing or private certification examination necessary for employment in that occupation;
- whether a certificate, diploma, or degree is necessary for employment in a particular occupation; and
- whether a student will meet the requirements for employment in the occupation to which the program is represented to lead, despite a physical condition, age, a criminal record, lack of education, or lack of a required language proficiency.

Our clients' experiences illustrate the need for these additional provisions. Here are a few examples from NCLC's many years of assisting for-profit school students:

- Many of our clients attended a local for-profit medical assistant program. These clients did not have high school diplomas or G.E.D.s when they signed up for school and had numerous complaints about the program. When some of the clients raised concerns, they were told that they might as well try to finish because they were going to have to pay back their loans and the school in any case. Although in fact they could have received partial refunds, the students believed these misrepresentations and stayed in school. They tried to find work after completing, but each was told numerous times by prospective employers that they do not hire individuals without high school diplomas. A few of our clients had asked the school staff at the beginning whether this would be a problem. They were reassured that many graduates without high school diplomas find work in the field.
- We also represented a monolingual Spanish speaking single mom in her early 40's. She signed up for a beauty school after informing the school representatives that she spoke only Spanish because she was told that courses were offered in both Spanish and English. She found out right away that this was a lie and that the courses were offered in English only. Although she dropped out and her federal loan was cancelled, the school continued to pursue her for about \$5,000 in fees. This was very stressful for a single mom trying to get by working at a school cafeteria, earning just above minimum wage with no health insurance.
- Other clients included a homeless man in his mid 40's who was recruited for a pharmaceutical program and signed up because he needed a place to stay during the day when the shelter was closed. He has severe learning disabilities. Other clients had major disabilities which they revealed to school representatives, but were nevertheless pressured to sign up.



- One of our clients saw an advertisement for a for-profit culinary school. He visited the school and was told about the “amazing” curriculum and strong job placement program. The price tag of about \$35,000, they said, would be easily repaid through lucrative earnings after graduation. He was young and impressionable and eager to work in the culinary field, so he signed up. He found out almost immediately that the school’s statements were empty promises. The teachers were inexperienced and the materials and equipment inferior. He asked about leaving and was told that he could not get a refund. He stayed and finished and was never given job placement assistance, despite his requests. He has since moved on and tried to put the experience behind him, but the loans will not go away. He thinks he will be able to manage the federal loans, but his two private loans with current interest rates of about 15% are unaffordable.

### C. **Section 31.05 - Disclosures**

#### 1. Sections 31.05(2) and (3)

Disclosure laws are never enough to police the for-profit school industry, but combined with substantive consumer protection laws and relief sources, targeted disclosures can help prevent unfair and deceptive practices. In late 2013, as part of the negotiated rulemaking process intended to develop gainful employment standards, the Department of Education proposed new disclosure provisions applicable to for-profit schools. We expect that the Department will require disclosures, although the Department has not yet publicly released an official proposal or final regulation.

We are concerned that too many disclosures can be counter-productive. If a student is provided with a page of state disclosures and a separate page of federal disclosures at the same time, he or she is less likely to pay attention to either. Based on the Department’s latest disclosure proposal,<sup>56</sup> it appears that the Attorney General’s proposed disclosures are simpler because they target only five key outcome measures: cost of program, graduation rates, graduation time, graduate student loan defaults, and job placement rates. In contrast, the Department’s last proposal included up to 12 measures, some with subparts.<sup>57</sup>

The Attorney General’s proposals, if revised as we suggest both below and in Section B above, are likely to provide more accurate and useful information than the federal disclosures. For example, the Department currently requires the disclosure of placement rates if a school’s state or accrediting agency require their calculation. If both do, then both rates must be disclosed.<sup>58</sup> Disclosure of both rates, or only the accrediting agency rate, can be confusing and even misleading to students. The state placement rate is typically more accurate and lower because state law often has more precise definitions of what employment may be counted as a placement. Accrediting agency placement rates, on the other hand, are often inflated due to the agencies’ vague definitions. Thus, the disclosure of an inflated accrediting agency placement

<sup>56</sup> See Dep’t of Educ., “Subpart Q: Gainful Employment Programs” (December 11, 2013) (draft for discussion purposes available on the Department’s gainful employment negotiated rulemaking web page).

<sup>57</sup> *Id.*

<sup>58</sup> 34 C.F.R. § 668.6(b)(1)(iv).

rate may lead a prospective student to overestimate his/her likelihood of obtaining long-term employment in an occupation to which the program is represented to lead. The Attorney General's proposal, which limits disclosure to the placement rate calculated under the proposed standard, would alleviate this problem.

We support the Attorney General's proposed disclosures, with our suggested revisions, especially with the imposition of a 72-hour waiting period which we strongly support. Typically, from the minute a student first walks into a for-profit school (or, in the event of a distance education program, talks with a recruiter), he/she faces intense pressure to sign an enrollment agreement and take out student loans. Many of our clients describe being pressured to sign a tall stack of documents, as directed by a recruiter, without sufficient time to review each document. The 72-hour waiting period will allow students to make decisions away from these high-pressure sales tactics, consult with family members and others who might be able to help them make a decision, and compare his/her various educational options. We recommend, however, that the Attorney General prohibit the school from obtaining a student's signature on an enrollment agreement or any other legal or financial commitment during this period.

The Attorney General should also improve these provisions with the following revisions:

- If there is a state licensing or certification requirement or a private certification requirement for a particular occupation, the school should disclose those requirements and the pass rate of graduates on those licensure and certification examinations.
- The school should disclose the 3-year default rate for institutional loans for the same cohort covered by the 3-year cohort default rates for federal student loans.<sup>59</sup>
- It should be an unfair and deceptive practice for schools to incorporate into the required disclosures any other information, both to maintain their simplicity and to prevent the use of information which has the tendency or capacity to mislead students.
- Schools should be required to disclose placement rates for occupational programs even if they do not receive state or federal financing for those programs.

2. Section 31.05(5): Disclosure of Costs of Required Examinations or Tests

We support this draft regulation, but recommend the following revision in order to ensure that these disclosures are required at the time of enrollment:

If a school offers or requires students to take an entrance examination, certification examination, or similar test of the students' competence to enter, continue with or graduate from a program, or to be certified in a particular occupational field, and the examination or test is available directly from an

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<sup>59</sup> See Section B.5. above for a description of the difficulties schools may have calculating a loan default percentage for private student loan.

outside vendor, it is an unfair or deceptive act or practice for a school to fail to disclose the actual cost of such examination or test *prior to the time of enrollment*.

**D. Section 31.06 - Prohibited Practices**

We support these regulations, but make the following suggestions for strengthening these provisions.

1. Section 31.06(6): Enrolling Unqualified Students

We support this provision, with the addition of several categories of conditions that often disqualify students from employment, as follows:

It is an unfair or deceptive act or practice for a school to enroll or retain a student in any program when the school believes, knows, or should know that the student *will not meet the requirements for employment in the occupation to which the program is represented to lead due to* ~~is unfit by reason of~~ educational level, ~~or permanent physical condition—disqualification,~~ language proficiency, criminal record, age, or other material disqualification and/or will not or is unlikely to graduate *or benefit* from the program due to (i) a lack of education, training, or experience, (ii) *physical condition*, or (iii) a lack of language proficiency.

2. Section 31.06(9): Engaging in High Pressure Sales Tactics

We support the Attorney General's proposal to prevent high-pressure sales tactics through the use of telephone calls and text messages. This draft regulation, however, should be revised because it allows far too many telephone communications to prospective students, such that the communications could rise to a level of harassment and cost additional telephone fees. Many of our low-income clients can only afford pre-paid cell phones or low-cost cell phone plan. This means that they either have to pay for each phone call and text message or have low data plan limits, and each unwanted cell phone call or text message often costs them money they cannot afford. Furthermore, if a prospective student does not respond to one or two telephone calls or text messages, a school should not be able to continue to endlessly call and harass him or her in the future, even if those communications are limited to two a week or month. A prospective student's decision to not respond is an indication that he or she is not interested and telephone communications should cease. Finally, a school should also cease telephone communications if a prospective student requests that it do so.

Therefore, we recommend that this regulation be revised to limit telephone communications as follows:

When a prospective student has provided an indication of interest in the school, it is an unfair and deceptive act or practice for a school to initiate communication *to* a prospective student via telephone (either voice or data technology), in person, via text messaging, or by recorded audio message, in excess of two such

~~communications in each seven-day period to either the prospective student's residence, cellular telephone, or other telephone number provided by the student as his/her personal telephone number, and two one such communications in each 30-day period other than to a student's residence, cellular telephone, or to any other telephone number provided by the student as his/her personal telephone number and if at any time the prospective student requests that the school cease such communications, it is an unfair and deceptive act or practice for a school to initiate any additional communications to the prospective student.~~

3. *Recommendations for Additional Prohibited Practices*

We also recommend that the Attorney General prohibit the misrepresentations described in Section C.3. above.

E. **Section 31.07 – Unfair or Deceptive Practices Involving Student Loans and Financial Aid**

In addition to federal student loans, many for-profit school students take out subprime private loans which are originated by third-party lenders or by the schools themselves (“institutional loans”). These loans are almost always more expensive than federal student loans.<sup>60</sup> Students take out these private loans for a number of reasons. Federal aid may not be sufficient to cover the high cost of many for-profit school programs. Or, a school approaching its 90% limit on Title IV revenues may steer students into taking private rather than federal loans.<sup>61</sup> In addition, students at unaccredited schools, who cannot obtain federal aid, are often pressured to take out private loans or pay the school directly. For these reasons, for-profit school students are much more likely to take out private loans. Students attending for-profit schools composed about 9% of all undergraduates in 2007-2008, but 27% of those with private loans.<sup>62</sup>

Private student loan borrowers are generally at the mercy of their creditors. Unlike the federal student loan programs, there is no comprehensive federal law requiring private student lenders to offer particular types of relief or flexible repayment, and private student loan creditors have been unwilling in most cases to assist financially distressed borrowers.<sup>63</sup> Yet private student loans have the same heightened protection against bankruptcy discharge as federal student loans. Each default therefore represents an individual who cannot repay a debt and who may be facing aggressive collection tactics. These student borrowers generally face numerous collection calls, lawsuits and negative entries on their credit reports that can last for extended periods of time.

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<sup>60</sup> See generally National Consumer Law Center, “Paying the Price: The High Cost of Private Student Loans and the Dangers for Student Borrowers” (March 2008).

<sup>61</sup> See U.S. Senate, Health, Educ., Labor and Pensions Comm., “For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,” S. Rpt. 112-37 (July 30, 2012).

<sup>62</sup> Project on Student Debt, “Private Loans: Facts and Trends” (2011).

<sup>63</sup> See Consumer Financial Protection Bureau, “Student Loan Affordability: Analysis of Public Input on Impact and Solutions” (May 8, 2013); Consumer Financial Protection Bureau, “Mid-Year Snapshot of Private Student Loan Complaints” (July 2013); and National Consumer Law Center, “Response to the Consumer Financial Protection Bureau’s Request for Information Regarding an Initiative to Promote Student Loan Affordability” (April 8, 2013).

It should therefore be an unfair practice for a school to burden a student with private loans that the school knows or should know that the student is unlikely to be able to repay, taking into account the amount he/she is likely to repay for his/her federal student loans and the starting salary in employment in the occupation to which the program is represented to lead.

The Attorney General should:

- make it an unfair and deceptive practice for a for-profit school to originate a private student loan without ensuring that the student will be able to make monthly payments on both his/her federal and private loans in the event he/she obtains employment in the occupation to which the program is represented to lead;
- make it an unfair and deceptive practice for a for-profit school to accept the proceeds of a private student loan if the third-party lender does not perform a similar ability-to-pay analysis; and
- make it an unfair and deceptive practice for a for-profit school to originate a private student loan if the school knows or should reasonably know that the student will likely default.

#### **F. Conclusion**

Protecting consumers requires aggressive action by states, including state attorneys general. The stakes are high. Higher education is expensive and increasingly out of reach of many lower-income and even middle-income Americans. Because of the expense of higher education, most students take on some level of debt to pay for college. Misrepresentations and false claims have severe consequences for these student borrowers. In cases where the schools do not deliver as promised, loans for education can become an insurmountable burden rather than a benefit. If schools get away with fraud and deception, individuals seeking to better their lives are left with nothing but worthless certificates and mountains of debt. We urge the Attorney General to act quickly to adopt these regulations, including our recommendations, to help protect vulnerable students and give them the opportunity to pursue their dreams.

