Exploring programmatic issues which affect continuing legal education practice in Kansas

by

Holly B. Fisher

B.A., University of Maryland, 1991
M.S., Kansas State University, 2011

AN ABSTRACT OF A DISSERTATION

submitted in partial fulfillment of the requirements for the degree

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Abstract

As individuals, we rely on the expertise of professionals to help us navigate the complex problems of modern life in areas such as medicine, accounting, social work, teaching, and the law. Although each profession has its own unique knowledge base, lexicon, and culture, they all share the need to keep members' knowledge and skills current through continuing professional education. Driven by concerns like frequent law change, increasingly complex clients, and eroding public opinion, 46 states have instituted mandatory continuing legal education (MCLE) requirements for attorneys. The Kansas Continuing Legal Education (CLE) Commission administers MCLE in the state of Kansas by monitoring attorney compliance and accrediting CLE programs.

In this study, the researcher used a mixed-methods approach to evaluate two existing data sets--survey outputs and focus groups transcripts--that were captured during the Kansas CLE Commission's Education Initiative. The 260 CLE providers completing the survey and 22 focus group members varied demographically by structure (for-profit, nonprofit) and size (number of employees or course offerings). Using quantitative statistical tools and qualitative grounded theory methods, the researcher identified the current program planning and design, delivery, and evaluation practices of CLE providers in Kansas and evaluated these practices against best practices for any learning effort, as established by CPE research and theory.

Study findings indicated that most Kansas providers plan, deliver, and evaluate CLE programs using more traditional, didactic, update-oriented approaches. Most participants reported CLE curricula that were focused on keeping attorneys up-to-date, delivering classes in traditional formats using speaker presentations, and evaluating programs with Level 1 reaction methods. Only some evidence existed of providers determining attorney needs using methods

such as competency models or performance evaluations, refining course delivery according to learning styles, or evaluating programs at higher levels. Still, evidence was found of providers using creative ways to incorporate some best practices into their programs, such as partnering with the other stakeholders in the Kansas MCLE space (attendees, employers, and regulators) to plan and evaluate programs. Similarly, some providers are finding new ways to incorporate more interactive learning methods into their classrooms such as discussion groups, Q&A sessions, panels, mock trials, and networking.

This research also provided important insights into the contextual realities and limitations that influence MCLE provider capabilities, priorities, or choices. Cultural norms of the legal profession such as a preference for traditional educational experiences, fierce opposition to any form of testing, and a focus on billable hours affect which best practices the providers are able to implement. Likewise, the diversity that exists across learning events, law practices, and providers in this space creates challenges to implementing new practices consistently across all programs. Finally, the fragmented, multistakeholder ownership of all Kansas MCLE processes means that providers alone are not able to implement fully the recommended best practices without the help of employer partners. This study added to the general body of knowledge concerning CLE programs with contemporary research, a new focus on providers as the source of data, and a context-specific assessment of current best practices application.

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Dedication

I would like to dedicate this dissertation to my husband, Mike, and my daughter, Katrina, without whose support and patience I could not have completed this effort. Also, thank you to my parents, Judy and Dan, who assured me from my earliest years that there was nothing I could not do or accomplish if I put my mind to it. Finally, my sincerest thanks go to Frank Spikes who patiently and expertly lead me through this journey.

Chapter 1 - Introduction

Chapter 1 provides background information on the history, programs, processes, and stakeholders related to mandatory continuing legal education (MCLE) of attorneys licensed to practice law in the state of Kansas. This chapter also includes the problem statement; statement of purpose; the research questions proposed to guide the research; and a summary of the methodology for the study with its significance, limitations, and assumptions.

Background

As individuals, we rely on the expertise of professionals to help us navigate complex problems in areas such as medicine, accounting, social work, teaching, and the law (Bierema, 2016; Cervero, 1992; Houle, 1980; Schön, 1983; Van Loo & Rocco, 2006; Young, 1998). In fact, professionals might account for 25%–50% of the workforce (Cervero, 1988; Cervero & Daley, 2016). Working definitions of the term "professional" typically include a few common characteristics. First, professionals are expected to have a deep knowledge of the theory, literature, research, and terminology within their area of practice, coupled with the training, skills, and practical experience to apply this knowledge to the specific case of a given client (Cervero, 1988, 1992; Daley, 2001; Houle, 1980; Nowlen, 1988; Queeney, 2000). Another unique quality of professionals is their preeminence over their clients who do not have access to this same set of knowledge and experience, thus, making the clients dependent upon another to act in their stead on a given problem (Argyris & Schön, 1974; Bowman, 2005; Van Loo & Rocco, 2006). Authors vary in their views about the nature of this relationship, ranging from professionals as the defenders of the less capable to professionals as unchecked authoritarians with insufficient controls to ensure fair treatment of their clients (Bowman, 2005; Cervero, 1988; Houle, 1980). Finally, in almost every instance, the process for becoming a professional requires

completing several years of specialized schooling in the area of practice; taking and passing some form of qualifying test; and maintaining knowledge as new information, practices, tools, rules, or issues emerge (Cervero & Daley, 2016; Houle, 1980; Isopahkala-Bouret, 2015; Pijanowski, 1998; Schein & The Carnegie Commission on Higher Education, 1972; Van Loo & Rocco, 2006). As Bowman (2005) explained, "The complex nature of our society dictates that professionals continue to learn to remain abreast of the ever-changing knowledge in their field of expertise" (p. 14). The continued maintenance of a professional's skills and knowledge base is known as continuing professional education (CPE), continuing medical education (CME), or CLE (American Bar Association, 1976; Cervero, 1988; Grigg, 1998).

Historical Evolution of Mandatory Continuing Legal Education

In many professions such as medicine, nursing, and teaching, regulatory requirements for annually obtaining a minimum numbers of continuing professional hours have been in place for some time. MCLE did not enter the realm of regulated professional education until the mid-1970s (American Bar Association, 1976; Harris, 2006). The first recognition of the need to refresh the knowledge of practicing attorneys began after World War II. With thousands of lawyers returning to practice after a lengthy absence in military service, it was quickly observed that they would need to be brought up to date on the changes to the law and court rulings that took place while they were away (Aliaga, 1995; Grigg, 1998; Harris, 2006; Podgers, 2012). By 1947, the American Bar Association and the American Law Institute combined as the ALI–ABA to provide structure and support to state continuing legal education efforts (Harris, 2006; Podgers, 2012).

The concept of making CLE mandatory did not become part of the dialogue within the field until the mid-1960s and early 1970s. Watergate and other scandals eroded public

confidence in the legal profession and called into the question the ethical standards of all practitioners. U.S. Supreme Court Chief Justice Warren Burger expressed concern on the increasing complexity of the legal system, the poor quality of advocacy, and the importance of post-law-school learning (Burger, 1973). He argued that, regardless of system, it is "the fundamental fact that how lawyers are trained—during and after law school—will determine their skills as advocates and ultimately the quality of our justice" (Burger, 1973, para. 3). The Arden House II, III studies, published from 1958 through 1987, expanded the dialog on the importance of quality CLE to support attorneys continued development (ALI-ABA Committee on Continuing Professional Education, 1990; American Bar Association, 1976; Harris, 2006). In 1975, Minnesota and Iowa became the first states to make CLE mandatory (Aliaga, 1995; Harris, 2006, p. 2). By 1986, half of the states had established similar requirements (Harris, 2006, p. 2). In 1992, efforts to define the competent attorney were clarified in the American Bar Association's MacCrate Report, which delineated the skills and values required for effective practice of the law (American Bar Association, 1992; Bernhard, 2010, p. 837; Harris, 2006, p. 3). By 1993, 40 states had instituted MCLE programs (Harris, 2006, p. 3).

The result of these historical forces, ongoing research by professional legal associations, and a shared desire to address eroding public opinion of the profession is that a majority of attorneys are now required to complete annual continued legal education. Nationally, 46 states, including Kansas, presently have mandatory CLE requirements, as do three Canadian provinces (Continuing Legal Education Regulators Association, 2016). The American Bar Association's National Lawyer Population Survey reports that, in 2015, there were 1.3 million licensed attorneys in the United States (American Bar Association, 2016), nearly all of whom are required by state rule or statute to meet yearly CLE requirements.

CLE has been a requirement for attorneys in Kansas since 1985 (Continuing Legal Education Regulators Association, 2016; Kansas CLE Commission, 2016). Each year, Kansas attorneys must complete 12 hours of CLE to maintain their license to practice law in the state. Two of those hours must be related to topics concerning ethics and professionalism. Two additional hours may deal with various aspects of law practice management, such as making effective presentations, implementing useful team building strategies, and adopting new and advanced office technology initiatives. The remaining hours are typically related to specific areas of legal practice such as criminal, tax, or intellectual property law (Kansas CLE Commission, 2016, Rule 801, para. a).

Within the United States, the regulation of MCLE is done at the state level and each jurisdiction has its own unique set of rules to direct and govern the process. State structures vary along the number of hours required, the types of learning that is granted credit, and the time frame over which hours must be completed (Continuing Legal Education Regulators Association, 2016). For example, some states require 15 hours of MCLE every year, while others require that 30 hours be completed over 3 years (Continuing Legal Education Regulators Association, 2016). Likewise, some states set limits on the number of hours credited for in-house learning or delivered through online methods (Continuing Legal Education Regulators Association, 2016). Finally, many grant MCLE credit for pro bono work, teaching MCLE, and writing for law journals (Continuing Legal Education Regulators Association, 2016).

The states have also made their own choices regarding the organizational structure to administer MCLE. Some have a commission that reports to the state supreme court, as is the case in Kansas. Others house MCLE control within the state bar association, within other professional legal associations, or directly at the state supreme court.

The Kansas Continuing Legal Education Commission

The Kansas CLE Commission (2016) was established in 1985 with the purpose of administering the statutory rules, as established by the Kansas Supreme Court, regulating CLE delivery and participation. The commission's duties also include updating the requirements and rules as necessary, monitoring each attorney's compliance with the requirements, notifying attorneys of CLE status, accrediting courses, and working with providers of CLE. Rule 801, the statute that defines and guides the authority of the CLE Commission, stipulates the CLE Commission's tasks as:

> (1) accrediting providers and programs and determining the number of hours of CLE credit to be given for participating in a program, (2) granting or withdrawing approval of all or less than all programs of a provider, (3) receiving and considering reports of attorneys, (4) granting waivers and extensions of time to complete requirements, (5) giving notices and certifications required by these rules, and (6) adopting guidelines necessary to implement or administer these rules. (Kansas Continuing Legal Education Commission, 2016, Rule 803, para a)

Execution of this rule is the responsibility of the Kansas CLE Commission Board of Directors, a full-time executive director, and two additional full-time employees under the direction of the Kansas Supreme Court. The Kansas CLE Commission Board is made up of nine members including attorneys, law professors, and educators. A justice of the Kansas Supreme Court serves as a liaison to the commission. Members meet quarterly and serve a 3-year term. It is the responsibility of the board to grant approval for CLE providers and specific programs, vote on reports and waiver or extension requests from attorneys, and adopt new or change the guidelines required to administer the current rules. The executive director manages the day-to-day activities of the commission's staff, including tracking attorney compliance; accrediting

providers and courses; and distributing information on rules, course offerings, forms, and transcripts.

Annually the Kansas CLE Commission interacts with the approximately 11,000 attorneys who are licensed to practice in the state and mandated to complete CLE hours and some 700 providers of CLE courses. Great diversity exists among lawyers in Kansas with respect to years of practice, area of expertise, and size of practice, which ranges from solo practitioners to large international law firms. Likewise, program providers vary greatly in size, from a CLE-focused staff of one or two individuals, to dozens of full-time learning professionals. Some of these organizations deliver only a few courses a year, while others offer hundreds of in-person and online selections. Providers also vary in their structure with some being for-profit, privately held entities, similar to national learning-delivery companies and law firms, with others being nonprofit, public organizations, similar to bar associations or law schools.