Thank you for your consideration of this testimony. Please feel free to contact Robyn Smith or Deanne Loonin if you have any questions. (Ph: 617-542-8010; E-mail: [rsmith@gmail.com](mailto:rsmith@gmail.com).)

<b>CIVIL ACTION COVER SHEET</b>	TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT		DOCKET NO. <u>13-0357B</u>
	COUNTY OF	PLYMOUTH	
<b>PLAINTIFF(S)</b> Commonwealth of Massachusetts		<b>DEFENDANT(S)</b> Sullivan & Cogliano Training Centers	

Type Plaintiff's Attorney name, Address, City/State/Zip  
Phone Number and BBO#

Type Defendant's Attorney Name, Address, City/State/Zip  
Phone Number (If Known)

Jenny Wojewoda, Office of the Attorney General  
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617-963-2547  
BBO# 674722

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25 Walnut Street, Third Floor  
Wellesley, MA 02481  
781-237-2440

CODE NO.	TYPE OF ACTION AND TRACK DESIGNATION (Specify)	FILED COMMONWEALTH OF MASSACHUSETTS SUPERIOR COURT DEPT. OF THE TRIAL COURT PLYMOUTH COUNTY APR 3 2013	IS THIS A JURY CASE? <input checked="" type="radio"/> Yes <input type="radio"/> No
E99	Misc Other (specify) - X track		

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

#### TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:	
1. Total hospital expenses	\$ _____
2. Total doctor expenses	\$ _____
3. Total chiropractic expenses	\$ _____
4. Total physical therapy expenses	\$ _____
5. Total other expenses (describe)	\$ _____
	Subtotal \$ _____
B. Documented lost wages and compensation to date	\$ _____
C. Documented property damages to date	\$ _____
D. Reasonably anticipated future medical expenses	\$ _____
E. Reasonably anticipated lost wages and compensation to date	\$ _____
F. Other documented items of damages (describe)	\$ _____
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)	\$ _____
Total \$ _____	

#### CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$.....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record  
A.O.S.C. 3-2007

Date: April 3, 2013

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SUPERIOR COURT  
CIVIL ACTION NO. 13-0357B

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

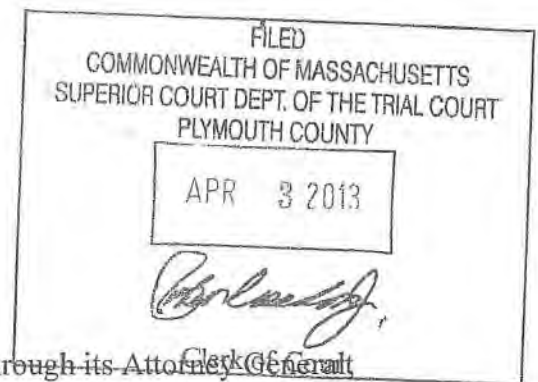
SULLIVAN & COGLIANO TRAINING  
CENTERS, INC.,

Defendant.

COMPLAINT

INTRODUCTION

1. The Commonwealth of Massachusetts, by and through its Attorney General Martha Coakley, brings this enforcement action in the public interest pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, § 4. The complaint seeks restitution, including the return of tuition and fee payments acquired by defendant Sullivan & Cogliano Training Centers, Inc. (S&C) from students induced by S&C's unfair or deceptive acts or practices to enroll in S&C's certificate programs, and civil penalties of \$5,000 per violation. The complaint also seeks injunctive relief to remedy, address, and prevent additional harm arising from S&C's unfair or deceptive acts or practices, together with the costs of investigating and prosecuting this action, including reasonable attorneys' fees.



2. S&C is a for-profit educational institution. From 2008 or earlier through the present, S&C deceived and misled the public and prospective students in order to persuade consumers to enroll in its educational programs and to provide tuition and fee monies to S&C. In public advertisements on buses and in other venues, on its website, and in written and oral statements made to recruit and enroll prospective students, S&C misrepresented:

- the scope, nature, character, and length of its programs,
- its influence and historical success in finding jobs in students' field of study,
- the employment opportunities available in students' field of study,
- the assistance S&C provided in obtaining employment in students' field of study,
- the availability of internships, together with the training provided by and employment opportunities accompanying internships, and
- the cost of certification tests taken by students.

3. Perhaps the most persuasive—and most pernicious—of S&C's misrepresentations related to employment. S&C told consumers and prospective students that virtually all students at S&C obtain jobs in the students' field of study when S&C knew or should have known that this was untrue.

4. Students enrolled in S&C's programs and provided tuition and fee monies to S&C based on S&C's false and/or misleading statements.

5. Students induced to enroll in S&C's programs by S&C's false and/or misleading representations incurred substantial debt in order to make tuition payments to S&C. Despite incurring this significant expense, a large number of these students have not obtained jobs in their field of study, or jobs at all, and are or will be unable to repay their loans. When students default, their access to credit is severely impaired, their future wages may be garnished, and their



debts are not dischargeable in bankruptcy. Taxpayers ultimately cover the costs of default, and S&C keeps the students' tuition and fees monies. Student Jessica O. stated: "I felt like I was at a car dealership buying an education instead of a car. They were quick to accept me and enroll me, then I was on my own." Student Kathelyne P. said: "[t]hey are just interested in making money." Student Mark T. stated: "I feel the whole thing was a scam."

#### JURISDICTION AND VENUE

6. The Attorney General is authorized to bring this action pursuant to G. L. c. 93A, § 4. The Attorney General has an interest in preventing unfair or deceptive acts or practices in order to promote the health and economic well-being of those who live and transact business in Massachusetts.

7. This court has jurisdiction over the subject matter of this action pursuant to G.L. c. 93A, § 4.

8. This court has jurisdiction over defendant S&C pursuant to G.L. c. 223A, § 3(a) and (b). Pursuant to G.L. c. 223, § 5 and G.L. c. 93A, § 4, venue is proper in Plymouth County.

#### PARTIES

9. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General, who brings this action in the public interest to remedy S&C's unlawful conduct and to enjoin future unlawful behavior.

10. Defendant S&C is a corporation with a principal place of business at 460 Belmont Street, Brockton, Massachusetts. S&C has three campuses, one in Massachusetts and two in Florida. It also offers online training.

## STATEMENT OF FACTS

### A. For-Profit Schools

11. For-profit schools, which award, variously, bachelor's and associate degrees and certificates, are owned and operated by businesses and business persons. *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, United States Senate, Health, Education, Labor and Pensions Committee, p. 1 (July 30, 2012) ("Senate Report"). Like any business, their principal function is to produce returns for owners and shareholders (*id.*).

12. The for-profit education sector has grown significantly since the early 2000s. Pell grants to for-profit schools increased from \$1.1 billion in the 2000-2001 school year to \$7.5 billion in the 2009-2010 school year (*id.*, p. 2). For-profit schools receive most of their revenue from the federal government in the form of federal student grants and loans. During 2009-2010, the 15 publicly traded for-profit education companies received 86% of their revenues from taxpayers (*id.*). Taxpayer investment in for-profit schools was \$32 billion in 2009-2010 (*id.*).

13. The business model of for-profit schools typically focuses on students from low or lower income families with modest financial resources (*id.*, p. 1) who are eligible for federal funds in the form of grants and loans. About 96% of students attending for-profit institutions take out federal loans to pay for their training (*id.*, p. 6). For-profit schools enroll about 12% of students seeking post high school training, but take nearly a quarter of all federal educational loans and grants.

14. For-profit programs are expensive. Certificate programs at for-profit schools average 4.5 times the cost of comparable programs at public schools (*id.*, p. 3). The schools'

tuition charges are often determined based on company profit and marketing goals, rather than anticipated academic and instruction expenses (*id.*).

15. In 2009, marketing consumed 22.7% of for-profit school revenue, and profit 19.4% (*id.*, p. 5), or, together, 42.1% of for-profit schools' revenue.

16. By contrast, for-profit schools spend relatively little on education. In fiscal year 2009, only 17.2% of revenue was spent on instruction, less than half the expenditure on profit and marketing (*id.*).

17. Students at for-profit institutions typically have poor outcomes. A large number of students leaving for-profit schools are unable to obtain employment (*id.*, p. 7). Nearly a quarter of for-profit students default on their loans within three years of graduation (*id.*). About half will default at some point.

18. Overall, the 12% of students at for-profit schools nationally comprise about 48% of all defaults.

#### B. S&C's Medical Office Training Programs

19. S&C, a for-profit institution, was established in 1993 by an affiliate, Sullivan and Cogliano Staffing Services, which had provided staffing services to clients since 1966. Between 1993 and 2006, S&C was a training center for career-ready computer applications and business technology. S&C's programs award certificates only.

20. Throughout its existence, S&C has offered basic computer skills courses, referred to in S&C's catalogs in 2010 and 2011 as Microsoft Office Options and Microsoft Office Basics. These courses require 100 clock hours and 180 clock hours of instruction respectively. The Options course teaches basic skills for Windows, Data Entry, Word, Excel, Access, and

PowerPoint; the Basics course adds an advanced Windows course, a production lab, an internship and a lecture. The cost of these courses during the 2011 academic year was \$1,500 for the Options course and \$2,500 for the Basics course. S&C also offers individual computer application courses of 10 to 60 hours of instruction at a cost (in 2011) of \$195 to \$925.

21. The Options and Basics computer courses do not require a high school diploma or GED for admission. According to S&C's catalog (in 2011), the Options program "provides students with career ready computer office skills along with keyboarding and production lab time in order to qualify for employment in a number of computer related roles."

22. Beginning in or about 2007, S&C focused on creating and/or marketing programs longer and more expensive than its Options and Basics computer training. These included two medical office training programs. The first, the Medical Office Assistant program ("MOA"), was S&C's most expensive program for medical office training. S&C also offered a less expensive training program for medical office related training, the Office Professional Medical program ("OP-Medical"). As a prerequisite, these programs required a high school diploma or GED (or an "ability to benefit" showing until federal funding for students without high school diplomas or GEDs was eliminated in 2012). The MOA program required 920 clock hours of instruction. The OP-Medical program required (and continues to require) 720 clock hours of instruction.

23. The MOA program was established in or about 2008 and, as a result of poor employment outcomes and/or complaints from students, has been shut down. It graduated its last students in 2012. The OP-Medical program is ongoing.

24. As a practical matter, access to federal grants and loans, which make tuition more affordable for students, was necessary to enroll students in the more expensive MOA and OP-Medical programs.

25. Federal student loans were initially authorized under Title IV of the Higher Education Act of 1965 (“Title IV loans”). Since 2010, all Title IV loans have been provided under the William D. Ford Direct Loan program, initially codified in the Omnibus Reconciliation Act of 1993. Prior to 2010, a sister program, the Federal Family Education Loan Program (FFELP), offered loans from private borrowers guaranteed by the federal government. Direct loans include both subsidized loans (with a current interest rate of 3.4%) and unsubsidized loans (the current interest rate is 6.8%).

26. The vast majority of students in the medical office training programs at S&C receive Title IV funding under the FFELP or direct loan programs.

27. For all 183 students receiving Title IV loans and enrolling in the MOA program between late 2008 and August 30, 2010 (and exiting the program at various points in 2009-2011), the average cost of the MOA program (tuition and fees) was about \$14,000. For all 211 students receiving Title IV loans and enrolling in the OP-Medical program between October 2007 and October 2011 (and exiting the program at various points between 2008 and 2012), the average cost of the OP-Medical program was about \$12,000. (The 183 MOA students and 211 OP-Medical students who took out Title IV loans and enrolled and exited during the specified periods are referred to in the Complaint as the “sample”.)

28. The total amount of tuition and fee payments acquired by S&C as a result of the enrollment of the 183 MOA students in the sample was between about \$1.8 million and about \$2.3 million. The total amount of tuition and fee payments acquired by S&C as a result of the

enrollment of the 211 OP-Medical students in the sample was between about \$1.9 million and about \$2.3 million. Combined, the total amount of tuition and fee payments from medical office training program students in the Title IV sample was between about \$3.7 million and about \$4.6 million.

29. To establish eligibility for Title IV funding, an institution must be accredited. S&C was first accredited in 2005 by the Council on Occupational Education (COE), located in Atlanta, Georgia.

30. Accreditation is a peer-review process in which an accrediting organization examines a school to determine whether it meets certain criteria specified by the accreditor. The information necessary to determine a school's initial eligibility for accreditation is provided by the school itself in the form of a self-study, a lengthy report containing data requested by the accreditor. The school also submits annual reports to the accrediting body.

31. In addition, the accreditor performs occasional site visits to schools seeking to obtain or renew their accreditation. COE teams visited S&C in 2006 and 2011.

32. Following S&C's initial access to Title IV funding in 2006, S&C's enrollments and revenues increased greatly. Between 2006 and 2010, S&C's tuition revenues more than quintupled, from \$1,912,254, to \$10,045,531. The Brockton campus's tuition revenues similarly increased from \$722,823 in 2006 to \$3,327,400 in 2010. In or about 2008, the medical office training programs became S&C's largest programs by number of students and by revenue.

33. The increases in tuition revenues were associated with several other changes in S&C's financial position:

--S&C's operating income before taxes rose from \$35,567 in 2006 to \$2,013,228 in 2010, an increase of over 5000%. The Brockton campus's net operating income before taxes similarly increased from \$7,312 to \$850,529 during this period.



--The distribution of income to shareholders, who include the President of S&C and members of his family, increased from \$0 in 2006 to \$1,080,000 in 2010.

--S&C transfers to affiliates owned by the President of S&C and members of his family increased from \$0 in 2006 to \$861,942 in 2010. These payments, according to S&C, involved repayment of the affiliated company's payroll costs and of certain general operating costs of the affiliate.

--Tuition dollars spent on advertising increased from \$127,361 in 2006 to \$487,650 in 2010.

34. Between 2006 and 2010, the percentage of S&C revenues represented by federal Title IV funding also increased substantially, from 22.38% in 2006 to 86.13% in 2010. A portion of the remaining 13.87% of tuition revenue received by S&C is also comprised of state and federal government funds. During 2010, S&C received less than 0.5% of its tuition revenues, or \$28,466, directly from students.

35. While school profit and payouts to insiders increased, students' education and employment outcomes suffered.

36. Education spending as a proportion of tuition revenue dropped. Between 2006 and 2010, the proportion of tuition revenue spent on instruction declined by about half, from about 31% of tuition revenue in 2006 to about 15% of tuition revenue in 2010.

37. Most students in S&C's medical office training programs were unable to find employment in medical office jobs. Instead, a large number of students in these programs settled for jobs waitressing, worked in big box stores or fast food restaurants, or obtained low-paying retail, telemarketing, child care, custodial, security, transportation, manufacturing, and similar jobs. A number of students continued in jobs they held before enrolling in S&C, jobs they intended to escape by attending the medical programs at S&C. Many others were unable to obtain jobs.

38. When they exited from S&C, either by graduating or dropping out of school prior to graduation, the vast majority of S&C students in the medical office training programs had substantial federal loan debt. The average debt for student graduates was in excess of \$7,000.

39. Many S&C students were (and are currently) unable to repay their loans. The United States Department of Education (DOE) reviews three-year cohort default rates, *i.e.*, the percentage of students who default in the first three years after leaving school, in order to determine whether schools may continue to access Title IV funds. (Prior to 2012, two-year default rates were the standard.) S&C's three-year cohort default rate as of September 2012 (for fiscal year 2009) was 17%, a rate that reflects defaults for students from all programs at all campuses.

40. S&C's 2009 17% cohort default rate does not mean that 83% of the 2009 cohort are able to repay their loans. S&C undertakes default management efforts that keep students out of default for the duration of the federal monitoring window, postponing or eliminating defaults in the near term in order to reduce reported rates.

41. S&C has contracted with McKenzie Financial, Inc. (McKenzie) to manage its default rates and "save" S&C students from defaulting on their loans during the DOE review window. As of February 3, 2012, of the 521 students in the 2010 and 2011 cohorts McKenzie was contracted to manage, it "saved" 163 students, or about 31% of the group, from appearing on the DOE default report. McKenzie was also contracted to "save" defaults for the 2009 cohort. (The McKenzie "save" report is attached to the Complaint as Exhibit 1; the 2009 data were redacted by S&C.) Assuming McKenzie's "save" rate with respect to the 2009 cohort was comparable to the save rate with respect to the 2010 and 2011 cohorts, an additional 31% of the



2009 cohort, or 48% of all students (31% + 17%) in the 2009 cohort, would have defaulted on their students loans without management.

42. Most students who are “managed” by third-party vendors end up in forbearances or deferments, which ultimately increase the payments students are required to make over the life of their loans (Senate Report, p. 9). A large number of these students eventually default on their loans. Many vendors contracted to manage student loan default are principally concerned with lowering the schools’ reported cohort default rate and have little concern for a student’s particular situation “or whether [their actions are] in the best interest of the individual.” (*Id.*)

#### C. S&C’s Unfair or Deceptive Acts or Practices

43. Beginning in or about 2007 and continuing through the present, S&C engaged in promotional and recruiting activities designed to attract new students to its medical office training programs. These activities included (and continue to include) advertising in public places, providing written information to consumers and prospective students via documents and on S&C’s website, and making oral statements to consumers and prospective students during the recruitment and enrollment process.

44. During this period, a number of S&C’s advertisements and statements to consumers and prospective students were false and/or misleading, and a portion of the information provided to consumers was inaccurate. The false, inaccurate, and/or misleading advertising, information, and recruitment statements related to the scope, nature, character, and length of the medical office training programs, S&C’s influence and historical success in finding employment in medical offices for students, the availability of meaningful internships in the

students' field of study, the employment assistance the school provided to students, and the cost of certification examinations.

45. These misrepresentations were made for the purpose of, and had the effect of, inducing students to enroll in S&C's medical office training programs and providing access to tuition and fee monies acquired by S&C.

46. As a result of S&C's misrepresentations, students in the S&C medical office training programs incurred a substantial amount of debt without obtaining jobs in medical offices and without an increase in earning power sufficient to repay their loans.

a. False and/or Misleading Representations Concerning Student Training

i. Misrepresentations concerning the scope of study

47. Starting in or about 2007 and continuing through at least a portion of 2011, certain S&C advertisements specifically referred to "medical assistant" employment and to "medical training". Pictures in advertisements showed a woman wearing blue hospital scrubs and a white exam coat with a stethoscope around her neck. (Copies of advertisements on buses and other public venues are attached to the Complaint as Exhibit 2.)

48. S&C's references in advertisements and statements to "medical assistant" and its pictures in promotional materials of medical personnel with stethoscopes led consumers and prospective students to believe they would receive clinical training as medical assistants, including training in the use of medical equipment such as stethoscopes.

49. S&C's employees told students, including Yolanda B., that S&C was affiliated with a number of hospitals and other clinical sites, networked with many such organizations, and placed students in jobs at the South Shore and Good Samaritan Hospitals. S&C employees also

told prospective students that they would “shadow” a medical assistant or other health provider as part of their training in the MOA program.

50. Some students were asked to participate in a commercial for S&C in which they dressed up as medical personnel and checked pulses. The purpose and intended effect of the commercial was to induce students to enroll in the medical office training programs at S&C.

51. A number of students, including Yolanda B., Judith N., Connie O., and Gina A., told S&C employees that they were interested in being trained as medical assistants, and S&C employees explicitly stated to the students that the MOA program trained students to become medical assistants.

52. In fact, S&C’s programs have never trained students to become medical assistants. S&C has never been affiliated with hospitals, has never placed students in jobs as medical assistants, and has never provided medical or clinical training or “shadowing” programs at hospitals. S&C has never taught students to take pulses or use a stethoscope. One S&C employee stated:

“Q: And it is – it was true then and it’s true now that Sullivan and Cogliano programs do not qualify students for jobs in which they would need to use a stethoscope; is that right?

A: To the best of my knowledge that would be correct; although, I don’t have complete knowledge of that in that I haven’t been to every facility that any of our students have gone to.

Q: But there’s no portion of the Sullivan program that teaches students to use stethoscopes?

A: To the best of my knowledge, that is correct, yes.”

53. S&C’s accreditor COE instructed S&C in or about August 2009 to remove references to “medical assistant” in its descriptions of S&C’s programs because these programs have never been medical assistant programs and S&C has never been accredited to offer a medical assistant program. COE employee Alex Wittig stated: “I reminded [S&C] that the

'Medical Assistant' program appearing on [the] institution's advertising was not a medical assistant program as may be understood by the general population. The program offered by Sullivan and Cogliano Training Centers is approved by our agency as a 'Medical Office Assistant' program and should be advertised as such." (A copy of the COE letter is attached to the complaint as Exhibit 3.)

54. Even after COE instructed S&C to remove the reference to "medical assistant", advertisements promoting S&C's training of "medical assistants" remained on buses and/or in other public venues until at least March 2011.

ii. Misrepresentations concerning the nature and character of the training

55. Starting in or about 2008 and continuing through the present, S&C advertised and marketed its medical office training programs as a way to obtain a traditional teacher-based education that would make students attractive to employers in medical settings. In written and oral statements, S&C led consumers and prospective students to believe they would be taught in a classroom by experienced teachers.

56. From 2010 or earlier through the present, S&C's catalogs state: "Dedication to the overall success of its students motivates S&C to continually strive to maintain its reputation of delivering the highest quality training possible through a combination of a qualified, experienced staff; current, well-organized curriculum; and an array of modern equipment which reflects current industry standards."

57. S&C employees told prospective students during the recruitment process that the classes were "self-paced" but that instructors in each classroom had responsibility for teaching the material to students. Student Marjorie T. stated: "I asked the recruiter if students were taught in a classroom setting, and I was told yes."

58. In its advertising and promotional materials and in statements during recruitment and enrollment, S&C never told students that S&C classes are self-taught.

59. In fact, S&C's method of instruction is to place students at computers and provide them with a set of books or manuals. Students work alone in front of the computer terminals, going through the materials in the books and manuals and teaching themselves. S&C employees are nominally in charge of the classes, but are not always present in the room or available to answer questions.

60. Student Tasha J. stated: "All of the training I received in the MOA program was out of a book and essentially self-taught. Even when an S&C employee was present, there was no instruction, and the S&C employees were often unavailable or unable to answer questions." Student Jessica C. stated: "I expected to be trained in all areas of the medical office assistant field. Instead, I was just given book after book to read and do exercises and tests by myself on a computer." Other students stated:

--"It was more a learn on your own course." (Karen C.)

--"I did not know it was self-taught." (Christine D.)

--"I expected teacher led classes, course was self-study with a proctor in the room for questions." (Lisa G.)

--"I thought it would be classroom environment taught by teachers, not computers." (Heather G.)

--"Didn't realize how much I'd be on my own." (Allyson H.)

--"I thought it would be hands on in trainings with classroom instructions. Instead we were thrown books at and had to figure it ourselves." (Jill R.)

61. When S&C employees were not in the classroom or were unavailable, S&C classes were often taught by students. Student Yolanda B. stated that a "[m]ajority of the staff were students themselves." Student Jason C. stated that "the classroom was occupied by about



25 students at a time with only one instructor. In many instances I was forced to rely on other students to assist me with my work because of the lack of capable staff during my attendance. Many times they allowed Terri, who is listed as an Administrative Assistant, to run a class full of students while the only DOE approved instructor was on vacation or out to lunch... the remaining instructors were called 'interns' and some were paid by the school to assist students but these interns were just attending class with me so I couldn't understand how they were all of a sudden qualified to teach ..."

*iii. Misrepresentations concerning the time it takes to complete the programs*

62. Beginning in or about 2007 and continuing until at least March 2011, S&C advertised that its medical office training programs led to certification in "just weeks": "Train for Your Dream Job! Start NOW and Get CERTIFIED in JUST WEEKS!" These advertisements appeared on buses and in billboards or similar venues. (Copies of the advertisements are attached to the Complaint as Exhibit 4.)

63. In fact, the MOA and OP-Medical programs are nine month and seven month programs respectively. The average time to graduation for students in the MOA program sample was 434 days (about 62 weeks); the median time to graduation for these students was 409 days (about 58 weeks). For OP-Medical graduates in the sample, the mean time to completion was 321 days (46 weeks), and the median 315 (45 weeks).

64. S&C's representations concerning the scope, nature, character, and timing of its programs were false and/or misleading and deceived or had the tendency or capacity to deceive or mislead consumers and students, inducing consumers to enroll in S&C's medical office training programs and to provide tuition and fee monies to S&C.

b. False and/or Misleading Representations Concerning Job Placement

i. Misrepresentations to consumers and prospective students

65. S&C holds itself out and markets its business to consumers and prospective students as a school that will enable them to obtain jobs in their field of study.

66. S&C's catalogs from 2010 or earlier through the present state that "[a]t [S&C], we concentrate on job specific training." The catalogs also state:

"The staff and faculty of the school and its placement affiliates derive tremendous satisfaction from helping students prepare for career ready employment. We hope you will join us so that you, too, will experience career satisfaction and enjoy the economic and social rewards of a position ideally suited to your interests and abilities."