Although it is not directly involved in the planning, design, development, and delivery of CLE courses, the Kansas CLE Commission does influence these activities through the development and promulgation of the rules and program approval guidelines that govern these practices. Each quarter the commission reviews hundreds of applications from CLE providers for program offerings to ensure timely, quality content, and regulatory compliance. For example, to be approved for CLE credit, each program

> must have significant intellectual or practical content designed to promote lawyer competence, [using] high quality, readable, useful, and carefully prepared instructional materials, [and be, presented by] a person or persons qualified by practical or academic experience to present the subject. (Kansas CLE Commission, 2016, Rule 804, para g)

In addition, the commission has established a website for providers and attorneys with online access to forms, rules, course offerings, frequently asked questions, useful links, and *MyKSCLE*,

an online tool for attorney's to review and maintain their transcript and compliance status. The commission has also offered several presenter and provider workshops designed to enhance CLE instructor skills and, therefore, the classroom experience of the attorneys.

Both the providers and the Kansas CLE Commission play a role in collecting feedback on courses delivered to capture results and adjust programs as indicated. It is a requirement of the Kansas rule that CLE courses conduct a postevent evaluation. An acceptable option for this requirement is a course evaluation form (paper or electronic) that captures attorney feedback at the immediate conclusion of the class on topics such as "quality, effectiveness, and usefulness of the program" (Kansas CLE Commission, 2016, Rule 805(e)). There is no "closed loop" for this requirement in which the commission receives verification of the evaluation completion or reports on the results. However, for some CLE courses, completion of the evaluation is a requirement to receive credit for attendance and is controlled by the providers. Most of these postcourse evaluations are designed to receive information on areas for improvement on such topics as content quality, instructor delivery skills, support materials, or class logistics.

The Education Initiative

In 2014, the Kansas CLE Commission launched its Education Initiative. The primary purpose of this project was to develop an evidence-based understanding of best practices, expert opinion, existing research, and program evaluation data. The Commission Board was seeking to develop a deeper and more useful long-term understanding of the impact that MCLE has on the practice of law in the state and to improve continuously the delivery of such instruction in the future. The question for the commission remained, "How do we know whether CLE improves an attorney's ability to practice law?" Although the question was critically important, it was difficult to answer. Likewise, there was little research-based evidence, information to draw upon

from CLE best practices, or measured tools related to the effectiveness of CLE programs for improving the practice of the law in Kansas or any other state.

Accordingly, the ultimate purpose of the Education Initiative was to develop an evidence-based understanding of best practices, expert opinion, existing research data, and current program evaluation data to investigate three overriding, broad, and complex questions:

- How could the Kansas CLE Commission assist CLE providers in improving the quality and effectiveness of their offerings for Kansas attorneys?

- How could the Kansas CLE Commission know whether the material that providers teach attorneys helps them improve the practice of the law?

- How could the overall CLE experience for Kansas attorneys, who regularly and in a timely fashion complete their requirements and find value in the process, be improved?

Using a mixed-methods research approach, the Education Initiative began in the fall of 2013 with a best practices review, a pilot provider survey, and pilot focus group. This was followed by a survey of all providers in 2015 and several focus group sessions running until early 2016. These data gathering tools are described in detail in Chapter 3 of this document, the outputs of which served as the existing data set for this study.

The author–researcher for this dissertation and the researcher's major professor served as consultants on the Education Initiative. In this role, they worked with the Kansas CLE Commission executive director, and the Kansas CLE Commission Board and staff on project planning, tool development, data collection, and early analysis and results reporting.

Rationale for the Study

The investment required to conduct, attend, and administer CLE is significant, requiring thousands of man-hours every year from attorneys, providers, and regulatory agencies (Harris, 2006; Mitchell, 2001; Rhode & Ricca, 2014). Attorneys or their employers incur not only course registration fees and travel expenses, but also the opportunity cost of lost client time and billable hours. Providers pay for their CLE staff that develop and sometimes deliver programs, along with the technical and logistical costs for course delivery. Regulators, tasked with the administration of MCLE rules, including course accreditation and attorney compliance tracking, must have a full-time staff to handle this effort. Some have estimated these costs at millions of dollars every year (Daley, 2001; Durkin, Schwartz, & Schwartz, 2014, p. 127; Mitchell, 2001). It was, therefore, important to determine whether MCLE programs in Kansas are designed and delivered following proven methods or techniques, as determined by the adult and continuing education discipline, to assess the likelihood of attorney learning transfer to practice. This analysis also enabled exploration of provider views on the possible benefits to the profession, its clients, and the public in general realized through these programs as contrasted with the costs incurred.

Statement of the Problem

In a review of the literature, the researcher found a dearth of empirical research on the effectiveness of CLE programs and their probable impact on practice (ImP) (Armytage, 1995; Bliss et al., 2006; Friedman, 2010; Grigg, 1998; Grotelueschen, 1990; Harris, 2006; Moore, 1986; Ziegler & Kuhn, 2015). The research that does exist is dated or limited in scope. Neither is there evidence that CLE providers, commissions in other states, or not-for-profit organizations have much in the way of evidence, best practices, or tools related to the measurement of CLE's

impact on the practice of law (American Bar Association, 2016; Continuing Legal Education Regulators Association, 2016; Kansas Bar Association, 2016; Kansas CLE Commission, 2016). An in-depth, theoretical analysis of the data collected during the Education Initiative added to this body of knowledge by exploring those practices currently employed by Kansas providers in the planning, design, delivery, evaluation of MCLE programs. In addition, this data analysis provides insight into Kansas providers' views on the purpose and impact of MCLE programs on the practice of law in the state.

Statement of Purpose

The purpose of this research was to provide an evidence-based, context-specific understanding of the current practices of Kansas MCLE providers and to identify opportunities to apply adult and continuing education theory as a means of enhancing MCLE practices within the state. Using the data already collected through the Education Initiative provider survey and focus group sessions, the researcher identified common themes, relationships, and trends in the responses to provide a detailed understanding the current state of Kansas MCLE practice—including common provider practices and their views on the value of these programs. Then, response data was analyzed within the context of adult and continuing education best-practice theory to identify any current "best" practices that were worth propagating, as well as opportunities for improvement that would benefit all MCLE providers.

Research Questions

More specifically, with this purpose and scope in mind, the following detailed research questions guided this study:

1. What are the current program planning and design, delivery, and evaluation practices for MCLE of continuing legal education providers in Kansas?

2. How do these practices compare with best practices or proven theories and methods for any learning effort, as established by adult and continuing education research and theory?

Significance of the Study

Again, little empirical research is available on the long-term learning or job performance impact of CLE in Kansas or any other state. Therefore, this study added to the general body of knowledge concerning MCLE with contemporary research, a new focus on providers as the source of data, and the specific assessment of the application of adult and continuing education best practices in current practices. In addition, the researcher generated in this study findings or theories that suggest recommendations on methods, practices, and tools that Kansas CLE providers might use to improve the service they provide to attorneys in Kansas. Furthermore, in discussions with other CLE commissioners, the Kansas board members have learned that this is a subject of interest to many other MCLE organizations, even though they do not have research of their own. Therefore, the researcher provided in this study important insights about best practices in continuing legal or other professional education that could be helpful to the practice in multiple states and disciplines. Finally, this study could provide fodder for similar research efforts in other states, CLE efforts, and other CPE environments. For example, studies applying a similar method of CPE provider inquiry might be useful in vetting the tools that the Education Initiative used or in comparing the findings from other continued professional education settings.

Limitations of the Study

This research is limited to MCLE and the practice of law in Kansas. Although practices, tools, and research from other state CLE programs were reviewed where available, it was not in the scope of this study to evaluate programs or data sets from outside Kansas. Likewise, the

research population for the Education Initiative was limited to those providers that deliver CLE to Kansas attorneys. Although the survey and focus group targets included a diverse set of organizations, some of which provide CLE to attorneys from other states, for the purposes of the study, providers were asked to comment on their practices only as they related to Kansas CLE delivery. Therefore, although it is the researcher's hope that the findings of this analysis might prove helpful to other CLE commissions and providers or to continue education for other professions, extrapolation of the results beyond a Kansas CLE focus must be done with caution.

When launching the Education Initiative, the Kansas CLE Commission chose that surveys and interviews with attorneys in the state of Kansas would be out-of-scope for two reasons. First, given that the focus of the study was to capture best practices, they believed it would be unlikely that the attorneys themselves would have the adult education background or CLE delivery experience to provide informed commentary on these research questions. Second, as in any demanding profession, the time constraints on attorneys' time are significant. Billable hours drive daily work effort, and unless attorneys could have demonstrated how their participation related to billable client work, it was unlikely that their organizations would have supported their taking time to complete surveys or focus groups within this program.

Asking the providers their views on the effectiveness of MCLE in Kansas was subject to respondent bias in a couple of ways. First, this industry is the providers' business and livelihood; therefore, they would be unlikely to say that their work has no value or view in the most positive light the impact of the information that their courses deliver. Second, providers are dependent on the Kansas CLE Commission because it decides which courses will be approved for CLE credit; therefore, it could affect the sales volume for a given provider's products in the state. This power imbalance might have given providers the incentive to rate MCLE in Kansas better than they

actually believed it should be rated. Nevertheless, these providers have frequent interaction with the attorneys and their leaders, which the commission does not have; therefore, the results from the Education Initiative will yet provide valuable insights.

Assumptions of the Study

The assumptions related to this study are four:

1. Study participants answered the Education Initiative survey and focus group questions sent by the Education Initiative honestly and to the best of their knowledge.

2. Reponses to the Education Initiative survey were only from participants targeted in the purposeful sample although they were encouraged to gather input from their coworkers.

3. There are no unaccounted-for variables that will influence the study's results.

4. The research methodology will not significantly affect the study's results.

Definitions

The following definitions will be used for the purposes of this study.

▪ Attorney: "A person legally appointed or empowered to act for another; a lawyer qualified to represent clients in legal proceeding" (Dictionary.com).

▪ Bar association: A professional organization, established to promote the interests of the legal profession and the skills of it members such as lawyers, judges, law students, and paralegals (Kansas Bar Association, 2016).

▪ Compliance: Indicates an attorney's status, relative to CLE requirements, with the regulatory body for the state in which he or she practices the law and is considered a member of the governing bar association.

- Continuing legal education: "A legal educational program, course, or activity designed to maintain or improve the professional competency of practicing attorneys" (Kansas CLE Commission, 2016, Rule 802, para. e).

- Employer (of attorneys): Any entity that employs attorneys in the use and application of their legal expertise, such as law firms, government agencies, corporations, and solo practices.

- MCLE: Programs established by each jurisdiction or state that "establish minimum requirements for continuing legal education necessary to remain authorized to practice law"(Kansas CLE Commission, 2016).

- Professionalism: "Conduct consistent with the tenets of the legal profession by which a lawyer demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and unrepresented parties" (Kansas CLE Commission, 2016, Rule 802, para. l).

- Provider: An organization that designs, develops, and delivers CLE programs to attorneys, such as professional teaching and learning companies, bar associations, in-house training groups, and law schools.

- Regulator: Organizations designated by legal jurisdiction for the administration and governance of MCLE programs, such as commissions, bar associations, or courts.

- Sections: "Specialty groups that focus on a unique area of law or business—allowing for more in-depth examination of issues, regulations, and national trends" (American Bar Association, 2016).