67. From 2011 or earlier through the present, S&C's website states that "we offer a unique way to prepare for your new career: focused training that concentrates on developing the skills employers are looking for." The website also states: "Develop the skills you need for an exciting, new career.... With training focused on preparing you for these real-world careers, [S&C] is your premier choice if you're interested in seeking career-ready training."

68. A key part of S&C's recruiting and promotional efforts to attract students to its medical office training programs involved written and oral references to jobs in medical offices and to S&C's influence and historical success in placing students in these jobs.

Promotion of medical jobs

69. From 2009 or earlier through the present, in its public ads, in its catalogs provided to students and prospective students, in its written recruitment and enrollment materials, on its website, and in oral recruitment statements made by S&C employees to consumers and prospective students, S&C stated that its medical office training programs were designed and intended to prepare students for jobs in medical offices.

70. On its website, from 2011 or earlier through the present, S&C states that “[t]he Medical Office Assistant program prepares you for job titles such as:

- Medical Office Assistant
- Medical Receptionist
- Medical Records
- Medical Insurance Biller
- Medical Scheduler
- Medical Office Clerk
- Medical Insurance Coder
- Medical Transcriptionist.”

71. S&C’s MOA website states: “Don’t hesitate to put yourself in a position to get an extra hiring advantage over other applicants in any healthcare facility.”

72. From 2011 or earlier through the present, S&C’s website states that “some of the career opportunities our [OP-Medical] graduates qualify for are:

Medical Transcription—Join one of the fastest-growing occupations today. Whether you work from home or in the office, this position gives you ultimate flexibility and maximizes your computer skills and newly achieved medical office certification.

Medical Receptionist—Be the friendly face of a healthy facility by serving and engaging patients, medical professionals and insurance representatives.

Medical Records—Be an effective health professional by keeping medical accounting records, patient scheduling and billing, and their health records on the computer.

Medical Insurance Biller—Serve both the patients and their insurance representatives by processing claims and policy requirements from most major healthcare payers.”

73. From 2010 or earlier through at least 2011, S&C’s catalog stated: “The MOA program is designed to provide students with career ready computer office skills along with Medical Billing, Coding and Terminology in order to qualify for employment in a number of non-clinical medical related roles and to achieve certification as a Medical Office Assistant.” From 2010 or earlier through the present, S&C’s catalog states that the OP-Medical program “is



designed to provide students with career ready computer office skills along with Medical Billing, Coding and Terminology in order to qualify for employment in a number of medical related roles.”

74. During the period 2008 or earlier through the present, S&C led consumers and prospective students to believe that its medical office training programs were designed or intended to train and prepare students for jobs in medical offices.

Promotion of historical placement success

75. From 2009 or earlier through the present, in public ads and oral statements to consumers, S&C advertised its success in placing students, promoting placement rates for the medical office training programs of between 70% and 100%.

76. In recruiting students to enroll in the MOA program at S&C, S&C employees made explicit numerical representations concerning S&C’s historical success in placing students in jobs in medical offices in their conversations with prospective students.

77. Student Jill F. stated: “I was told that at the end of my program I would be placed in a job in what I had studied. That has not happened. Information on placement was deceiving, said you will be placed in job in the medical field.” An S&C employee told students Susan M. and Caroline R. that S&C had a 100% placement rate. Another S&C employee told student Jill R. that S&C had a 90% placement rate. And an S&C employee told students Gina A. and Connie O. that S&C had an 85% job placement rate. S&C employees told student Michelle S. that S&C had an 80% placement rate. Student Shalindi R. “was told [S&C had a] 70% success rate in finding students jobs in field. I was told this number before I enrolled.”

78. During this period, in advertisements on buses and other public venues, S&C referred to an “85% placement rate” for the institution as a whole. (An exemplar advertisement

referring to the 85% placement rate is attached to the Complaint as Exhibit 5.) On its website between 2009 and the present, S&C advertised that it “placed over 85% of graduates.” (Copies of S&C websites referring to the 85% placement rate are attached to the Complaint as Exhibit 6.) S&C’s President stated that the 85% placement rate in S&C’s promotional materials refers to “training related placement”:

“Q. ...85% of your graduates find jobs in the areas which they train at the school, is that correct?

A. I don’t know if you are saying that correctly, no.

Q. Why don’t you say it correctly? I am asking you to interpret what you have here. What does ‘training-related placement’ mean?

A. People who get placed in areas of their training programs.

Q. At the school?

A. Correct.”

79. S&C led consumers and prospective students to believe that historically 70-100% of S&C students in the medical office training programs obtained employment in medical office jobs.

80. S&C did not make available to prospective students in the medical office training programs, at or before the time the students enrolled at S&C, any underlying data or employment statistics that substantiated the truthfulness of the placement percentages used in S&C advertisements, on S&C’s website, or in oral statements by S&C employees.

ii. Misrepresentations to COE

81. One of COE’s accreditation standards requires schools to submit information concerning employment outcomes for students. COE establishes baseline standards of employment that schools must meet in order to obtain or renew accreditation. The current COE benchmark accreditation standard for employment is a 70% placement rate.

82. In connection with the employment standard, S&C submits annual reports of its placements to COE. These reports provide aggregate placement numbers and do not contain

back-up or support for the placements or the job categorizations the school makes. COE relies on the school's self-reporting and does not typically (and in the case of S&C did not) check or approve the numbers provided in the annual reports. During its site visits, a COE team randomly verifies the placements of at least 5 students in each program, but does not typically review, and in the case of the site visits to S&C, did not review or approve the placements or job categorization of the remaining students in S&C's medical office training programs. COE's placement standard works in conjunction with its condition of membership that all member schools act with honesty and integrity. If a school does not meet COE's placement standard or its conditions of membership, there is a range of disciplinary actions that the accreditor can take.

83. The Senate Report found that the self-reporting and peer-review nature of the accreditation process often exposes it to manipulation by schools "more concerned with their bottom line than with academic quality and improvement." (Senate report, p. 7)

84. During the period 2009 through 2012, S&C's reports to its accreditor showed placement rates of between 75% and 87% for the Brockton campus as a whole, and placement rates for the MOA and OP programs of between 70% and 100% during this period.

85. In its annual reports submitted in 2011 and 2012, for reporting years ending June 30 of 2010 and 2011, S&C represented placement rates for its MOA program of 95.65% and 73%, respectively. S&C's reported placement rates for the OP program as a whole were at or above 70% for reporting years ending 2009 through 2011.

86. The placement numbers S&C published on its website as recently as March 2013 for the Medical Office Assistant and Office Professional programs as part of its mandatory consumer disclosures were 72.41% and 72.73%, respectively.

*iii. Misrepresentation to the Massachusetts Department of Elementary and Secondary Education*

87. In 2011, S&C student Kathryn P. complained to the Massachusetts Department of Elementary and Secondary Education (DESE) that she was unable to secure in-field employment after completing S&C's MOA coursework and obtaining medical-related certifications provided by the National Center of Competency testing (NCCT). NCCT certifies students in MOA and in insurance billing and coding. S&C responded to Ms. P.'s complaint by representing to DESE, as evidence of the adequacy of its training, that its MOA placement rate was between 88% and 93.5%.

88. S&C intended DESE to believe that the 88-93.5% placement rate contained in S&C's statement to DESE indicated that the vast majority of S&C MOA students obtain medical office jobs, for which the NCCT MOA and insurance and coding certifications are pertinent.

89. In its findings of October 2011, DESE stated: "The complainant asserts that she obtained two (2) certifications while taking the program and that both are not desirable to potential employers. The complainant alleges that the certifications received as a result of [S&C]'s program are not desired by employers. The complainant does not indicate who these employers are or how many of them denied her employment due to these certifications. However, [S&C] claims to have had an 88-93.5% placement rate between 2009 and 2010 for its Medical Office Assistant students. If the certifications are inadequate for employment, it would be unlikely that [S&C] could sustain such a rating. Based on these facts, the Department finds insufficient information to make a determination on this allegation."

90. DESE relied on S&C's placement statistics as evidence of S&C's success in placing MOA students in medical office jobs. The placement percentages provided to DESE by S&C were false and misleading.

*iv. S&C Placed Few Students in Medical Office Jobs*

91. S&C led consumers, prospective students, its accreditor, and government officials to believe that the large majority of S&C's medical office training program students obtained employment in medical office jobs. But S&C knew or should have known that the placement percentages of 70% to 100% in its advertisements, reports, and recruitment statements, and in its reports to COE and to DESE were inaccurate, and that its actual success in placing students in medical office jobs was considerably lower. S&C represented to consumers, prospective students, COE, and DESE that medical training program students had a high probability of obtaining jobs in medical offices when S&C knew or should have known that the probability of obtaining such employment, based on S&C's own historical experience, was in fact low.

92. In the sample of 183 MOA students, 21 graduates and 3 drop-outs obtained jobs in medical offices. In the sample of 211 OP-Medical students, 32 graduates and 3 drop-outs obtained professional jobs in medical offices. (A list of employers and job titles for these students is attached to the Complaint as Exhibit 7.)

93. As a percentage of all students in the sample entering the MOA program, 13% obtained medical office assistant jobs. Of all students in the sample entering the OP-Medical program, 17% obtained professional jobs in medical offices. Of the 117 MOA graduates and the 144 OP-Medical graduates in the sample, 18% and 22% received jobs as medical office assistants and professionals in medical offices respectively.



Placements in Medical Offices  
Based on Student Sample Data Provided by S&C

	Column A	Column B	Column C	Column D	Column E (C ÷ B)	Column F ((C+D) ÷ A)
Program	Students Enrolling	Graduates	Graduates Obtaining Jobs in Medical Offices	Drop-Outs Obtaining Jobs in Medical Offices	Of Graduates, Percent Placement in Medical Offices	Of Enrollees, Percent Placement in Medical Offices
MOA	183	117	21	3	18%	13%
OP-Medical	211	144	32	3	22%	17%

94. S&C collected information from employers to verify that students received jobs.

Of the 183 students in the MOA program sample, 19 graduates and 3 drop-outs obtained medical office assistant jobs that were verified by their employers, 12% of all students and 16% of graduates respectively. Of the 211 students in the OP-Medical program sample, 28 graduates and 2 drop-outs obtained medical office assistant jobs that were verified by their employers, 14% of all students and 19% of graduates respectively.

Verified Placements in Medical Offices  
Based on Student Sample Data Provided by S&C

	Column A	Column B	Column C	Column D	Column E (C ÷ B)	Column F ((C+D) ÷ A)
Program	Students Enrolling	Graduates	Students Obtaining Jobs in Medical Offices	Drop-Outs Obtaining Jobs in Medical Offices	Of Graduates, Percent Placement in Medical Offices	Of Enrollees, Percent Placement in Medical Offices
MOA	183	117	19	3	16%	12%
OP-Medical	211	144	28	2	19%	14%

95. A larger number of students obtained no jobs at all. Of the 183 students in the MOA program sample, 17 graduates and 37 drop-outs, totaling 54 students, or about 30% of all students in the sample, were unemployed after leaving the S&C program.

96. Overall, according to S&C's records, 116 students (graduates and drops) in the MOA sample received placements. In the OP-Medical sample, the number was 150. Of these recorded placements, about half were waitress, restaurant and fast-food, housekeeping, laundry, retail, telemarketing, child care, custodial, security, manufacturing, and transportation jobs. (A list of employers and job titles in these fields is attached to the Complaint as Exhibit 8.) These jobs are typically low-paying or minimum wage jobs that do not enable students to repay the federal student loans they needed to attend S&C.

97. For purposes of COE's accreditation of the MOA and OP-Medical programs, only verified legitimate jobs in medical and related offices are considered placements. Retail, sales, telemarketing, waitress, restaurant and fast food, housekeeping, laundry, child care, custodial, security, manufacturing, driving, warehousing, shipping, landscaping, construction, and similar jobs are not appropriate placements for accreditation of the MOA program.

98. Some of the jobs "counted" by S&C in its historical placement percentages were temporary jobs, even though S&C knew that students expected to obtain full-time jobs when they enrolled at S&C.

99. S&C's representations concerning placement were false and/or misleading and deceived or had the capacity or tendency to deceive or mislead consumers, students, its accreditor, and the DESE, inducing consumers to enroll at S&C and provide tuition and fee monies to S&C, enabling S&C to obtain accreditation and access to Title IV funding for its medical office training programs, and inducing DESE to dismiss a student complaint.

c. False and/or Misleading Representations Concerning School Career Services

100. From 2008 or earlier through the present, in its advertising and in oral and written statements to consumers and prospective students, S&C promoted the services it would provide to students to help them obtain employment in their field of study. During this period, S&C employees emphasized S&C's connections to employers, its ability to set up employment interviews for students, its job fairs, and the job leads it would provide to students.