- Statutory rules: "The rules Relating to Continuing Legal Education, together with any amendments thereto, adopted by the Kansas Supreme Court…[which] were adopted to assure that lawyers admitted to practice in the state of Kansas maintain the requisite knowledge and skill necessary to fulfill their professional responsibilities" (Kansas CLE Commission, 2016, Rule 801, para. m).

- Traditional or nontraditional CLE: Terms used to differentiate between courses that are taught through in-person, on-site sessions (e.g., lecture series) versus those delivered via asynchronous formats (e.g., online, webinars, telephonic).

Summary

In this chapter, the researcher provided background information on the study with an overview of CLE history, programs, processes, and players broadly and within the state of Kansas. Sections describing the rationale for the study; the statements of problem and purpose, proposed research questions; and the significance, limitations, and assumptions of the study were also provided. In addition, in Chapter 1, the researcher defined the key terms that are used for the purposes of this study. In Chapter 2, the researcher will review the literature that is relevant to the study, and, in Chapter 3, the researcher will describe the methodology that was used in this study.

Chapter 2 - Literature Review

The literature reviewed on the topic of CLE, and more broadly on learning in the professions, is discussed in this chapter. It includes four sections: (a) the state of contemporary research on CLE, (b) relevant research on other professions' continuing education, (c) nonresearch literature about CLE, and (d) the theoretical models and approaches that will serve as the basis of the methods and analysis in this study. The chapter ends with a brief summary.

State of Contemporary Research on Continuing Legal Education

In a review of the literature, the researcher found a dearth of recent empirical research on the subject of CLE. The few studies that do exist include both quantitative and qualitative research, but were focused on a specific location, learning format, or sample population. Therefore, their usefulness in providing a context or guidance for this study was somewhat limited. Four contemporary and three older studies were discovered that looked broadly CLE. Two additional research studies were found on attorney learning within a law firm.

Contemporary Research on CLE

Ziegler and Kuhn (2015) conducted the most recent study, which used a quantitative approach to determine whether the number of attorney disciplinary cases within a given state had changed after mandatory CLE was enacted. Ziegler and Kuhn (2015) based their study design on a definition of attorney competence that Kehr (2002) argued in which competence was determine using three standards: (a) malpractice, (b) breach of fiduciary duty, and (c) attorney discipline. Ziegler and Kuhn (2015) compared three attorney disciplinary measures: complaints, docketed cases, and sanctions from five states between the years 2000 and 2010. Data were available from

Maine, Illinois, Alaska, Hawaii, and New Jersey because those states had recently made CLE mandatory and publicly shared disciplinary case statistics. Looking at the average number of cases per attorney, 3 years before the implementation of MCLE and 3 years after, Ziegler and Kuhn (2015) found some evidence of a decrease in the disciplinary actions. Specifically, complaints per active attorney averages decreased in three of five states, docketed cases decreased in five of five, and public disciplinary sanctions decreased in three of five. It is important to note that the quantity of changes in complaints and disciplinary sanctions was not found to be statistically significant, only those statistics for docketed cases (Ziegler & Kuhn, 2015).

Although limited in scope and statistically significant findings, Ziegler and Kuhn (2015) supported the rationale for this new research. If a link exists between MCLE and attorney competence, evaluating current provider practice in Kansas to guide future program improvement is a worthwhile pursuit. Ziegler and Kuhn also provided guidance to the recommendations that might be made using this research, guidance that was specifically related to relevant metrics in MCLE evaluation efforts.

Bichelmeyer (2006) too conducted a somewhat-recent qualitative study on informal interviews with 13 attorneys from nine states (including Kansas) to explore their views on and experiences with CLE. Bichelmeyer (2006) findings led to a description of the "typical CLE experience"—beginning with the attorney (a) looking for a topic that fits his or her needs, (b) signing up and paying course fees, (c) traveling to the location, (d) receiving a big notebook at sign in, (e) watching speakers who cover notebook content, and (f) perhaps participating in a question and answer (Q&A) session (p. 372). Therefore, Bichelmeyer (2006) argued that most CLE courses are "informational," not "educational" (p. 372). The participants identified several

positive aspects of CLE, including (a) topics are work appropriate, (b) good variety of topics are offered, (c) course notebooks are helpful resources, (d) presenters are highly knowledgeable, and (e) the networking opportunities provided are appreciated. In contrast, the participants reported negatives of CLE, including (a) varied quality dependent on the presenter; (b) a lack of interaction during the course (attorneys seeking more case study, application activities, and problem solving); and (c) the expense.

According to the findings, Bichelmeyer (2006) made several suggestions for incorporating high-quality adult education practices in to CLE programs, for example, student–instructor interaction, cooperation among students, active learning, setting high expectations of learning, providing prompt feedback, and respecting the diverse talents of adults. Bichelmeyer also proposed specific actions for attorneys, CLE providers, and regulators to ensure the best use and application of e-learning platforms.

Although the Bichelmeyer (2006) study was limited to the experiences of 13 attorneys, commonalities might also exist among CLE practices and experiences across programs delivered within the state of Kansas. Thus, it was possible to compare the positive and negative characteristics of the CLE uncovered in Bichelmeyer's research with the characteristics that were uncovered for Kansas programs.

The third source of empirical data came from the Tennessee Commission on Continuing Legal Education (TCCLE; 2006) . This report described the results of a 2006 survey of 143 Tennessee attorneys who were asked their views about MCLE. The TCCLE repeated a survey that had been conducted in 1991 and 1999 in Tennessee and in four other states (Georgia, Minnesota, Texas, and Washington) in 1991. The results across all distributions were compared. In the survey, the TCCLE asked attorneys their views on topics such as the impact of course

attendance on their own or other attorneys' competence, the quality of presentation, and the appropriateness of the hours of MCLE required.

The TCCLE (2006) found that 86% of respondents felt that CLE attendance had improved their competence, 98% said that courses were well presented, and 79% believed that MCLE would raise the level of attorney competence in the state. In addition, 85% of the attorneys who participated felt that the program should be continued, and about three-fourths of them responded that the number of hours that were required were about right or too few. These results were similar to the findings of 1991 and 1999 and to the findings of the other four states in 1991 (Tennessee Commission on Continuing Legal Education, 2006).

Although the TCCLE (2006) queried attorneys, this researcher used data gathered by surveying and interviewing CLE providers. Nevertheless, the TCCLE provides useful background on the attitudes about MCLE of attorney learners in another state.

Finally, in a qualitative study, Daley (2001) investigated how "knowledge becomes meaningful in professional practice" (p. 39). Daley conducted 80 semistructured interviews with social workers, lawyers, adult educators, and nurses who had attended CPE training in the 9–24 months prior to the study. The 20 attorneys that Daley interviewed came from a mix of solo practices, small firms of three or fewer individuals, and large firms. Daley (2001) interviewed the participants to determine "what they had learned or not learned, how they did or did not incorporate that information into their practice, and what aspects of their practice they considered significant in fostering learning" (p. 43).

According to Daley (2001), a significant finding of the study was that "the process of making meaning from the knowledge presented at CPE programs was framed for each profession by the nature of its professional work" (p. 44). For the legal profession, the attorneys whom

Daley interviewed viewed CLE has a method to keep up-to-date on changes in the law and to prepare for new client cases (p. 45). They also use their continuing professional education to expand their practice into new areas of the law. Lastly, these attorneys explained to Daley (2001) that "their practice demanded a very logical and linear thought process, and as such, they used CPE as a mechanism to support that thought process for their practice" (p. 45).

Daley (2001) also indicated that meaning making for all the professionals queried was often a result of emotional encounters with clients, particular when these interactions challenge their prior knowledge, beliefs, or assumptions (p. 48). Daley (2001) interviewees described their professional knowledge as constantly changing and that "experiences, attendance at CPE programs, and dialogue with colleagues all contributed to the continual growth and refinement of meaningful knowledge" (p. 50). As a result, Daley (2001) argued that implementing knew knowledge into practice is a "recursive, transforming process, rather than a simple, straightforward transfer of information from one context to another" (p. 50). Therefore, Daley (2001) recommended that CPE program providers move beyond the information transmission model and become "more creative in employing teaching and learning strategies to foster this complicated meaning-making process" (p. 52).

Daley (2001) provided useful insight into the types of knowledge and meaning making that some lawyers seek through CLE attendance. Evidence of similar intent was sought in the Education Initiative data. In addition, the view that Daley (2001) presented—that practice change in the professions is a recursive, transformative process triggered by emotional client challenges or new information—was helpful grounding for this researcher's project. The review of the current Kansas CLE provider practices included a search for evidence of creative techniques to foster meaning making among attorney learners.

Older Studies on Continuing Legal Education

In two additional, but much older studies, attorneys were surveyed for their attitudes about MCLE. The results of these surveys indicated that the attorneys found that CLE was helpful, but they were generally not in favor of making it mandatory. First, in a survey of 444 practicing Texas attorneys, Moore (1986) found that they supported voluntary continued legal education, but not making it mandatory. Nearly all (90+%) of the attorneys believed that CLE improves competency, increases knowledge, and influences public perception on the profession. However, 58% said they gained as much useful information from informal learning as from formal CLE. Also, 69% replied that CLE attendance should only be voluntary. In addition, 48% felt that MCLE would limit one's freedom to choose among programs, 46% did not believe that MCLE would significantly improve lawyer competency, and only 42% believed that MCLE would increase public confidence in attorneys (Moore, 1986). In the second study, Fukuda (1980) surveyed and interviewed over 60 public defenders in Los Angeles County, California. Fukudo gathered information on several topics to determine the design elements for a planned public defenders CLE program. Fukudo found that 75% of the respondents were supportive of a CLE program within the Public Defender Office and 95% were supportive of a formalized education program for new public defenders. However, the results were mixed when the attorneys were asked whether the presentations at education meetings that year had been good with 64% of them agreeing and 36% disagreeing. Finally, most of the attorneys who were interviewed said that attendance at meetings should not be mandatory (93%).

Although this researcher evaluated the providers' views on MCLE, not the attorneys' views, it was useful to discover whether the results would show similar attitudes towards the programs as those found in these other studies. More weight was given to the TCCLE's (2006)

study results in this comparison for two reasons. First, the Tennessee Commission on Continuing Legal Education (2006) followed attorney attitudes for several years; therefore, it might have provided trends that were more reliable. In addition, the Moore (1986) and (Fukuda, 1980) studies are now more than 30 years old and were conducted before CLE was made mandatory in those states. It is quite possible that attorneys' views would have changed, one way or another, over such a long time span and possibly much regulation change.

The third older source of MCLE research is a study that Katzman (1997) conducted, looking at why lawyers change and at the role of CLE and self-directed learning in adjusting to those changes. Replicating a previous study with physicians, Katzman focused on three research questions:

1. What changes have been made or have occurred in the lives and practices of lawyers during the past 3 years?

2. What factors caused or led to these changes?

3. Did learning play a role in the changes?

Interviews were conducted with 47 randomly selected lawyers in private practice in the District of Columbia. More than three-quarters (79%) of the changes that these attorneys reported involved learning. Most of these changes (62%) were structural (large and complex, e.g., changing firms), some changes (26%) were incremental (moderate, e.g., adding technology to an existing practice), and few changes (8%) were accommodations (small and simple, e.g., changes to billing procedures). Of the 100 changes that involved learning, 71 were accomplished through primarily deliberative methods, only 21 were accomplished through experiential learning, and 8 were through mixed methods. The majority of the resources used in this learning were informal (90+%), not formal. Some of the attorneys (28%) expressed positive opinions about making CLE

mandatory, but most did not (51%) or had mixed feelings about it (19%). Those who were opposed to MCLE said that it was a time burden, or was not specialized enough for their area of practice, or that they were concerned that making it obligatory would undermine attorneys' motivation to learn. Those in favor felt it would improve the quality of practice, add to professionalism, and allow the timely sharing of new law and information, especially to attorneys who had been out of law school for many years (Katzman, 1997).

Again, given that Katzman's (1997) queried attorneys, not providers of CLE, they study's relevance was somewhat limited for this new study. Nevertheless, the findings that showed the attorneys' reliance on more informal methods of learning was important when making recommendations from this analysis. The total space of CLE today still involves a combination of formal and informal components; therefore, any recommendations would need to be formulated with this multidimensional model in mind.

Research on In-House Continuing Legal Education

Two additional research studies were found on attorney learning that was delivered within law firms. Although this research effort covered more data on external CLE programs that providers delivered outside of law firms, some of the Educational Initiative survey and focus groups members were employed directly by large law firms. In addition, several sources included in-house learning in a holistic definition of CLE (ALI-ABA and ACLEA Continuing Professional Education Association for Continuing Legal Education, 2009; Classen, 2012; Durkin et al., 2014; New York State Bar Association Task Force on the Future of the Legal Profession, 2011). Finally, the rules for MCLE for Kansas allow attorneys to count some in-house training towards their annual hourly requirement; therefore, these studies were included in this literature review.

Friedman (2010) conducted the first in-house study, exploring "how large law firms approach formal training with respect to Cognitive Load Theory and the research on the development of expertise" (p. iv). Data were collected through three sources: (a) a survey of attorneys sent by the person within the firm in charge of training and development, (b) 30–40-minute interviews with the training professional in charge of in-house training for attorneys at each firm, and (c) a review of handouts from recent training sessions. The researcher was only able to get participation from two firms and 37 responses to the survey, only some of which were completed substantively. Freidman's findings indicated that training was delivered across all locations and to all attorneys, with over 100 courses conducted in a 6-month period. These courses included core training programs (usually directed by newer attorneys), specific practice area courses, and 3-day programs held at different stages in the attorneys' careers (e.g. 2nd year, 7th year). Furthermore, Friedman found that cognitive load was typically high with training delivered primarily via lecture and with interactivity in shorter sessions limited to a Q&A periods. Friedman also found some consideration of prior knowledge, particularly in course materials that alluded to law school concepts, but this decreased as the years of a lawyers experience increased. Friedman (2010) recommended that formal, in-house attorney trainers seek a greater understanding of prior knowledge to manage cognitive load and to increase deliberate practice "so that experiences can facilitate professional competence" (p. v).

In other research of attorney learning in firms, Hara (2001) conducted a qualitative study of a public defender's office formal and informal learning opportunities. Data were gathered over a 6-month period through three sources: (a) fieldwork such as observing daily work practices, shadowing attorneys, and attending trials; (b) interviews with nine different individuals at the firm both at the beginning and at the end of the fieldwork; and (c) a document review of

websites, newsletter, and trial proceedings. Hara reported mixed views on the value of formal CLE by this group of attorneys—some finding it useful and others not finding it worth the cost and lost client time. Hara also found examples of informal learning taking place with attorneys observing trials, discussing cases or opponents with their peers, and preparing for their own cases. Hara's (2001) revealed that these attorneys rely in part on "book knowledge" (p. 10) obtained through formal CLE and law school, but more on "practical knowledge" (p. 10) on topics gained only with practice experience, for example, judges' preferences, handling evidence, and facing juries. Hara (2001) concluded by recommending a community of practice for attorney learning as "not just a place for information exchange, but a scaffolding for converting book knowledge gained from formal learning to practical knowledge through informal learning" (p. 14).

Both of these studies draw attention to the importance of in-house attorney learning as a component of the total CLE structure. Analysis of the Kansas CLE Commission's Education Initiative data revealed common practices that occur solely within the attorney's working location and exposed the interplay between employers and other providers of CLE. Recommendations from this study also included commentary on the role of in-house learning.

Relevant Research on Continuing Education in Other Professions

Many authors in the field of CLE have argued that, although the professions are different in important ways, they are similar in how they address practitioner education. For example, Houle (1980) included 17 different careers in his list of professions and argued that value is found in looking across professions for good ideas on CPE. Houle (1980) wrote, "Certain dominant conceptions guide all of them as they turn to the task of educating their members and that they tend to use essentially the same kinds of facilities, techniques, and thought processes"

(p. 15). Schön (1983) explained that, regardless of a practitioner's specific area of expertise, some form of "professional–client" relationship is always present, although it can take on many names (p. 290). Cervero (1988), in Knox (2016) explained that the concept of CLE began in the late 1960s with the idea that "understanding of similarities and differences across the professions would yield a fresh exchange of ideas, practices, and solutions to common problems" (p. vii). A more in-depth discussion on the definitions, learning models, and challenges common across all professions are covered in a later section of this literature review. Given the limited quantity of scholarly research on CLE, along with these commonalities across all professions, some studies from other professions are also included in the literature review for this new research.

Research on Continuing Professional Education for Public Accountants

Grotelueschen (1990) conducted a particularly relevant study on the effectiveness of CPE for licensed, public accountants in the state of New York. Grotelueschen's study is cited in several legal journal articles (Katzman, 1997; Rhode & Ricca, 2014; Shearon, 2013), especially when addressing the question of the value of MCLE. The Kansas CLE Commission Board has also used Grotelueschen's (1990) study as a reference in its regulatory efforts. Therefore, it is appropriate to include it even if it is an older piece of research.

The focus of Grotelueschen's (1990) study for the New York State Board for Public Accountancy was to examine the "relationship between knowledge proficiency and participation in continuing education" (p. 3). In the longitudinal, 3-year study (1986–1989) with approximately 430 accountants, a variety of tools were used to measure the effectiveness of CPE for accountants in the state of New York. First, Grotelueschen (1990) used a 15-item "accounting assessment booklet" (p. 1) to assess professional knowledge in the content areas of taxation, accounting, and auditing. In addition, respondents were asked to rate their own ability to use

their knowledge of taxation in practice using a self-assessment survey. Finally, Grotelueschen collected sample attorney characteristics such as practice setting, years in practice, participation in CPE (hours), and attitudes about CPE, which were used in the data analysis. There were numerous findings of interest from Grotelueschen's (1990) study:

- Accountants with less than 25 hours of continuing education had significantly lower general knowledge proficiency scores than those with 65 or more hours.

- There were statistically significant differences for taxation or audit skills related to class hours in that given area.

- "Longitudinal analyses of public accountant knowledge proficiency indicate that improvement in accountants' knowledge occurred over a two-year period in which mandatory continuing education was in effect. This increase in knowledge proficiency was associated with an increase in participation in continuing accountancy education" (p. 12).

- 70% said courses were *meeting* their continuing education needs (4 or 5 rating out of 5) with another 27% answering *to an extent*.

- Nearly 70% said continuing education is a sound investment in the accountant's professional future.

- Nearly 70% said continuing education participation is important to the professions.

- About 59% said that continuing education has a positive effect on accountancy practice performance. Approximately 30% replied that it had a *somewhat* positive effect.

- Accountants who have fewer than five professionals in their firm where

  "proportionally more negative in their opinion regarding mandatory continuing

  education than accountants in larger-sized firms" (p. 23).

From these findings, Grotelueschen (1990) and the New York Mandatory Continuing

Education Study Committee came to several conclusions, the following of which are relevant to

this research study:

- Mandatory continuing education has consistently influenced the level of participation

  among all groups of accountants including those who are in greatest need of

  strengthening their knowledge proficiency.

- Under mandatory participation in continuing accountancy education, a consistent

  positive relationship was observed between level of participation in continuing

  education and improvement in accountants' knowledge proficiency.

- The impact of continuing accountancy education on knowledge proficiency is more

  efficient and effective when study is concentrated in a specific subject area.

- The increases in knowledge proficiency associated with increased levels of

  participation were also associated with positive opinions about, and attitude toward,

  continuing accountancy education.

- Continuing accountancy education (and its mandation [*sic*]) is generally valued by

  public-practice accountants in New York State and associated costs are seen as a

  reasonable investment for accountants and for the accountancy profession.

- If continuing accountancy education were not mandatory, about one-third of public-

  practice accountants would reduce their level of participation from current levels of

  participation. (Grotelueschen, 1990, pp. 24-25)

Grotelueschen's (1990) study is relevant to this research in several ways. First, the findings indicate evidence of a positive impact from continuing education on accountancy practice in New York State. These findings supported the rationale of this study, for it was not unreasonable to expect that this researcher might discover similar findings for Kansas attorneys, given the commonalities across professions. Second, if Grotelueschen concluded with the data analysis from this research that an assessment of attorney skills is needed, the tools Grotelueschen employed (both the booklet and the self-assessment survey) might have been adapted for this researcher's use. In addition, these conclusions about increased proficiency from a concentrated study on the topic guided recommendations regarding how CLE content is most likely to improve practice. Lastly, the finding that continuing education participation decreases when it is not mandated generated ideas regarding factors or measures that could be used in the assessment of the value of MCLE, especially around increased attorney participation.

In a more recent study on public accountants Chen, Chang, and Lee (2008) investigated the relationship between continuing professional education and the financial performance of public accounting firms in Taiwan. Chen et al. explained that CPE is mandatory for auditors in Taiwan, but the hourly requirement is much higher than is that of attorneys at 120 hours due every 3 years. Chen et al. (2008) also described a similar education model to that of attorneys, explaining that, "by virtue of preemployment formal academic education, continuing professional education . . . and experience accumulated by on-the-job training, independent auditors are qualified to perform audit work" (p. 1721).

Chen et al. (2008) used data from the *Survey Report of Public Accounting Firms in Taiwan from 1992–1995* because CPE and financial performance data were both collected over those years. Using univariate tests and a multiple-regression model, Chen et al. compared the

financial performance effects of CPE, differentiated by both training subject (partner and assistant) and training location (internal and external). The analysis also segmented the public accounting firms by size: big, medium, and small. Chen et al.'s findings indicated that both professional training of assistants and external professional training were positively related to financial performance in big-sized firms. Chen et al. also uncovered a significantly positive association between internal training of assistants and financial performance in every size of firm. Lastly, both external professional training of partners in big firms and external professional training of assistants in small firms were positively related to financial performance.

Chen et al. (2008) demonstrated a relationship between continuing education and financial performance of professional firms, at least in the public accountant field within Taiwan. Perhaps similar results would be found if access to similar financial results and education expense data were available on Kansas law firms. This type of research was a recommended as a next step in this dissertation. In addition, from Chen et al.'s study design and findings, it appeared that size of firm can affect continuing education results. Therefore, this researcher's approach of analyzing the data from the Kansas CLE Commission's Education Initiative along key provider characteristics (e.g., company structure, size, and number of CLE employees) was appropriate.

Research on Continuing Professional Education for Social Workers

In a professional education study with 230 licensed social workers, Bliss et al. (2006) conducted a cross-sectional survey to "examine participants self-perceived change in knowledge, attitude, and behavior (KAB) following formal and informal continuing professional education" (p. 465). As in the legal profession, continuing education for social workers is intended to ensure that current knowledge is disseminated, the public status of the profession is enhanced, and that

practitioners have the competency to adjust to new demands (p. 466). In addition, as with the law, continuing professional education is mandatory for licensed social workers. The National Association for Social Workers (2016) recommended that license practitioners complete 48 hours of CPE every 2 years, but that the state should manage specific requirements.