101. From 2011 or earlier through the present, S&C states on its website:

--"At Sullivan and Cogliano Training Centers, your career preparation doesn't stop in the classroom. Career-focused education is about getting the training that employers are looking for. Our Career Services team is about helping you find the right opportunity and employers for you and your future."

--"The Career Services team can help you showcase your education and skills and secure employment.... You'll also learn... how to successfully make the connections that could help you get the job you want and the career you deserve."

--"Do you offer placement assistance? Our #1 passion is to assist students in obtaining meaningful employment."

102. From 2010 or earlier through the present, S&C refers in its catalogs to "[o]ur well-established, long-term relationships with area employers...." In advertisements, S&C refers to its "well established, long-term relationships with nationwide employers...."

103. S&C employees told students that representatives of various hospital employers would come to S&C to visit with students, and that many students obtain jobs through these employer visits.

104. In its promotional materials and recruitment statements, S&C intended consumers and prospective students to understand that S&C would provide meaningful assistance to students in obtaining jobs in medical offices. Students stated:



--“I thought they set you up with interviews.” (Michelle B.)

--“I remember when I started they said after graduation they should help to get a job.” (Feliciana M.)

--“They told me when I enrolled that they would set up interviews with companies after the program, which they never did, and that I would not have a problem with getting placed, which was not true.” (Jayne M.)

--“I thought the job placement program they advertised was where they placed you in a company they had a relationship with. Or at least interview with.” (Kathleen M.)

--“They told me there was constant job fairs and internship opportunities. There wasn’t.” (Andrea T.)

105. In fact, S&C’s placement services, for most students, consisted of sending blast emails of jobs listed on Monster.com, Craigslist, and similar public websites.

106. Many of the jobs contained in the S&C emails were positions for which the students were not qualified. Most of the listings required education beyond the certificate level (associate or bachelor’s degrees) or work experience, or both. A number of the jobs had little relation to the students’ educational programs.

107. S&C never set up job interviews with medical employers for students in its MOA program. S&C never held job fairs attended by medical employers for students in the MOA program. MOA students did not receive jobs from hospital employers brought to the school by S&C.

108. S&C’s representations concerning its placement services and assistance to students in finding jobs in their field of study were false and/or misleading and deceived and/or had the capacity or tendency to deceive or mislead consumers and students, inducing consumers to enroll in S&C’s medical office training programs and to provide tuition and fee monies to S&C.

d. False and/or Misleading Representations Concerning Internships

109. From 2008 or earlier through S&C's elimination of its internship requirement in or about 2012, S&C represented to consumers and prospective students in its medical office training programs that they would receive internships in medical offices, enabling them to practice the medical skills taught in S&C's medical office training programs and to prepare for employment in medical offices. These internships were a standard and mandatory element of the medical office training programs.

110. From 2010 or earlier through 2011 or later, S&C's catalog stated that the internship course provided hands-on training to students that prepared them for employment: "In this course students learn how to implement those lessons learned through their hands-on training modules. The Internship course builds confidence in the student in order to be prepared for future work."

111. In S&C's 2011 Self-Study submitted to its accreditor, S&C described its ability to "maintain and continually secure" internships and represented to the accreditor that the internships were essential in fulfilling S&C's "mission statement", an important criterion in the accreditation process. According to S&C, "[w]e maintain and continually secure internship and externship opportunities where students are able to practice and implement skills that they have learned in the classroom environment. . . . Furthermore this internship practice provides the foundation to fulfill our mission statement by ensuring that our students receive up to date training leading to current careers in the areas of medical, office administrative and information technology."

112. S&C employees told students during the recruitment process that they would receive internships directly related to their training. MOA students were told such internships would be in hospitals or clinics.

113. According to one S&C employee, “[i]nternships are an integral part of our curriculum...”

114. However, many students, and most students in MOA, did not receive internships in medical offices. In fact, many students received no internship at all or received an “internship” working at S&C, helping teachers, administrators, or admissions employees.

115. Student Jason C. stated that “my internship...turned out to be me simply assisting within the school which made me not want to participate.” Student Connie O. was placed in an “internship” at S&C, helping students by answering their questions when S&C employees were not present or were unavailable to help students.

116. A number of students with “internships” at S&C were required by S&C to recruit other students. One S&C employee testified that “interns” were required to call prospective students in an effort to persuade them to enroll at S&C. “Q: Now, we’ve been told that some of the interns [at S&C] call prospective students to try to recruit them? A: Call prospective students for? Q: For recruiting purposes; is that true? A: Absolutely.”

117. Even students who received outside internships in medical offices often performed menial jobs unrelated to their training at S&C.

118. MOA student Alicia R. stated that she was given an internship answering phones at a physical therapy office. MOA student Jill R. received a truncated internship that did not relate to her field. Student Kathryn P. received an internship at a vendor of surgical supplies where her primary duty was filing. When S&C refused or was unable to provide her with an

internship related to her training in the MOA program, she complained to DESE, which in October 2011 ordered S&C to provide an appropriate internship:

“As part of the Medical Office Assistant (MOA) program, the complainant was placed in the office of a Surgical Supplier. However, the externship site does not appear to be appropriate as the company is a vendor and not a medical office or what is commonly considered a medical facility. The complainant asserts that she only filed paperwork and did not engage in activities related to the MOA curriculum. Therefore, the Department finds that [S&C] failed to provide an adequate externship to the complainant by placing her in a facility that does not provide work experience appropriate for MOA. Therefore, [S&C] must provide the complainant with an MOA externship in which the complainant is able to perform functions associated with an MOA program.”

119. Of the MOA graduates in the sample, about 42% received outside internships, 41% received no internship, and 17% received “internships” at S&C.

120. S&C’s representations concerning internships were false and/or misleading and deceived and/or had the tendency or capacity to deceive or mislead consumers and students, inducing consumers to enroll in S&C’s medical office training programs and to provide tuition and fee monies to S&C.

e. False and/or Misleading Representations Concerning Test Fees

121. From 2008 or earlier through the present, S&C charged students in its medical office training programs for the cost of certification exams given by outside vendors NCCT and Certiport. NCCT and Certiport prepare and grade the tests and determine which test-takers receive the pertinent NCCT and Certiport certifications. While students could graduate from an S&C program and receive a completion certificate without passing a third party certification exam, the NCCT and Certiport tests were considered an independent way to demonstrate to employers that S&C graduates met standards of competency.

122. During this period, S&C charged all students in the MOA program \$1000 in test fees. All students in the OP-Medical program paid \$600 in test fees.

123. S&C failed to disclose to consumers and prospective students that the actual cost of the tests was considerably less than the amount S&C charged for the tests.

124. The NCCT MOA and Insurance and Coding tests for recent graduates (less than six months) currently cost \$90 each. Certiport exams in Microsoft Office applications currently cost \$81 for each Microsoft 2003 application and \$96 for each 2007/2010 application (for example, Word, Excel, PowerPoint, Access). During the period 2008 to the present, the test costs were the same as or lower than current costs.

125. Many students take few or none of the tests. Of the 117 graduates in the MOA sample, 52, or 44% took no certification exams. Of 144 graduates in the OP-Medical sample, 82, or 57% took no certification exams.

126. Overall, the total test fees acquired by S&C from graduates in the sample were \$117,000 for MOA graduates and \$86,400 for OP-Medical graduates, or a total of \$203,400 from graduates of both programs in the sample.

127. The actual cost of the NCCT and Certiport tests taken by graduates in the MOA sample was, at most, \$16,422. The actual cost of the certification tests taken by graduates in the OP-Medical sample was, at most, \$11,508. The actual cost for graduates taking the NCCT and Certiport tests in both samples was, at most, \$27,930.

128. For the MOA and OP-Medical students in the sample, S&C charged at least \$175,000 more in test fees than the cost of the tests. These overcharges were not refunded to students, with the exception of student Kathryn P.

129. In 2011, student Kathryn P. complained about the test fee overcharge to the DESE, stating that S&C charged her \$1,000 in test fees for tests that cost \$300. S&C refunded the \$700 difference to Ms. P. The DESE stated: "The complainant asserts that S&C received an additional \$1000 for testing fees but only \$300 was used for that purpose. The adjustment was made when the school paid the remaining \$700 directly to the complainant. Based on the submission of the complainant, it appears that the unused portion of these funds was issued directly to the complainant by S&C. This is confirmed with documents provided by S&C. Therefore, the Department considers this portion of the complaint resolved."

130. S&C's failure to disclose the actual costs of the certification tests was misleading and deceived and/or had the tendency or capacity to deceive or mislead consumers and students, inducing consumers to enroll in S&C's medical office training programs and to provide fees to S&C.

#### CAUSES OF ACTION

##### **Count One**

(Violations of G.L. c. 93A)

131. The Commonwealth repeats and realleges paragraphs 1 through 130 of the Complaint.

132. S&C has engaged in unfair or deceptive acts or practices in violation of the G.L. c. 93A, section 2. Such unfair or deceptive acts or practices include without limitation the following:

- A. S&C made false and/or misleading representations to consumers and to prospective students concerning the nature, character, scope, and length of its medical office training programs, in violation of G.L. c. 93A, section 2.



- B. S&C made false and/or misleading representations to consumers, to prospective students, and to its accreditor, concerning job placement, and, in particular, concerning the usefulness of its medical office training programs in obtaining jobs in medical offices and its influence and historical success in finding jobs in medical offices for students in these programs, in violation of G.L. c. 93A, section 2.
- C. S&C made false and/or misleading representations to consumers and to prospective students concerning the assistance it provides to students in its medical office training programs in obtaining employment in their field of study, in violation of G.L. c. 93A, section 2.
- D. S&C made false and/or misleading representations to consumers and to prospective students concerning the availability of internships and the training provided by and employment opportunities accompanying internships for students in its medical office training programs, in violation of G.L. c. 93A, section 2.
- E. S&C failed to disclose to consumers and prospective students that the actual cost of the certification tests taken by students in its medical office training programs was considerably less than the amount S&C charged for the testing, in violation of G.L. c. 93A, section 2.
- F. S&C failed to disclose material information to consumers and prospective students concerning placement, internships, and the nature, character, scope, and length of its medical office training programs, in violation of G.L. c. 93A, section 2.

133. S&C's false and/or misleading representations to consumers, prospective students, and others were material and deceived or had the tendency or capacity to deceive or mislead potential and existing customers, inducing consumers to enroll in S&C's medical office training programs and to provide tuition and fee monies to S&C.

134. S&C knew or should have known that the representations provided to students were false and/or misleading. S&C knew or should have known that its acts or practices were in violation of G.L. c. 93A, section 2.

135. S&C acquired tuition and fee monies by reason of its unfair or deceptive acts or practices, causing students to suffer an ascertainable loss.

136. S&C's unfair or deceptive acts and practices resulted in harm to consumers.

## Count Two

(Violations of 940 CMR 3.10 and 3.16)

137. The Commonwealth repeats and realleges paragraphs 1 through 136 of the Complaint.

138. S&C has engaged in unfair or deceptive acts or practices in violation of 940 CMR 3.10 and 3.16. Such unfair or deceptive acts or practices include without limitation the following:

- A. S&C made false or deceptive statements or representations or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students, or the public in its advertising and promotional materials and in recruiting statements by S&C employees concerning the character, nature, quality, value, and scope of its medical office training programs, in violation of 940 CMR 3.10 (1) and 3.16 (1), (2).
- B. S&C made false or deceptive statements or representations or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students or the public in its advertising and promotional materials and in recruiting statements by S&C employees concerning S&C's influence and historical success in obtaining employment for students in its medical office training programs, in violation of 940 CMR 3.10 (1) and 3.16 (1), (2).
- C. S&C made false or deceptive statements or representations or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students or the public in its advertising and promotional materials and in recruiting statements by S&C employees concerning opportunities for employment in medical offices, in violation of 940 CMR 3.10 (2) and 3.16 (1), (2).
- D. S&C made false or deceptive statements or representations or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students, or the public in its advertising and promotional materials and in recruiting statements by S&C employees concerning opportunities for employment in medical offices as a result of completion of the medical office training programs at S&C, in violation of 940 CMR 3.10 (3) and 3.16 (1), (2).
- E. S&C made false or deceptive statements or representations or statements or representations that have the tendency or capacity to mislead or deceive students,



prospective students, or the public as to services to be rendered in connection with the securing or attempting to secure employment for students in its medical office training programs, in violation of 940 CMR 3.10 (4) and 3.16 (1), (2).

F. S&C made false or deceptive statements or representations or statements or representations that have the tendency or capacity to mislead or deceive students, prospective students, or the public concerning availability of internships and the training provided by and employment opportunities accompanying internships for students in the medical office training programs, in violation of 940 CMR 3.10 (16) and 3.16 (1), (2).

G. S&C used language that had the tendency or capacity to mislead or deceive students, prospective students, or the public concerning the actual cost of the certification tests taken by students in the medical office training programs, in violation of 940 CMR 3.10 (16) and 3.16 (1), (2).

139. S&C's false and/or misleading representations to consumers, prospective students, and others were material and deceived or had the tendency or capacity to deceive or mislead potential and existing customers, inducing consumers to enroll in S&C's medical office programs and to provide tuition and fee monies to S&C.

140. S&C knew or should have known that the representations provided to students were false and/or misleading. S&C knew or should have known that its acts or practices were in violation of 940 CMR 3.10 and 3.16.

141. S&C acquired tuition and fee monies by reason of its unfair or deceptive acts or practices, causing students to suffer an ascertainable loss.

142. S&C's unfair or deceptive acts and practices resulted in harm to consumers.

RELIEF REQUESTED

WHEREFORE, the Commonwealth requests that this Court:

a) Issue a permanent injunction restraining S&C, its agents, employees and all other person and entities, corporate and otherwise, in active concert or participation with any of them from:

- i. making false and/or misleading representations to the public and to prospective and current students concerning the nature, character, scope, and length of its educational programs,
- ii. making false and/or misleading representations to the public, to prospective and current students, to its accreditor, and to DESE concerning job placement, and, in particular, concerning its influence in obtaining employment in students' field of study, its historical success in finding jobs for students in their field of study, and opportunities available for students in their field of study,
- iii. making false and/or misleading representations to the public and to prospective students concerning the assistance it provides to students in obtaining employment in their field of study,
- iv. making false and/or misleading representations to the public and to prospective and current students and to its accreditor concerning the availability of internships and the training provided by and employment opportunities accompanying internships,
- v. making false and/or misleading representations to the public and to prospective and current students concerning the actual cost of certification tests taken by students in S&C's programs
- vi. failing to disclose material information to the public and to prospective and current students concerning placement, internships, and the nature, character, scope, and length of its educational programs.

b) Order S&C to make full and complete restitution to all students in its medical office training programs, including but not limited to the repayment to students of all tuition monies acquired by S&C as a result of its unfair or deceptive acts or practices.

c) Order S&C to pay the Commonwealth civil penalties of \$5,000 for each violation of G.L. c. 93A, section 2, and costs, including reasonable attorneys' fees, pursuant to G.L. c. 93A, section 4.

d) Grant such other and further relief as this court deems just and proper.

Respectfully Submitted,

COMMONWEALTH OF MASSACHUSETTS

MARTHA COAKLEY  
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read 'J. Wojewoda', is written over a horizontal line.

Jenny Wojewoda, BBO#674722  
Peter Leight, BBO#631580  
Assistant Attorneys General  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

Dated: April 3, 2013

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## Appendix

Exhibit 1.....	The McKenzie “save” report
Exhibit 2.....	Copies of advertisements on buses and other public venues
Exhibit 3.....	A copy of the COE letter
Exhibit 4.....	Copies of advertisements claiming certification in “just weeks”
Exhibit 5.....	An exemplar advertisement referring to the 85% placement rate
Exhibit 6.....	Copies of S&C websites referring to the 85% placement rate
Exhibit 7.....	Employers and job titles of students employed in medical offices
Exhibit 8.....	Employers and job titles of students employed in Child Care/ Education, Manufacturing/Transportation/Security/Manual Labor/Custodial, Restaurant/Hospitality Services, Retail/Sales/Telemarketing

1



## MCKENZIE FINANCIAL, INC.

Date: February 3, 2012

To: Accounts Payable  
From: Lipton Z. McKenzie

Re: Contracts Status

Status report of contracts submitted by Sullivan and Cogliano Training Center to McKenzie Financial, Inc. contracts converted to the "Cohort" program.

School ID: 040393-00

	2009 <sup>†</sup>	2010	2011	2012	Total
Contract	124	211	310	186	707
In-School**		6	4	0	-10
Save		96	67	2	-165
Defaulted**	16	20	2	0	-22
DD		1	0	0	-1
Re-fun		3	2	0	-5
PL-us		0	0	0	0
BK-rup		0	0	0	0
PF-bor		1	3	0	-4
No Loan		1	1	0	-2
OC-pde*	11	15	37	0	52
Sub-total					498

% Default	12.9%	9.5%	0.6%	0.0%
% Potential Default	8.9%	7.1%	11.9%	0.0%

New Students\*\* 18  
Saves\*\* 5

*This summary is based on the student population received from the school.*

<sup>†</sup> The Defaulters and Potential Defaulters (OC-pde) shown for 2009 are estimated based on the preliminary 3-year Cohort Default Rate, which will be released in February 2012.

\*Potential Defaulters (OC-pde): Contracts that are over 181 days past due special handling is given to these contracts. These borrowers were delinquent, as of 10/1, and will not affect the cohort rate.

3520 West Broward Blvd. — Suite 114 • Fort Lauderdale, FL 33311

Phone: 800-262-5012 • Fax: 888-707-3704 • E-mail: [lmckenzie@mckenziefinancial.com](mailto:lmckenzie@mckenziefinancial.com)  
[www.mckenziefinancial.com](http://www.mckenziefinancial.com)

2





3 / 13 / 11





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May 28, 2010



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 Due Date: 6/4/09  
 Size: see above  
 Quantity: see above  
 Contact: Ken

☐ Approved to print as is    ☐ Approved to print with corrections noted

Corrections:

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

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W: \_\_\_\_\_

Weight: \_\_\_\_\_

**Shipping P.O.D**

Packed By: \_\_\_\_\_

Received by: \_\_\_\_\_ Print name: \_\_\_\_\_

Time: \_\_\_\_\_ Date: \_\_\_\_\_

3



## COUNCIL ON OCCUPATIONAL EDUCATION

"Assuring Quality and Integrity in Career and Technical Education"

August 7, 2009

Mr. Clifford Lechtur  
150 Belmont Court, #1  
Brockton, MA 02301

Re: Sullivan and Cogliano Training Centers

Dear Mr. Lechtur:

In response to your letter of June 26, 2009 concerning the advertising of the Medical Office Assistant program at the Brockton, MA campus of Sullivan and Cogliano Training Centers, I contacted Ms Sheila Chapman, Vice President of the institution, and questioned her about the ads, copies of which you enclosed in your letter and which I copied and faxed to her. I also faxed to her a selection from the U.S. Department of Labor's *Directory of Titles* for the entry of "Medical Assistant." In referencing the DOT entry, I reminded Ms Chapman that the "Medical Assistant" program appearing on her institution's advertising was not a medical assistant program as may be understood by the general population. The program offered by Sullivan and Cogliano Training Centers is approved by our agency as a "Medical Office Assistant" program and should be advertised as such.

As you will see from the response submitted to the Council by Ms Chapman, the school has changed its advertising to correct the error from the previous listing. I also advised Ms Chapman that it was incumbent on the institution to inform new students of the nature of the Medical Office Assistant program in order to avoid confusion between "medical office assistant" and "medical assistant."

Thank you for bringing this incident to the attention of the Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Wittig".

Alex Wittig  
Associate Executive Director

C: Ms Shiela Chapman

Enclosures

4



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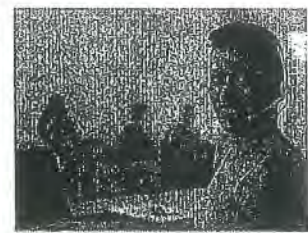
*BUS AD Expanded*

- **Medical Assistant**
- **Customer Service**
- **Accounting Assistant**
- **Administrative Assistant**
- **Office Manager**
- **Help Desk / A+**
- **Billing and Coding**

**Flexible Schedules Placement Assistance**

**SULLIVAN**





## TRAIN FOR CAREERS IN...

- Medical Assistant
- Customer Service
- Accounting Assistant
- Administrative Assistant
- Office Manager
- Help Desk/A+



About our training programs-

**Start NOW and Get  
CERTIFIED in Just WEEKS!  
12,000 Graduates did.  
YOU DESERVE IT TOO!**



**No HS Diploma/GED Required!**

**Grants/ Financial Aid/ \$0 Down/\$0 Payments (to those who qualify)**

**Flexible Schedules, Placement Assistance**

**Call Now for a Free Career Skills Assessment**

**888.TRAIN.77** [www.sctrain.com](http://www.sctrain.com)  
(87246)

*Emp Guide 2007*



# Train for Your Dream Job!

Start NOW and Get CERTIFIED in JUST WEEKS!

12,000 Graduates did.  
YOU DESERVE IT TOO!

No HS Diploma/GED Required!  
\$0 Down/\$0 Payments

Grants/ Financial Aid  
(to those who qualify)

Flexible Schedules,  
Placement Assistance

- MEDICAL ASSISTANT
- CUSTOMER SERVICE
- ADMINISTRATIVE ASSISTANT
- PATIENT BILLING
- HELP DESK
- MEDICAL BILLING
- OFFICE MANAGER



*Call Now for a Free Career Skills Assessment*

**Westgate Mall Campus**

**508-584-9909**

**www.sctrain.edu**



Job Number: 5172

Description: Sullivan & Cogliano

Client: Mark Geden

Date: 10/3/08

Due Date: 10/12/08

Size: 72" x 21"

Quantity: 5

Contact: Ken

2008

## DIRECT MEDIA

OUTDOOR ADVERTISING SINCE 1992

☐

Approved to print as is

☐

Approved to print with corrections noted

Corrections: \_\_\_\_\_

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

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Sullivan and Cogliano Training Centers provides the skills necessary to compete in today's business environment. Our well established, long-term relationships with nationwide employers keep us current with any new trends in the changing job market. Our goal is pure and simple-to-provide career-ready training that leads to meaningful employment.

We offer:

- ♦ the highest quality certificate-awarded office, IT and medical training in the most efficient and effective manner possible;
- ♦ a learning environment that considers the unique needs of students, including flexible scheduling with day and evening classes;
- ♦ courseware which reflects the current requirements of the workplace;
- ♦ all programs approved for Workforce Training Funds;
- ♦ Federal Financial Aid to those who qualify



Medical Office Assistant  
Medical Billing and Coding  
Medical Transcription  
Medical Insurance Processing  
Office Professional  
Help Desk Professional  
MCSE (Microsoft Certified Systems Engineer)  
MCSA (Microsoft Certified Systems Administrator)



Medical Office Assistant  
Accounting Assistant  
Help Desk Professional  
Medical Transcriptionist  
Medical Billing and Coding  
Systems Administrator



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12,000 Graduates  
90% Government Tuition Assisted  
94% Average Test Score  
85% Placement Rate  
Nationally Accredited  
Federal Title IV Financial Aid



Anytime, Anywhere  
Web Based Support  
Section 30 Approved  
Step-by-Step Learning Guide  
Available For All In-School Programs  
Fully Interactive Learning Experience  
Microsoft and CompTia Approved Materials



**Read what some of our students think of our programs!**

"After having been a stay-at-home mom for 3 1/2 years, I decided that it was time for me to update my computer skills in order to re-enter the workforce. I had interviews with several schools, but chose Sullivan and Cogliano Training Centers for the following reasons:

- Convenient Location
- Course Curriculum
- Extremely flexible hours
- Affordable courses
- Placement Assistance

What I have learned is amazing!"  
- Lisa Laranjo

"Thank you for taking discouraging employment situations and turning them into wonderful opportunities for the future with your training concept and the unfailing support, encouragement, and respect that your staff provides. I congratulate Sullivan and Cogliano on this winning combination."  
- Anita Lamothe

**SULLIVAN  
COGLIANO  
TRAINING CENTERS**

**Secure Your Quality of Life!  
Train For Your DREAM Job!**

***NO HS DIPLOMA OR  
GED REQUIRED!***

***Start NOW and Get CERTIFIED  
in Just WEEKS!***

***12,000 Graduates did.  
YOU DESERVE IT TOO!***

- Medical Office Assistant
- Administrative Assistant
  - Customer Service
- Medical Transcription
- Accounting Assistant
  - Medical Billing

***Grants/Financial Aid  
\$0 Down/\$0 Payments  
(to those who qualify)***

***Flexible Schedules  
Placement Assistance***

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460 Belmont Street  
Brockton, MA 02301  
508.584.9909

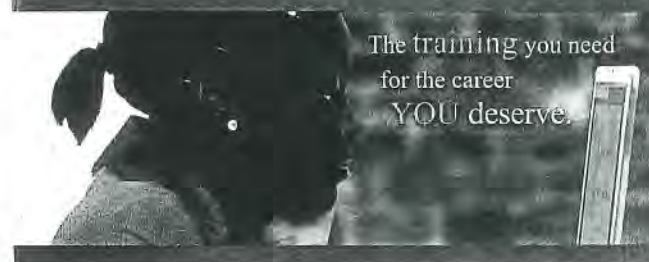
7740 N. Kendall Drive  
South Miami, FL 33156  
305.279.5877

4760 NW 167th Street  
North Miami, FL 33014  
305.624.3030

Online Learning Options Available

**www.sctrain.edu**

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Since 1993**



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## Press Release

**Sullivan and Cogliano Training Centers, Inc. Expands its Career Ready Training Centers in Miami, FL and Brockton, MA**

**SULLIVAN AND COGLIANO TRAINING CENTERS, INC., A NATIONAL COMPUTER AND CAREER READY TRAINING COMPANY CONTINUES ITS AWARD WINNING PACE EARNING FOUR PRESTIGIOUS RECOGNITIONS:**

- Number 1 in Training Related Placement in Miami Dade for period ending 6/30/09
- Best Places to Work by the Prestigious Boston Business Journal for 2009-2011
- Best Places to Work by the Prestigious South Florida Business Journal for 2011
- 2011 Inc. 5000

→ The training and employment market continues to benefit with computer and career-ready training and placement assistance with over 12,000 graduates and a nearly 85% placement rate produced by Sullivan and Cogliano Training Centers since its inception in 1993!