Bliss et al. (2006) used the application process framework (APF) model in which Cividin and Ottoson (1997) proposed that using CPE in practice is driven by predisposing, enabling, and reinforcing factors. Predisposing factors include personal traits or characteristics such as motivational orientations, age, and level of experience. Enabling factors are external factors such as access, resources, and freedom to act. Reinforcing factors are external to the professional and can be positive or negative influences such as funds availability or peer and supervisor support and expectations. The surveys used in the study included questions about several forms of CPE, including formal and informal formats.

The results of Bliss et al.'s (2006) study indicate that the largest impact on the application of CPE is the result of enabling factors, including access, resources, and opportunity for application. In addition, the reinforcing factor that most affects CPE application in practice is high supervisor expectations that professionals will apply their new learning back on the job, coupled with supervisor support to do so. Bliss et al. also found that social workers perceived greater change in practice from informal rather than formal CPE. Finally, Bliss et al. (2006) found that "higher motivational orientations towards professional advancement and professional knowledge were all related to greater perceived change in KAB of formal CPE" (p. 472).

From these findings, Bliss et al. (2006) argued that "change in KAB related to formal CPE is influenced by internal motivational orientations, along with active expectations on the part of agencies, distinct from more passive approaches such as providing time and resources"

(Bliss et al., 2006, p. 477). Furthermore, Bliss et al. (2006) proposed including CPE expectations in annual performance evaluations and suggested, "Agencies, supervisors, and educators should consider incorporating explicit expectations to apply new learning as part of both job descriptions and CPE instruction" (p. 478). Finally, the findings related to informal study led Bliss et al. to claim that "the development of mechanisms to recognize and regulate informal CPE through licensing requirements such as granting CEUs for consumption or mastery of knowledge that is in accordance with evidence-based standards, could contribute positively to the profession"

(p. 478).

Although conducted with a different profession, Bliss et al.'s (2006) study provided interesting insights for the design and analysis of this new research. For example, the importance of personal motivations and informal learning that was found in social work professionals was also found to be true with lawyers. In addition, an expanded view of CLE that also includes informal, self-directed learning was uncovered in the data analysis and was relevant in this researcher's final recommendations. Third, Bliss et al. stressed the importance of expectations and support for using new learning in practice, specifically, the critical role that supervisors play in driving this motivation. The role of attorney employers—whether in a law firm, corporation, or government agency—was also explored in this researcher's study and was considered in any proposed CLE practice improvement. Finally, the tools that Bliss et al. used to measure attorney views on CPE and their motivations to learn, although not appropriate to the provider audience of this research, were included in the suggestions for future research within this researcher's study.

Research on Continuing Medical Education

Finally, scholarly research on continuing education in the medical profession and its ImP are much more plentiful than research on CLE. For example, Marinopoulos and The Johns Hopkins University Evidence-based Practice Center (2007) reviewed 68,000 citations that were identified in a medical literature search, and selected 136 articles to review in their effort to understand the research evidence on CME. Marinopoulos and Johns Hopkins University (2007) explained that, "despite the broad range of continuing medical education (CME) offerings aimed at educating practicing physicians through the provision of up-to-date clinical information, physicians commonly overuse, under-use, and misuse therapeutic and diagnostic interventions" (p. 11). Yet, Marinopoulos and Johns Hopkins University (2007) found ample evidence that CME did have a positive impact on physician practice:

> The literature overall supported the concept that CME was effective, at least to some degree, in achieving and maintaining the objectives studied, including knowledge (22 of 28 studies), attitudes (22 of 26), skills (12 of 15), practice behavior (61 of 105), and clinical practice outcomes (14 of 33). (p. v)

Marinopoulos and Johns Hopkins University (2007) also found that "live media was more effective than print, multimedia was more effective than single media interventions, and multiple exposures were more effective than a single exposure" (p. v).

In addition, from the medical field are several research studies on continuing education for nurses. Many of these used a conceptual framework that Cervero (1986) developed to link CPE with practice improvement. This framework was used to assess the characteristics of four components: (a) individual professional/learner, (b) nature of the continuing education program, (c) nature of the proposed change, and (d) social system in which the professional practices (Cervero, Dimmock, & Rottet, 1986; Cervero & Rottet, 1984; Farrah & Graham, 2001).

Cervero and Rottet (1984) and Cervero et al. (1986) used this framework to assess the effectiveness of an in-house nursing orientation course both immediately after and 6 months postdelivery. Evaluation tools, including opinion surveys and quality assurance assessments aligned with course objectives, were used with nurses and their supervisors to evaluate 10 independent variables within these four components. Cervero et al. found that the framework explained 63% of the performance variation immediately postcourse and 57% after 6 months. Cervero et al. argued that these results supported their theory that CPE evaluation, based only on the program itself, was insufficient and would explain the varied results from research attempting to connect CPE with practice change. Cervero et al. (1986) stated, "The study provides evidence that the one-variable research model is inadequate for explaining the relationship between continuing education and performance" (p. 78) (Cervero et al., 1986 p. 78). Cervero and Rottet (1984) and Cervero et al. (1986) also found that the participants' attitudes towards nursing and their intent to implement the goals of the program were the strongest predictors of practice change. The attitude variable accounted for 25% of performance variance. Its importance was also revealed by the fact that those whom the supervisors identified as "laggards" did not perform on the assessment as well as those whom they identified as "innovators." Likewise, the nurses reported being highly likely to implement the changes performed better than those who said they were unlikely to do so. Interestingly, no difference in performance was found between those who rated the course well versus those who did not. From these findings, Cervero et al. (1986) recommended that the formal education system, informal learning system, administrative system, and evaluation system all reinforce one another to drive nursing performance (p. 84).

In another study using this framework, Farrah and Graham (2001) asked nurses to evaluate which continuing education elements were most likely to influence their nursing

practice. Using a tool called the Variables Influencing the Likelihood of Practice Change

Questionnaire (VILPCQ), which was derived from Cervero's (1986) framework, Farrah and

Graham (2001) found that items from all four categories were included in the top 12 results.

Farrah and Graham (2001) further found that "the natures of the proposed change and of the

social system variables were more dominant than were the nature of the continuing education

program and the nature of the learner variables" (p. 7). The top three items were (a) proposed

change potentially benefits the patient, (b) how strongly the nurse values the proposed change,

and (c) the change addresses a relevant practice problem. Farrah and Graham (2001), argued,

> For CE [continuing education] programs to be effective in promoting change, they must
> focus on valued practices that benefit the client, address relevant practice problems, and
> make professional work easier to accomplish. In addition, the proposed practice change
> must be obtainable, supported by colleagues and superiors, and consistent with the values
> and culture of the organization. (p. 10)

Farrah and Graham (2001) further stated, "The real challenge becomes securing full

participation from the administrators back in the work environment, both during the program-

planning phase and after the professionals return to the practice environment and begin to apply

what they learned" (pp. 10–11).

Lastly, a qualitative study that Clark, Draper, and Rogers (2015) conducted at three acute

and primary healthcare organizations identified the processes that "key stakeholders perceive to

be most important in facilitating a positive impact of CPE on practice" (p. 288). Semistructured

interviews with members of four stakeholder groups—students, managers, educators and

members of each organization's governing board—were conducted to identify the factors

participants viewed as most impactful to these processes.

In the first phase of their research, Clark et al. (2015) developed a framework tool to aid stakeholders in identifying the impact of CPE on practice. Clark et al.'s (2015) ImP framework "captures a temporal dimension of before, during and after participating in CPE" and includes four domains corresponding to the key stakeholders: (a) the individual learner, (b) the manager of the student, (c) the education provider, and (d) the organization in which the student works (p. 389). Rather than use this framework to focus on evaluating outcomes, Clark et al. (2015) discovered that understanding the processes that affect program planning, delivery, engagement, and application to practice were "fundamental in influencing the overall impact of CPE on practice" (p. 389).

The results from the stakeholder interviews indicated a positive organizational culture, effective stakeholder partnerships, and a supportive learning environment were viewed as essential for a positive impact from CPE on practice to occur. First, Clark et al. (2015) found that a supportive culture with "a strategic commitment to CPE at institutional level in healthcare organisations [*sic*] was recognised [*sic*] by managers and students as crucial in establishing an ethos where both organisational [*sic*] and individual needs come together" (p. 390). Tools such as personal development plans and training needs analyses were identified as methods for aligning individual and organizational goals. Second, the stakeholders in Clark et al.'s (2015) study stressed the importance of partnerships and what Clark et al. called "an understanding of each other's perspectives, aspirations and constraints" (p. 388) especially between educators who develop and deliver CPE and managers who sponsor and support their staff. Clark et al. (2015) explained how "the integration of service needs, education commissioning and the availability of relevant courses was regarded as essential for CPE to contribute to improved practice" (p. 391). Lastly, Clark et al. (2015) saw a supportive learning environment, both in the practice setting and

the educational environment as "central to establishing a culture and context where CPE can thrive and exert a positive influence on improving patient/service user experience and care" (p. 388). Managers and students alike described how the demands of clinical practice and a busy workplace could limit the support for or time they could allot to CPE application in practice, but described how resources and commitment from the workplace could aid in these efforts (p. 391).

The varied research on continuing professional education for physicians, nurses, and medical organization stakeholders provide important context for this researcher's study on CLE. First, these studies (Cervero et al., 1986; Cervero & Rottet, 1984; Clark et al., 2015; Farrah & Graham, 2001; Marinopoulos & The Johns Hopkins University Evidence-based Practice Center, 2007) add to the evidence base that continuing education can have positive ImP. In addition, they provide some best practice guidance on the following topics: (a) the types of learning experiences that are most impactful, (b) the importance of learner motivation, (c) the role of supervisors and managers in learning transfer, (d) the power of a positive organizational culture and workplace context, (e) the value of partnerships among stakeholders, and (f) an evaluation framework that is more effective in isolating the CPE impact. The practices can be compared to those found within Kansas MCLE as captured by the Education Initiative data.

Other Literature on Continuing Legal Education

Although little research has been conducted on the topic of CLE, a variety of other works are related to the topic. These writings were grouped into a two key topics: (a) reports from task forces with recommendations on the subject and (b) arguments for or against mandatory CLE.

Continuing Legal Education Task Force Reports

Once the legal profession began viewing CLE as critical to its ongoing success, several committees or task forces followed, which key stakeholders attended in the field to explore

various aspects of CLE. The outputs and reports from these groups helped to define the standards and scope of CLE practice with recommendations on topics such as (a) which skills lawyers should possess, (b) what should be taught, (c) how to make sessions more effective, and (d) how programs should be measured. The Kansas CLE Commission and many bar associations, employers, and CLE providers have used the findings and recommendations from these groups in some way to guide their attorney education programs. A few of the key reports are summarized in this section to provide important context to this research. The analysis of the data from the Education Initiative showed evidence of CLE practices that were undertaken in response to these reports.

ABA Arden House III. In 1976, the American Bar Association held its National Conference on Continuing Legal Education Issues, which was later called the Arden House III session. Several of the key findings from this conference have shaped how legal professionals view the role of CLE. First, the conference attendees found that the public had an interest in quality legal services and argued that this made it necessary that CLE be conveniently available to all practicing attorneys. However, according to the American Bar Association (1976), this conference group did not go so far as to recommend that CLE be made mandatory, explaining, "There are unanswered questions concerning the specific relationship between required programs of continuing legal education and the quality of legal service" (p. 210). However, according to the American Bar Association, the conference attendees did recommend that national standards for CLE be created and used to improve course planning, faculty teaching ability, presentation content, and course materials (p. 9). The attendees also recommended consulting adult education experts to help in defining these standards. Finally, these conference attendees felt that the

increasing specialization in the legal field would necessitate periodic testing and re-education through CLE (American Bar Association, 1976).