Miami, FL and Brockton, MA, February 1st – Herb Cogliano, President of Sullivan and Cogliano Training Centers, Inc., announces his career-ready computer training center continues to strive for excellence in both training and placement assistance and is pleased to earn the Number 1 training related placement status in Miami-Dade county, according to the South Florida Workforce Reconciliation dated 6/30/09 and in addition was voted as winner by both the Boston Business Journal and the South Florida Business Journal as one of the “best places to work.” Accredited by the Council on Occupational Education, COE, [www.council.org](http://www.council.org), says Cogliano, “We are extremely happy for these wonderful reinforcements of our growing business. Our continued growth is part of our plan to offer much-needed computer and career training in the areas of Medical Administration, Customer Service, Accounting and Information Technology to both job seekers, employed and underemployed workers in order for them to enhance their self-sufficiency.”

In 2005, Sullivan and Cogliano Training Centers, Inc. was highly recognized by the Council on Occupational Education based upon its qualitative and quantitative performance. This significant expansion enables incoming students to now apply for a variety of federal and state grants, including financial aid, in order to attend our training centers. Our mission is to improve the quality of life by meeting people at life's crossroads and provide paths to meaningful employment. This growth will continue to extend our services to those who need it most and who may not be able to fund their education without financial assistance.

The National Training Centers expand a long Sullivan and Cogliano tradition for market-responsive, industry-focused human resource services. Sheila Chapman, National Vice President, says, “People come to us needing immediate training in order to find employment as quickly as possible, and we won't stop working until our students are working. New classes start every day so no one has to wait for a semester to begin. Our goal is to provide quality training quickly and effectively, and because we have a strong employer base from our staffing service business, we continue to develop appropriate curriculum based on job market demand.” Chapman, in her 25 years with the company, possesses both staffing and training leadership experience. “We know which skills are the most popular and will create job opportunities and career advancement. Our curriculum will continue to reflect the needs of the local business community. It's our passion to know how to give students the training they need for the career they deserve!”

Nancy Rodríguez, a native of Miami and the Vice President of National Operations for Sullivan and Cogliano Training Centers, says, “Our focus is simple ... identify the career goals of each person, train them to reach those goals, and then help them through our thorough placement process to

secure employment.” Nancy celebrates her fourteenth year successfully focused on this goal and is an integral part of the Miami-Dade employment and training market.

Located at 4760 NW 167 Street and 7740 N Kendall Drive in Miami, Florida and 460 Belmont Street, Brockton, Massachusetts along with a myriad of online students throughout Florida and Massachusetts, Sullivan and Cogliano Training Centers operates under license from the Commission for Independent Education, Department of Education, and is an approved training agent both for the Florida and Massachusetts Workforce, Vocational Rehabilitation, Refugee Employment and Training, Veterans Benefits and Federal Title IV Financial Aid.

For more information please contact:

Sullivan and Cogliano Training Centers, Inc. at 1-888-TRAIN-77 or visit us at [www.SCTRAIN.edu](http://www.SCTRAIN.edu)

## REQUEST Free Information

\*First Name

\*Last Name

\*Email Address

\*Telephone

\* Zip Code

\*Closest Location

Select one



\*Desired Career

Select one



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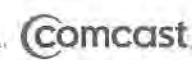
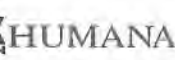


Follow @SC\_Training

### A Few Employers Who Hire Our Graduates



H&R BLOCK  
NEVER SETTLE FOR LESS™



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## About Our Career Training Centers



Our Florida and Massachusetts career colleges focus on offering a more effective way to train – a method that allows you to work to your strengths and at your own pace. No matter what your current computer or skill level – no computer or special skills needed – we can help you get started. Our unique training system offers the benefits of:

- Customized training plans
- 100% hands-on training
- Learning at your own speed with certified instructors
- Flexible class schedules
- Open enrollment
- Lifetime Partnership program
- Career skills
- [Placement assistance](#)
- [Online training](#)

Our core purpose is to change people's lives. **We recognize the most effective way to impact individuals is to meet people at life's crossroads and provide paths to meaningful employment.** This is our passion for our students which we deliver daily through our core values of integrity, achievement, innovation and teamwork.

Our programs are designed for people who want to enhance their lives through increased confidence propelling them into well-paying and meaningful careers. Since our inception in 1993, we have:

- Graduated over 12,000 career-ready students
- Placed over 85% of graduates
- Produced a 94% student grade point average
- Achieved an 85% graduation rate

- Received a 95% student survey satisfaction rate

Get the training you're looking for, faster than you might think! With the Sullivan and Cogliano Training Centers system, you take the classes you need at the time and pace that's right for you. And there's no waiting for a new semester – you can start right now! [Contact us for more information](#) or call us at 1.888.TRAIN.77.

#### Request FREE Information

\*First Name

\*Last Name

\*Your Email

\*Telephone

\*Campus of Choice

Program of Interest

**Sullivan & Cogliano Training Centers** on Facebook  
Like

**Sullivan & Cogliano Training Centers**  
http://www.sctrain.edu/success-stories/shannon-sanders-miami-medical-coding-billing-student/  
**Shannon Sanders - Medical Coding & Billing Student**  
www.sctrain.edu  
Check out our interview with Shannon

485 people like Sullivan & Cogliano Training Centers.

Stephanie	Donna	Justin	Andre	Cathleen
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MOA Placements In Medical Offices	
Job Title	Employer
Customer Service Rep.	Blue Cross/Blue Shield
Office Assistant	Bay State Physical Therapy
Medical Secretary	South Shore Medical Ctr.
Unit Secretary	Greater New Bedford Health Center
Personal Service Representative	Aspen Dental
Medical Transcriptionist	SRTS, Inc.
Nurse's Asst/Unit Coordinator	South Shore Hospital
Clerical	South Bay Mental Health
Representative I	Blue Cross/Blue Shield
Medical Biller/Admin	South Bay Mental Health
Patient Scheduler	Tufts Medical Center
Medical Biller	U.S. Laboratory
Medical Administrator	Dr. Paulson
Administrative Assistant	Steppingstones, Inc.
Receptionist	Associates for Human Services
Unit Coordinator	South Shore Hospital
Secretary	Pediatric Associates of Brockton
Medical Admin.	Growthway's, Inc.
Clerical	Doctor's Management Service
Pharmacy Tech	Boston Medical Assoc.
Medical Biller	E- Practice Solutions
Supervisor	Erickson/Linden Pond
Administrative	Kindred Healthcare
Chiropractic Assistant	Brockton Spine



OP Medical Placements in Medical Offices	
Job Title	Employer Name
Registration Clerk	Brockton Neighborhood Health
Pharmacy Service Associate	CVS
Medical Collections	CCA
Member Services Rep	Blue Cross/Blue Shield
Admin.	Dr. Bill Vagenas
Account Manager	Insurance Services of NE
Customer Care Rep	CCA Healthcare
Lab Specimen Tech/Data Entry	Memorial Hospital
Office	Arbour Counseling Services
Debt Collector	EOS CCA
Office Assistant/ Back up Biller	North East Health Services
Case manager	Cambridge Health Alliance
Medical Collections Specialist	EOS CCA
Medical Billing Associate	Planned Parenthood
Medical Billing	BayState Chiropractic
Prior Authorization Rep.	Atlantic Home Medical Supplies
Receptionist	Brockton Chiropractic
Billing Support	South Bay Mental Health
Medical Claim Denials	Pharmerica
Billing Clerk	Dorchester House
Patient Care Asst.	Brigham and Women's Hosp.
Program Assistant	WIC Framingham
Admin. Asst.	BAMSI
PC Technician	American Renal
Pharmacy Service Assoc.	CVS Pharmacy
Admin. Asst.	South Bay Mental Health
Dental Billing	Mattapan Community Health Ctr.
Receptionist	Dental Dream
Collections Specialist	EOS-CCA
Medical Biller	U.S. Labs
Admin. Asst.	South Bay Mental Health
Accounts Receivable Clerk	U.S. Laboratory
Medical Receptionist	Siskind Chiropractic
Pharmacy Tech	CVS Pharmacy
Schedule Coordinator	Small Smiles

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**MOA Placements in Child Care/ Education,**  
**Manufacturing/Transportation/Security/Manual Labor/Custodial,**  
**Restaurant/Hospitality Services, Retail/Sales/Telemarketing**

Job Title	Employer
<b>Child Care/Education</b>	
Student Services Rep	Sullivan & Cogliano
Pre-K teacher	Curious Kids
Career Services Asst.	Sullivan and Cogliano
Online Academic Counselor	Sullivan and Cogliano
Financial Aid Asst.	Sullivan and Cogliano
Pre-School Teacher	Diane King Daycare
<b>Manufacturing/Transportation/Security/Manual Labor/Custodial</b>	
Estimator	VSB Contracting
Manufacturing/Medication Labeler	Braintree Lab
Assembler	Electrochem
Package Handler	UPS
Housekeeper	Sunshine Cleaning Co.
<b>Restaurant/Hospitality Services</b>	
Receptionist	Hotel Indigo
Waitress	O'Charleys Inc.
Customer Service	Dunkin Donuts
Waitress/Bartender	The Red Rose Inn and Tavern
Waitress	Fen Shai
Customer Service Rep.	Wendy's
Hostess	Proprietor's Green
Flight attendant	Jet Blue Airlines
Customer Service	Dunkin Donuts
<b>Retail/Sales/Telemarketing</b>	
Teller	Citizen's Bank
Customer Service	Job Lot
Customer Service Rep	Wal-Mart
Customer Service	Dollar Tree
Customer Service Rep.	Hyde Park Savings
Customer Service	Target
Customer Service Rep.	Burke Distributors
Call Center Rep.	Basement Technologies
Customer Service/Sales	Dots
Customer Service Assoc.	Walgreen's
Merchandiser	Savers
Clerk 3rd Position	Supervalu Companies & Albertsons, LLC
Sales	South Shore Auto Lines
Customer Service	Dots
Cashier	Save A Lot
Customer Service Rep.	Best Buy



MOA Placements in Child Care/ Education,  
Manufacturing/Transportation/Security/Manual Labor/Custodial,  
Restaurant/Hospitality Services, Retail/Sales/Telemarketing

Data Entry	L&M Bargain
Customer Service	Boston Apparel
Self-employed	Mary Kay - Independent Consultant
Customer Service/Data Entry	Metro PCS
Office Admin/ Pro Shop Coordinator	Southers Marsh Golf Course
Customer Service	A.J. Wright
Customer Service	BJs
Check-out Service Assoc.	Sears Holding Co.
Recruiter	Cunningham Marketing
Sales Clerk	Eaton Apothecary
Customer Service	Hannaford's Foods
Telemarketer	Adecco Staffing
Independent Consultant	Avon
Mortgage Clerk	Mergis Group
Customer Service/Data Entry	Specialty Catalogue Corp.
Customer Service Representative	Trucchi's Market
Sales Associate	Macy's
Independent Sales Person	Vector
Office Associate	Home Depot