ALI–ABA 1990 Critical Issues Summit. In response to one of the Arden House III recommendations, the ALI-ABA Committee on Continuing Professional Education (1990) held its Critical Issues Summit to provide a list of standards on CLE structure, needs assessments, learning objectives, educational methods, and, evaluation. The ALI–ABA Committee's (1990) stated goal was "to design methods to evaluate the quality of CLE programs and materials and the performance of CLE providers" (p. 5). ALI–ABA Committee's (1990) task force argued,

> evaluating the performance of providers will provide a means for identifying organizations that consistently provide quality programs and materials [and] . . . will increase public confidence in the legal profession . . . [as] the public will perceive practitioners are professionally competent and trustworthy as the result of credible and worthy educational opportunities. (pp. 6–7)

Some of the ALI–ABA Committee's (1990) specific recommendations were

- using "intensive learning" (p. 14) and "learn-by-doing exercises" (p. 14),
- defining clear program objectives to identify "what CLE participants will know or what tasks they will be able to perform on behalf of clients as the result of engaging in CLE activities" (p. 17),
- creating a master activity plan with a list of related courses, the order in which they'll be delivered, and the interrelationships between them,
- making connections between what is taught and practical application,
- creating legal cookbooks and practice books, and
- doing interviews with participants for feedback, and after the course maybe 6 months. (pp. 12–34)

According to the ALI-ABA Committee on Continuing Professional Education (1990)

hosting the Critical Issues Summit, the measurement of effective CLE would be based on

changes to attorney competence: "Ideally, under the competency-based education model, the

outcome of any education activity would be measured by its behavioral impact" (p. 13).

However, the committee suggested that very few CLE courses would able to measure at this

level. ALI–ABA Committee (1990) also argued that the ultimate purpose of CLE evaluation

would be "to determine whether the learner's experience has resulted in improved service to

clientele" (p. 38), but believed that this would be difficult to identify in the legal profession.

The final important contribution to the field from ALI-ABA Committee on Continuing

Professional Education (1990) is a clear outline of what should be the objectives of CLE. The

ALI–ABA Committee (1990) stipulated that CLE should help attorneys "search for basic truths,

or knowledge for knowledge's sake [and] . . . remedy short-comings in current information and

skills" (p. 11). ALI–ABA Committee (1990) also said that CLE should "assist members of the

professions in fulfilling their ethical and professional duties to delivery competent services"

(p. 12). Finally, according to the committee, CLE should provide for personal growth and self-

understanding, especially given the issues with attorney stress and depression (p. 12).

ABA 1992 MacCrate Report. Soon after the Critical Issues Summit, the American Bar

Association (1992) sponsored the Task Force on Law Schools and the Profession, which was

responsible for the report *Legal Education and* Professional *Development: An Education*

Continuum (American Bar Association, 1992). After its publication, this report became known in

the industry as the "MacCrate Report" and has been extensively cited in legal profession

literature. In the MacCrate Report of more than 450 pages, the task force covered a variety of

topics on the legal profession in depth (e.g., its history, organization, regulation, practice

structures, and educational continuum). A key opinion that the task force expressed in the report is that efforts should be undertaken to lessen the perceived "gap" between law school and practicing lawyers. The Task Force on Law Schools and the Profession wrote,

> Both communities are part of one profession. The skills and values of the competent lawyer are developed along a continuum that starts before law school, reaches its most formative and intensive stage during the law school experience, and continues throughout a lawyer's professional career. (American Bar Association, 1992, p. 3)

One of the most significant contributions of this Task Force on Law Schools and the Profession to the field, and in particular to this study, is a detailed vision of the skills and values "with which a well-trained generalist should be familiar before assuming ultimate responsibility for a client" (American Bar Association, 1992, p. 125). The Task Force on Law Schools and the Profession explained that this statement "is concerned with what it takes to practice law competently and professionally" (American Bar Association, 1992, p. 125). The 10 fundamental lawyering skills recommended in the MacCrate report are (a) problem solving, (b) legal analysis and reasoning, (c) legal research, (d) factual investigation, (e) communication, (f) counseling, (g) negotiation, (h) litigation and alternative dispute–resolution procedures, (i) organization and management of legal work, and (j) recognizing and resolving ethical dilemmas. The four fundamental values of the profession that the Task Force on Law Schools and the Profession included were (a) provision of competent representation; (b) striving to promote justice, fairness, and morality; (c) striving to improve the profession; and (d) professional self-development (American Bar Association, 1992, pp. 135–221). Each of these skills or values is described in exhaustive detail, with five to 10 pages of detailed breakdowns for each into subskills and values, descriptions of how they are practiced, and commentary on each skill and value area. A more detailed version of these statements is included in Appendix E.

The Task Force on Law Schools and the Profession described how the effort to develop this statement included a thorough literature review, combined with

> Observations and ideas . . . received from practicing lawyers, judges, law teachers, bar examiners, and representatives of bar associations about the demands of legal practice, the capabilities that it requires, and the extent and nature of the deficiencies that entry-level practitioners experience or exhibit. (American Bar Association, 1992, p. 126)

However, Task Force on Law Schools and the Profession clarified in the MacCrate report that they recognized that it would be impossible for one organization to create a definitive statement that would appropriately reflect the full reality of the profession (American Bar Association, 1992). Instead, it was hope of the Task Force on Law Schools and the Profession that by putting together a comprehensive statement, it would "begin a process through which, in the years ahead, discussion in all sectors of the profession could be focused on questions about the nature of the skills and values that are central to the role and functioning of lawyers in practice" (American Bar Association, 1992, p. 124). In addition, the task force provided detailed recommendations on how these skills and values might be used by attorneys, law schools, employers, and CLE providers throughout the continuum of attorney education—from prelaw school, to law school, through bar testing, while transitioning to practice, during mentoring sessions with employers, within CLE, and for directing their own self-study (pp. 225–323).

ALI–ABA 2009 Critical Issues Summit. The ALI-ABA and ACLEA Continuing Professional Education Association for Continuing Legal Education (2009) held a second Critical Issues Summit in an effort to update its recommendations from the 1990 report to reflect significant changes to firm structures and technology use in the practice of the law. In attendance were CLE professionals, law school deans and faculty, lawyers, bar leaders, judges, and MCLE administrators (p. 2). This broad inclusion of the many stakeholders with interest in CLE was

intentional. In the final report of the Critical Issues Summit, ALI-ABA and ACLEA Continuing Professional Education Association for Continuing Legal Education (2009) explained why

> All members of the legal community share responsibilities to initiate and maintain the continuum of educational resources necessary to assure that lawyers provide competent legal services throughout their careers, maintain a legal system that provides access to justice for all, and remain sensitive to the diverse client base they must serve. (p. 6)

This final report of the Critical Issues Summit is more than 70 pages long with many suggestions on how to improve CLE. Only the recommendations of the ALI-ABA and ACLEA Continuing Professional Education Association for Continuing Legal Education (2009) that are most relevant to this study are included here:

- "Law schools, the bar, and the bench should partner for the career-long development of lawyer competencies" (p. 2) as defined in the MacCrate report, Carnegie Report, and Canadian Center for Professional Legal Education competency evaluation program.

- Develop transitional learning programs especially in law school and first 2 years of practice that are experiential learning and apprenticeships.

- CLE providers, regulators, bar and bench should create communication frameworks to share rules and ensure all parties understand them.

- Develop accreditation standards for distance learning MCLE and update and improve traditional ones.

- Regulators should accredit law practice management content: "Several conferences involved in lawyer disciplinary matters noted that the percentage of cases involving lawyers' shortcomings in personal and practice management far outweighs the percentage of cases involving lack of substantive law awareness" (p. 9).

- Regulators and providers should work together to develop means of measuring the effectiveness of CLE offerings.

- Regulators should allow access to accreditation for law firms and other providers of CLE programs.

- Law firms should apply adult learning theory and practices to in-house CLE.

- Law firms and employers should define professional paths with supporting training.

- Provider should use learning objectives and checklists of benefits to make CLE more "outcome oriented" (p. 15).

- Involve younger generations in planning of CLE.

- Award credit for experiential learning (case studies, simulations) over lecture.

- Consider mandatory mentoring and CLE attendance for newly admitted attorneys.

- Use testing in online courses.

- Provide instructional guidelines and training for teaching skills.

- Craft a "mandatory CLE mission statement based on the value of promoting lawyer competence and protecting the public interest" (p. 19, pp. 6–20).

ABA Proposed Model Rule for Minimum Continuing Legal Education. In January 2017, the American Bar Association's Standing Committee on Continuing Legal Education, proposed a new ABA Model Rule for Minimum Continuing Legal Education with updates and changes to the previous rule adopted in 1988. A vote by the ABA House of Delegates on this proposal was scheduled for a vote in February 2017; therefore, its adoption was undecided at the writing of this dissertation. Nevertheless, recommendations from ABA Model Rule were included in this section because they are the most current guidelines that MCLE regulators in

Kansas and other states may choose to apply in their own program decisions. However, it is important to note that no state is bound by the ABA Model Rule.

Of particular interest to this researcher's study was the purpose statement for mandatory continuing education included in the ABA Model Rule, in which the ABA Standing Committee on Continuing Legal Education (2017) proposed,

> To maintain public confidence in the legal profession and the rule of law, and to promote the fair administration of justice, it is essential that lawyers be competent regarding the law, legal and practice-oriented skills, the standards and ethical obligations of the legal professions, and the management of their practices. (p. 3)

In addition, the proposed ABA Model Rule eliminated many specific provisions related to the administration of MCLE programs, such as the size and composition of a jurisdiction's MCLE governing entity; methods of reporting MCLE credits, deadlines, fees, sanctions, or appeals; and financing MCLE administration. In the ABA Model Rule, the ABA Standing Committee on Continuing Legal Education (2017)

- Recommends 15 hours per year of MCLE (while recognizing that some jurisdictions prefer 12 hours);

- Offers no position on whether lawyers should report MCLE credits every 1, 2, or 3 years;

- Recommends that speakers at MCLE programs have the necessary skills to teach the course, but does not require speakers to be lawyers;

- Requires lawyers to take the following specialty credits, which also count towards the general MCLE requirement: (a) Ethics and Professionalism (average one credit per year); (b) Diversity and Inclusion (one credit every three years); and (c) Mental Health and, Substance Use Disorders (one credit every 3 years);

- Accredits CLE program formats that include using distance learning, and does not limit the number of credits that can be earned using a particular delivery format;

- Accredits CLE programs that address law practice and technology;

- Allows lawyers to choose the MCLE programs that best meet their educational needs by not limiting the number of credits that can be earned in any subject area (e.g., substantive law, health and substance use disorders);

- Treats in-house sponsors of CLE programs the same as other sponsors and allows for full accreditation of programs when all other accreditation standards have been met. In addition, the proposed ABA Model Rule no longer places limits on the number of credits a lawyer can earn through in-house programming;

- Recognizes that jurisdictions may choose to authorize additional exemptions from MCLE requirements for certain groups, such as retired lawyers; and

- Creates a more narrow definition for "self-study" activities that are not approved for MCLE credit, including programming without interactivity, informal learning, and reading. Activities such as viewing programs online or on video are approved for MCLE credit. (pp. 2–15)

Current application of task force recommendations. In the years since these reports were published, concerted efforts have been made to implement some of these recommendations within mandatory CLE programs. *Bridge-the-gap* programs have been installed for newly admitted lawyers in several states, with the support of various CLE providers, law schools, and professional organizations (Ramelli, 2012; The Professional Education Project, 1996). Evidence is available of the use of competency or skills education in some law schools or CLE programs (Bernhard, 2010; MacFarlane, 1992). Regulators in a majority of states now accredit online,

practice management, and in-house courses (Continuing Legal Education Regulators Association, 2016; Kansas CLE Commission, 2016). Many CLE providers work closely with regulators, employers or attorneys in the planning of programs (Patton, 2005; Ramelli, 2012). Providers also include testing in their online modules and provide instructor guidelines or training (Huffman, 2015; Tanner-Otis, 2007). However, formalized, coordinated efforts across stakeholders to incorporate competencies, experiential learning, accredited mentoring, or attorney professional paths into MCLE program efforts have been limited (Bernhard, 2010; Hillyer, 2000; Murphy & Schwen, 2006; Rhode & Ricca, 2014; Wood, 2013).

Arguments For and Against Mandatory CLE

In the review of the literature on CLE, the researcher uncovered numerous articles in which the authors discussed the pros and cons of making CLE mandatory. This is clearly a topic of intense debate that has been argued since the states first started adding mandatory CLE hours to their licensure requirements. It is not within the scope of this study to explore exhaustively the merits or limitations of making CLE mandatory, nor to render an opinion on the topic. MCLE requirements do exist in Kansas and this fact is unlikely to change in the near future. Therefore, in this section, the researcher will provide only a summary of some of the arguments for and against mandatory CLE to provide context about the culture and environment in which the Kansas CLE Commission and its partner CLE providers operate.

Several common arguments in favor of mandatory CLE were found in the literature. First, many authors stressed that the high rate of change in the law, coupled with the increasing complexity of cases and the continually change technologies, make the continuous update of attorney skills and knowledge through MCLE essential for ongoing proficient practice (Aliaga, 1995; Bowman, 2005; Cervero, 1988; Houle, 1980; Knox, 2016). These authors also typically

described CLE as the most efficient method for ensuring that new information is distributed to all practicing attorneys (Aliaga, 1995; Bowman, 2005; Cervero, 1988; Houle, 1980; Knox, 2016). Grigg (1998) wrote:

> All attorneys who want to practice law can benefit from the MCLE programs. The legal profession is a challenging and dynamic world where new statues and interpretations continually arise. Thus, to be competent, an attorney must continue to adapt and learn. (p. 5)

Second, several authors claimed that the increased demand for CLE courses because they were made mandatory has led to an improvement in the quantity, variety, and quality of courses available (Aliaga, 1995; Bichelmeyer, 2006; Grigg, 1998). Although its proponents conceded that some attorneys would refuse to benefit from their learning, they yet discussed how making CLE mandatory would increase overall attendance (Grigg, 1998; Grotelueschen, 1990; Harris, 2006). In addition, Aliage (1995) and Armytage (1995) argued that MCLE is essential to improve the public's view of the legal practice, and to demonstrate the profession's self-imposed controls and quality assurance. Other authors cited statistics, metrics, or research that seem to indicate a beneficial relationship between MCLE and attorney competency (Grigg, 1998; Shearon, 2013; Shearon & Grotelueschen, 1994; Ziegler & Kuhn, 2015). For example, Bernhard (2010) described a number of cases in which unjust convictions in court were disproportionally attributed to lawyers who ultimately were found to be incompetent, were disbarred, or were suspended (pp. 840–841). Similarly, Harris (2006) described the phenomenon of lower malpractice rates that insurance companies offer in MCLE states as evidence of those organizations at least believe in its benefits. Finally, Aliage (1995) and Bichelmeyer (2006) as proponents of MCLE spoke to the value of connecting attorneys with one another during CLE

sessions, allowing for the sharing of knowledge and ideas, and the building a community of practice.

In contrast, common arguments were also presented against mandatory CLE in the literature. First, several authors expressed concern over the costs incurred with MCLE in relation to the verifiable benefits (Bichelmeyer, 2006; Harris, 2006; Rhode & Ricca, 2014). Aliaga (1995) and Mitchell (2001) presented a specific concern that the costs to attend a course, including tuition, travel, and lost billable client time, create a disproportional burden on small firms and sole practitioners. MCLE was seen as a highly lucrative business for providers (Grigg, 1998), with Mitchell (2001) calling it a "roaring revenue river . . . [that] breeds deep resentment and suspicion" (p. 37) in the profession. Second, authors find fault with the mandating of CLE. Armytage (1995) argued against making CLE mandatory in that doing so goes against "overwhelming educational and doctrinal arguments against prescription in continuing education" (p. 178). Murphy and Schwen (2006), who raised a similar concern, stressed that the theory and research from the adult education field have proven the importance of self-direction and individual motivation towards personal goals in mature learners. Making learning mandatory and prescriptive goes against these ideals. Third, much of the literature in which authors have debated the merits of MCLE indicated that its opponents are more concerned with how it is taught—with too much lecture and not enough application of adult education best practices— than whether it is required and regulated (Bernhard, 2010; Bichelmeyer, 2006; Wood, 2013). Rhode and Ricca (2014) explained, "What opponents are rejecting is not education per se: it is MCLE in its current form" (p. 103), and were concerned about whether the "compelled passive attendance" (p. 104) in courses truly addresses the issues underlying incompetence. Forth, its opponents disputed the claim that the public is demanding mandatory CLE, that is improves the

professions image and reputation, or that clients are even aware of its existence (Harris, 2006; Mitchell, 2001). In addition, Wood (2013) asserted that problems in the profession are not the result of knowledge gaps, but other issues, stating, "Most incidents of errors, malpractice or theft from clients are not the result of lack of knowledge of the law, codes or conduct or best practices" (p. 353). Finally, Aliaga (1995) and Harris (2006), opponents to mandatory CLE, cited the limited proof or research to show any sustained improvement in the practice of the law because of attending such programs. In a review of the learning transfer literature, as compared to Indiana's CLE practices, Murphy and Schwen (2006) found "scant evidence that the court's minimum continuing legal education standards have promoted competence or professional development in a meaningful way" (p. 355); instead, they discovered that lawyers did acquire new knowledge, but did not tend to apply in practice (p. 355). Even Grigg (1998), who was in favor of mandatory CLE, conceded this lack of application, but argued that, nevertheless, the lawyers most likely gained value:

> These arguments used by MCLE opponents may be challenging but are not persuasive. Even if no statistics prove MCLE improves competence, there are numerous attorneys who are sued, suspended or disbarred for incompetence or unethical behavior in every state every year. Something must be done. MCLE certainly will not hurt competence and may even help improve it. (p. 8)

The literature covering the debate on the pros and cons of MCLE is prolific, for MCLE is an issue that has been hotly debated for decades. Clearly, the authors disagree regarding the merit of making CLE mandatory, but most authors seem to have accepted it as a reality and have sought instead to improve its quality and the value delivered for the cost. It is important to note that the board of the Kansas CLE Commission (2016) expressly excluded from the Education Initiatives questionnaires questions about whether CLE should be mandatory. Their rationale was

that they wanted to focus instead on how they could make the CLE experience better for those attorneys who attend as required and were open to a positive experience. They claimed that this group makes up the vast majority of Kansas attorneys.

Theories and Approaches Guiding This Study

Continuing Professional Education

The field of continuing professional education emerged as a distinct entity in the 1960s as all of the professions began facing new challenges with inconsistencies in practitioner knowledge and skills, increasing case complexity, the infusion of new technologies, dramatic increases in the numbers of individuals entering the profession, and epidemic public image erosion. Although based in the literature and theories of adult education and human resource management, CPE also has its own core principles and theories. In this section, the researcher reviews the literature that is unique to CPE and that converges on three themes: (a) the definition of professional and commonalities that cross all professions, (b) the professions in crisis, and (c) core theories or models specific to continuing professional education.

Commonality across all professions. Historically, researchers have debated the definition of the world "professional." Cervero (1988) explained that Flexner (1915) made the first efforts to define a professional. Called the *static approach*, Flexner (1915) defined six characteristics of professionals: (a) intellectual operations, (b) materials from science, (c) practical ends, (d) "educationally communicable technique" (p. 6), (d) self-organized, and (e) altruistic (p. 6). Criticizing the static approach, others suggested a *process approach* by which they described a continuum of professionalization. Later, the proponents of the *social–economic approach* claimed that the definitions of professions are historical and nationally specific and so must be considered context (Cervero, 1988, pp. 5–14).

Although one might debate the term "professional" and its definition, in fact, the literature on CPS shares a number of common themes. These include (a) the role of the professional in society, (b) the specific careers that are included in lists of professionals, (c) the process by which professionals are developed or educated, (d) using and defining the word *practice*, and (e) the relationship between a professional and his or her client. A review of these common characteristics is important not only to situate better an understanding of the legal profession, but also to see the connections across all professional fields as they relate to this research.

First, many authors agree that professionals are critical in helping society define and resolve complex problems to improve our lives or society as a whole. Schön (1983) described how "we look to professionals for the definition and solution of our problems, and it is through them that we strive for social progress" (p. 4). Cervero (1988) claimed that professionals make up 25% of the workforce and wrote:

> There can be little argument that the professions are central to the functioning of American Society. They teach our children, manage and account for our money, settle our disputes, diagnose our mental and physical ills, guide our business, help many of us mediate our relationship to God, and fight our wars. (p. 1)

Houle (1980) described the characteristics that are common across all professions, including the "capacity to solve problems . . . to use theoretical bodies of knowledge to deal competently with a category of specific problems that arise in the vital practical affairs of mankind" (p. 42). Van Loo and Rocco (2006) seemed to agree, explaining how the "professions are structural, occupational, and institutional arrangements for dealing with work associated with the uncertainties of modern lives in risk societies" (p. 205). Finally, Bierema (2016) defined a professional as those in "an occupation populated by experts with specialized training, skills, and

knowledge that are of benefit to society and controlled by institutions such as professional

organizations that provide certification and/or licensure" (p. 55).

There is also general agreement on the list of careers that make up the professions. Houle

(1980) included in the list architects, clergy, dentists, engineers, foresters, health care

administrators, lawyers, librarians, military officers, nurse, pharmacists, physicians and surgeons,

school administrators, teachers, social workers, and veterinarians (p. 16–17). Cervero (1988)

agreed, but added management to this list (p. xv) and Young (1998) expanded it to include

dieticians, police, real estate agents, and information technology professionals.

Another commonality in descriptions of the professions is the processes by which

members are educated for and admitted into practice. Houle (1980) described this process as a

four-phased "educational pattern" (p. 2). According to Houle, most professional journeys begin

with basic training or a generalized study that prefaces a specific study. Houle (1980) also

believed that this generalized education is followed by additional education that is specific to a

given profession with "deep immersion in a specialized content and the acquisition of difficult

skills and a complex value system" (p. 2). This specific education might take place within a

regular university program, a specific college or department within a college, or at a specialized

school. For attorneys, the specialized school is law school. The third phase takes place when a

professional completes his or her formal education and must successfully complete some form of

a qualifying test before being permitted to practice. In the case of attorneys, this is the bar exam.

Houle (1980) described how "initial judgments are made about the competence of the

individual" (p. 2) either by educators or by those in authority within the field. Finally, as Houle

(1980) indicated, throughout their active years, most professionals take part in continuing

professional education "systematically or sporadically" (p. 3) during which their skills, knowledge, and attitudes will be updated with the new information from the field.