**OP Medical Placements in Child Care/ Education,  
Manufacturing/Transportation/Security/Manual Labor/Custodial,  
Restaurant/Hospitality Services, Retail/Sales/Telemarketing**

<b>Job Title</b>	<b>Employer</b>
<b>Child Care/Education</b>	
Day Care provider	Florine Toussant - Flowing Daycare
Self-Employed	Mildred Aponte
Assistant Teacher	Brockton Day Nursery
Appointment Setter	Sullivan and Cogliano
Job Developer	Sullivan and Cogliano
Teacher's Aid	South Bay Early Intervention
<b>Manufacturing/Transportation/Security/Manual Labor/Custodial</b>	
Department Head	Lehi Sheet Metal
Security	Gillette Stadium
Handler	FedEx Express
Housekeeping Supervisor	Resorts Casino
Driver	His dad's cab company
Rooting Coordinator	YCN Transportation
Driver	VHS Transportation
Special Task	Direct Tech Northeast
Craft Worker Skilled	Wal-Mart
Driver	Ceng's House
Security	Securitas
Housekeeper	West Western Hotel
Driver	Rentals Unlimited
Machine Operator	Manpower
Custodian	Brockton Housing Authority
<b>Restaurant/Hospitality Services</b>	
Waitress	Christo's Restaurant
Food Services Registration	Brockton Food Services
Customer Service	Bridgewater State College
Counter Help	Kyrdino's Pizza and Calzones
Shift Supervisor	Papa Gino's
Service Worker	Friendly's
Customer Service	TGIF
Certified Aerobic Instructor	The Inn Fitness Club
<b>Retail/Sales/Telemarketing</b>	
Sales/Independent Rep.	Vector
Clerk	Stop & Shop
Customer Service	Dunkin Donuts
Customer Service	K Mart
Customer Service	Target
Customer Service	Walmart
Pricing Coordinator	Cumberland Farms
Cashier	Dunkin Donuts
Department Manager	Job Lot
Consultative Sales Trainee	Sear's Holding Company

OP Medical Placements in Child Care/ Education,  
Manufacturing/Transportation/Security/Manual Labor/Custodial,  
Restaurant/Hospitality Services, Retail/Sales/Telemarketing

Office Assistant	Bobs Discounts
Cashier	Sears
Customer Service	Subway and Walmart
Sales	Blue Wire
Manager	Lucky Brand
Customer Service	Sakoffs
Sales	Walmart
Cashier/Sales Rep.	Ann & Hope Curtain & Bath
Customer Service Rep.	Casual Male
Service Desk Associate	TJX Companies
Sales	Cutco Cutlery
Estimator	Home Depot
Merchandise Assoc.	TJ Maxx
Telecruiter	American Red Cross
Sales Associate Call Center	Specialty Catalogue
Customer Service	Dunkin Donuts/Mobil
Sales person	Work Out World
Service Assistant	Family Dollar
Clerk	Shaws
Assistant Manager	Team Spirit
Customer Service	Burger King
Customer Service	Wal-Mart
Customer Service	Dunkin Donuts
Customer Service	Dunkin Donuts
Client Development	Safeguard
Crew Member	Classie Canines
Sales Cashier	Aunt Annie's Pretzels
Telemarketing Associate	Specialty Catalogue Corp
Clerk	Shaws
Shift Supervisor	CVS Pharmacy
Sales Associate	Christmas Tree Shops
Salesperson	Toyota

SEAL  
SEAL

## COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SUPERIOR COURT  
CIVIL ACTION NO. 13-0357B

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

SULLIVAN & COGLIANO TRAINING  
CENTERS, INC.,

Defendant.

**FINAL JUDGMENT BY CONSENT**

Whereas Plaintiff, Commonwealth of Massachusetts (the "Commonwealth"), by and through its Attorney General, Martha Coakley, filed its Complaint on April 3, 2013, in the above-captioned matter pursuant to G.L. c. 93A, § 4, alleging that Defendant, Sullivan & Cogliano Training Centers, Inc. ("S&C") committed unfair or deceptive acts or practices in violation of c. 93A, section 2;

Whereas the Complaint was served on S&C on April 16, 2013;

Whereas the Answer was filed by S&C on May 24, 2013;

Whereas the parties have agreed to resolve this matter in accordance with this Final Judgment by Consent ("Final Judgment");

Whereas S&C has consented to the entry of this Final Judgment, waiving any right to appeal and without trial or adjudication of any issue of fact or law;

Whereas S&C acknowledges that this Court has subject matter jurisdiction and personal jurisdiction over S&C, and that venue is proper in this Court;

Whereas the Commonwealth acknowledges that S&C has cooperated with the Commonwealth's investigation;

Whereas, S&C denies liability for any and all allegations and claims set forth in the Complaint; and

Whereas nothing in this Final Judgment constitutes an admission, declaration or other evidence of the rights or liabilities of any person or entity, except with respect to the terms provided in this Final Judgment.

NOW THEREFORE, upon consent of S&C, the Court finding there is good and sufficient cause to enter this Final Judgment, and there being no just reason for delay:

- I. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court has jurisdiction over the subject matter and the Commonwealth and S&C. Venue in this Court is proper under G.L. c. 233, section 5. The Attorney General is authorized to bring this action under G.L. c. 93A, section 4.
- II. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that S&C shall make the following disclosures to Massachusetts consumers and prospective students (i) on S&C's website on a webpage that potential customers must pass through before obtaining information applicable to any Massachusetts-based S&C program and (ii) in writing to all Massachusetts prospective students at least 1 day prior to entering into an enrollment agreement with the prospective student and (iii) in all Massachusetts advertisements or solicitations that refer to any of the topics identified in subsections IIA, IIB, IIC and IID. Disclosures on



S&C's Massachusetts website shall be clear and conspicuous as defined by 940 CMR section 6.01. Disclosures provided in writing or electronically to consumers shall be contained separately and entitled "Required Disclosures", and shall be double-spaced, upper case, and in 12 point type, signed and dated in the student's hand, with copies to be provided to the student and retained by S&C.

- A. *Nature of training program.* STUDENTS WORK INDIVIDUALLY AT THEIR OWN PACE ON A COMPUTER. SCHOOL INSTRUCTORS ARE AVAILABLE TO ANSWER QUESTIONS.
- B. *Content of training program.* SULLIVAN AND COGLIANO TRAINING CENTER'S MEDICAL OFFICE ASSISTANT AND OFFICE PROFESSIONAL PROGRAMS DO NOT INCLUDE A CLINICAL COMPONENT AND DO NOT PREPARE STUDENTS TO BECOME MEDICAL CLINICAL ASSISTANTS. S&C shall not, in Massachusetts, advertise or market to prospective students or the public, whether in writing or orally, that any of its programs prepares students to become medical clinical assistants, and shall not use clinical medical imagery, including but not limited to stethoscopes and scrubs, in its Massachusetts advertisements or marketing for any non-clinical medical training program.
- C. *Completion time.* For all of its Massachusetts programs, S&C shall disclose the minimum time required for all students to complete the program in the prior reporting year of July 1st to June 30th.

1. *Placement.* For each of its Massachusetts programs, S&C shall disclose the percentage of students who obtain employment in their field of study or related field as provided by The Council on Occupational Education (“COE”), following completion of their S&C program. The percentages shall exclude students who obtain temporary employment positions which shall mean positions which at the outset are not expected to last 30 days or more.
2. In calculating the placement percentages for its Massachusetts programs, S&C shall not include the following positions: waitress or waiter; restaurant host or hostess; childcare provider; home health aide; custodian; security guard; or jobs not primarily requiring the use of a computer in housekeeping, laundry, labor, retail, food service, transportation, or manufacturing.
3. S&C will cease enrolling its students in Massachusetts into the Medical Office Assistant Program and the Office Professional – Medical Concentration Program. The S&C Website will clearly disclose that the above-referenced programs with medical concentrations are not available in Massachusetts. S&C will not advertise or promote to Massachusetts residents any program related to the preparation of students as clinical medical assistants.
4. In calculating placement statistics, S&C shall include only those placements for which it has obtained verification. Such verification shall be provided to the Attorney General’s office together with (a) the



name, address, and telephone number of the students whose employment has been verified, and (b) data sufficient to substantiate the truthfulness of the placement percentages, within ten (10) days of any written request by the Attorney General's office. S&C shall make the underlying data or employment statistics substantiating the truthfulness of the placement percentages available to students for inspection.

*D. Placement services.*

1. Unless S&C has entered into an agreement with an employer under which the employer is required to provide employment to S&C's students, S&C shall disclose that SULLIVAN AND COGLIANO TRAINING CENTER HAS NO EXISTING AGREEMENT WITH EMPLOYERS TO PROVIDE JOBS TO STUDENTS.
2. Unless S&C obtains non-public job leads from an employer, S&C shall disclose that THE JOB LISTING FOR THIS POSITION IS PROVIDED BY SULLIVAN AND COGLIANO TRAINING CENTER'S PLACEMENT EMPLOYEES AND IS COMPILED FROM PUBLIC SOURCES.

III. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that if S&C includes an internship requirement in any of its programs, S&C shall ensure that all students receive internships (at locations other than S&C's school or its affiliates) that provide training in their fields of study.

IV. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that if S&C offers certification tests from NCCT, Certiport, or other vendors utilized for

any of its classes in the tuition fee for the class or program, S&C shall disclose that fact (i) on S&C's website and (ii) in writing to all prospective students at least 1 day prior to entering into an enrollment agreement with the prospective student. If S&C includes test fees as a component of the total cost of any program or collects such test fees as a separate charge, S&C shall not charge more for test fees than the actual cost of the test charged by the vendors.

Students taking no certification tests shall pay no test fees.

- V. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that S&C shall pay to the Attorney General the sum of four hundred and twenty-five thousand dollars (\$425,000) to be paid within thirty (30) days of the entry of this Final Judgment. In the event S&C fails to comply with this payment obligation, (i) such failure to comply may be subject to civil contempt under paragraph XI below and (ii) paragraph IX below shall be null and void, and the plaintiff may refile the Complaint and pursue the claims set forth in the Complaint, and those claims will not be subject to res judicata or subject to a statute of limitations or other defense that was not available at the time the Complaint was originally filed (on April 3, 2013). The distribution of the payments made by S&C to consumers will be at the sole discretion of the Attorney General.

- VI. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that S&C shall provide, on request by the Attorney General, within a reasonable time but in no event exceeding thirty (30) days after such a request, documents sufficient to demonstrate S&C's compliance with the terms of this Final Judgment, including but not limited to documents sufficient to verify (i) that all required

disclosures have been made, and (ii) that the required placement and completion disclosures are true and accurate.

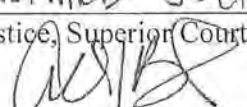
- VII. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the provisions of this Final Judgment shall apply to and are binding upon S&C, its officers, managers, agents, servants, employees, successors and assigns, and upon any persons or entities in active concert or participation with them.
- VIII. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that S&C shall deliver copies of the Final Judgment to each of its officers, managers, and placement and admissions employees in Massachusetts (the "Personnel"). For current Massachusetts personnel of S&C, delivery shall be made within fourteen (14) days of entry of the Final Judgment. Within ten (10) days of delivery, S&C shall provide a list which identifies each person who has been given a copy of this Final Judgment. For new Massachusetts Personnel of S&C, delivery shall occur prior to their assuming their responsibilities.
- IX. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Final Judgment resolves and settles the civil claims the Commonwealth asserts in its Complaint. It does not preclude other entities or private persons from asserting unrelated claims or issues against S&C, based on events that transpired before or after this Final Judgment.
- X. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court retains jurisdiction of this case pursuant to G.L. c. 93A § 4 for purposes of enforcing this Final Judgment and granting such further relief as the Court deems just and proper.



- XI. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any violation of the Final Judgment may be deemed civil contempt.
- XII. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that nothing herein shall prevent the parties from petitioning the Court for a modification of this Final Judgment in the event that amendments or changes in federal or state law, future changes in accreditation or other standards or otherwise unforeseen events, create a conflict with the mandated provisions of this Final Judgment.
- XIII. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that nothing in this Final Judgment shall relieve S&C of its duty to comply with all applicable provisions of law.
- XIV. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Final Judgment may not be changed, altered, or modified, except by further order of the Court.

SO ORDERED:

DATED: OCTOBER 28, 2013

RICHARD J. CHIN  
Justice, Superior Court  
  
ASSISTANT CLERK