Many authors viewed this educational process and the unique knowledge that it builds as part of what makes the professions distinct from other careers. Schein and The Carnegie Commission on Higher Education (1972) claimed that one of the common criteria for determining professionalism is the possession of a "specialized body of knowledge and skills . . . [which is] gained through a prolonged period of education and training" (p. 8). Similarly, Nowlen (1988) argued that the professions are "communities of interpretation in which collaborative learning, the formation and reformation of frames of reference, and the growth of knowledge take place" (p. 26). In his discussion on credentialing theory, Isopahkala-Bouret (2015) explained how education is part of what makes the professions restrictive because "all professions rely on exclusive graduate labor markets" (p. 85). Isopahkala-Bouret (2015) went on to argue that "education credentialing intensifies in occupations for which the right level and type of academic degree is the only acceptable entry requirement" (p. 86).

The next common element in any discussion of professions, it using the term "practice." Schön (1983) explained that this term can be ambiguous, but described how, "when we speak of a lawyer's practice, we mean the kinds of things he does, the kinds of clients he has, the range of cases he is called upon to handle" (p. 60). Argyris and Schön (1974) called a practice, "a sequence of action undertaken by a person to serve others, who are considered clients" (p. 6). In addition, part of what makes professions distinct is that the professionals' practice takes place within a special setting (e.g., a hospital or courtroom) that is uniquely designed for particular professional activities. According to Argyris and Schön (1974), "The professionals knowledge of these structured environments, his certification to practice in them, his ability to understand the

language spoken in them and to negotiate in them, constitute a great part of his technical expertise and authority in relation to laymen" (p. 150). Schein and The Carnegie Commission on Higher Education (1972) argued, "The distinctions in work settings are important because they strongly influence the professional's self-image, his definition of the client, and his conception of the proper way to relate to the client" (p. 16).

Finally, the last defining characteristic of professionals that was frequently discussed in the literature is their unique relationship with the public. In their roles within society, professionals are viewed as having specialized knowledge or experience, which they apply to a client's unique case. Argyris and Schön (1974) called this "a special relationship to laymen that accords the professional deference" (p. 146). Therefore, it is commonly understood that professionals have a "client" or recipient of their services. However, the specific vernacular applied varies by subject matter with terms such as patient, advisee, student, customer, or parishioner equally in use (Houle, 1980; Schön, 1983; Young, 1998). However, the authors differed regarding their views of the nature of this relationship between professional and client, ranging from professionals as defenders of the less capable to professionals as unchecked authoritarians with insufficient controls to ensure fair treatment of their clients (Bowman, 2005; Cervero, 1988; Confessore & Confessore, 1994; Houle, 1980). Cervero (1988) offered three views of the relationship between professionals and society (or clients) and the nature of their work. Cervero named these views functionalist, conflict, and critical.

Cervero (1988) described the *functionalist view*, which was dominant for many decades, as one that "posit[s] that the professions are service- or community-oriented occupations that apply a systematic body of knowledge to problems that are highly relevant to the central values of society" (p. 22). In the functionalist view, professional practice involves solving well-defined

problems using scientific theory and technique (p. 22). According to Cervero (1988), professionals are seen as benevolent, helping society to maintain "social structures and institutions" (pp. 23–24). From the functionalist perspective, professional practice is "fixed and unambiguous" (p. 25).

The second theory of professionals' relationship with society is the *conflict view*. From the conflict point-of-view, professionals are only different because they hold a monopoly on knowledge and perpetuate the myth that normal citizens cannot solve the problems of society on their own (Cervero, 1988, p. 26). Cervero (1988) believed that the key concept in the conflict philosophy is power, and that, by defining client problems, professionals "create needs for their services" (p. 27). In this view, its proponents assume conflict between groups in a society with limited resources in inherent inequality. Thus, professionalization is a seen as a way to maintain a system of social inequality and access to professions that is restricted through specialized, highly competitive schools.

Finally, Cervero (1988) explained that an alternative, *critical view* of the relationship between the professions and society began forming in late 1970s. According to Cervero (1988), a proponent of the critical view "assumes professionals construct the problem from a given situation" (p. 30). Professionals choose which problems to solve and how to do it, reflecting their personal view on their role in society. From the critical viewpoint, professional practice is dialectic with ambiguous problems (Cervero, 1988, p. 30). Cervero (1988) saw the interconnection between the professional and the client as essential, and that problem setting as more important than problem solving (pp. 30–31). Cervero (1988) saw this view as the most realistic and appropriate, given the complexities of modern practice, stating, "Professionals

conduct most of their practice in the swamp of the real world where problems do not present themselves as well formed and unambiguous, but rather as messy and indeterminate" (p. 31).

Although a specific definition of the term professional might be historically or philosophically dependent, most authors clearly ascribe several common traits to professionals. These traits include their unique role in solving society's problems, the specific occupations that they undertake, the method in which they are educated and entered into practice, a practice as their place of work, and their complex relationship to clients. Understanding these characteristics provided important context to this researcher's study.

Professions in crisis. Beginning in the literature of the late 1970s and early 1980s a common theme emerged of the professions being in a state in crisis. The issues and concerns described led, in part, to many professions choosing to regulate continuing education and to make it mandatory. Schön (1983) explained that "there have been strident public calls for external regulation of professional activity, efforts to create public organizations to protest and protect against professionally recommended policies, and appeals to the courts for recourse against professional incompetence" (pp. 4–5). Schön argued that the source of this discontent was the spiraling complexities of modern society and the professional's inability to adapt with the knowledge and skills they possessed (p. 13). Schön (1980) believed that traditional "professional knowledge is mismatched to the changing character of the situations of practice—the complexity, uncertainty, instability, uniqueness, and value conflicts which are increasing perceived as central to the world of professional practice" (p. 14). Houle (1980) also described the changing view of the professional 30 years ago when he wrote,

> The solitary, disciplined, highly educated, and deeply ethical practitioner dealing with clients one by one may always have been more of an ideal than an established reality, but this image is being replaced by that of a collective group enterprise that is shared by

many people who represent layers of specialism and that is alleged to be flawed by a lack of concern for comprehensive and dedicated service, by a lack of concern for comprehensive and dedicated service, by a marked self-interest, and by incompetent performance. (p. ix)

Houle (1980) hypothesized that this degradation of public opinion came from a "growing concern about the extent to which the needs for a highly competent and subtle performance of essential services are being met for society as a whole, for some segments of it, or for some individuals" (p. 26). Houle further explained how this concern extended to those within the profession and led to discussions on how to improve both the substance and the public image of practice (p. 268). Cervero (1988) also spoke of this crisis, writing, "The public's perception of professional inadequacies has brought the legitimacy of all professions into serious doubt. This doubt is exacerbated by the relatively elevated economic position that most professions still maintain" (p. 19). Finally, Argyris and Schön (1974) explained how the "advocacy movement" of the mid-1960s, with its focus on social change and emancipation through practice, exposed the professional dilemmas that new students face in struggling to reframe their role as professionals (p. 141).

Of interest is that similar concerns are still raised today, with contemporary authors describing how new employment structures, increasingly complex problems, and new technologies all challenge the legal profession's public image and drive the need to enhance individual practitioners' capabilities. Bierema (2016) described what she termed the "white water" (p. 54) of constant change that today's professionals face. Bierema (2016) explained how "professionals train for years to become experts. Yet, gaps between their education and the practice realities widen with globalization, technological advances, market competition, and

knowledge development" (p. 53). Likewise, the New York State Bar Association Task Force on

the Future of the Legal Profession (2011) explained:

> The practice of law is changing. Client needs and attitudes, the process of delivering legal
> services, law firm economics and technology applications all contribute to an evolving
> practice environment. This metamorphosis not only has affected the way services are
> delivered, it also has affected the underlying value proposition upon which the lawyer–
> client relationship is based. (p. 11)

Durkin et al. (2014) also recently described how, driven by increased competition and

market forces, law firms are hiring fewer newly licensed attorneys and abandoning the traditional

apprenticeship model for their development (p. 126). Instead, the new trend is for law firms to

use lateral hires or subcontracted labor to increase the middle level of attorneys, leading to what

Durkin et al. (2014) called a diamond-shaped organizational structure (pp. 126, 128–129).

Durkin also explained that clients are demanding greater billing transparency, which limits what

use to be a common practice of billing for new associate development time on work such as case

research, document development, and shadowing more senior partners (p. 127). Lore (2007)

agreed that this trend was occurring, saying, "with big firm starting salaries now at $120,000 a

year or more, gone are the days where associates carry a partner's briefcase for three years and

don't say anything" (p. 1). This raised concerns among those in the profession regarding how

newer and experienced attorneys will acquire the necessary knowledge and skills to succeed in

practice (Durkin et al., 2014; Lore, 2007). According to Bernhard (2010), "The greater number

of professionals working in solo or small firm practice without mentors or in large, impersonal

bureaucracies with little guidance, coupled with the increasing complexity of legal work, has

generated problems" (p. 834).

Another concern of contemporary authors is the increasing number of small or solo practices, with estimates of this population ranging from 50%–80% of all licensed attorneys in the United States (American Bar Association, 2016; Durkin et al., 2014; New York State Bar Association Task Force on the Future of the Legal Profession, 2011). Attorneys in these smaller practices must address complex cases without the support of colleagues or firm resources. Bernhard (2010) explained, "Many new lawyers join small firms or begin an independent solo practice immediately after passing the bar, shouldering the responsibilities of client representation right after graduation" (p. 833). These attorneys are also faced with increased risk and new learning needs when practice management becomes their responsibility. Smaller firms and solo practitioners often rely on off-site, third-party training where development and conduct costs gain the economies of scale with training providers. Nevertheless, this creates an extra burden on these types of practices in interpreting the CLE requirements on courses that are accredited and compliance tracking rules (Durkin et al., 2014, p. 128).

Finally, as is the case in many work environments, the explosion of new technology and its impact on day-to-day practice has created a new set of learning and risk-management needs within the legal profession. For example, the Vision 2016 Technology Committee of the Florida Bar Association concluded, "Lawyers cannot practice law consistently if they don't have a basic level of technological competence in their practice area. [They found] an appalling lack of technological competence in lawyers" (as cited in Killian, 2015, p. 1 & 5). Adriana Linares, President of LawTech Partners, Inc., claimed,

> There is not one area of law that is not being affected by technology . . . the issues I see every day from mobile devices to security to data issues to word documents to PDF documents to social media, every single piece is getting messed up and ignored by lawyers. (as cited in Killian, 2015, p. 5)

Likewise, Wood (2013) asserted that shifts in how information is accessed using new technologies, along with changing expectations of newly graduated attorneys, would make traditional programing less relevant, stating, "With the developments in technology and ready access to information, the role of the subject matter expert becomes one of engaging the learner in apply that readily available information to a large range of scenarios, real life situations" (p. 351). Yet, concern about new technology even goes beyond attorney competency with new software or hardware. The Florida Bar Association (2015) raised the risk of divulging confidential client information because of the metadata stored in electronic document filings as a serious risk to law firms and the public image of the practice overall (as cited in Killian, 2015).

Evidently, the crisis in the professions that was faced more than 50 year ago, and that was caused by ever-increasing problem complexity, the infusion of new technologies, and changing employment structures, continues to exist with the same challenges that professionals face today. Leaders within the professions still seek methods to support their members in meeting these difficulties.

Continuing professional education theories and models. CPE became an area of specific study and research in the 1960s when it began to be differentiated from continuing adult education, workplace learning, and human resource development. Cervero (1988) explained that CPE "overlaps with, but is distinct from, other areas of education practice" (p. xvi) including preservice professional education and adult and continuing education. However, Cervero also indicated that CPE uses similar educational processes to those in adult and continuing education, and human resources development and training (p. 16). A few concepts and theories form the foundation of and serve to compare or contrast CPE from these other disciplines. These theories

include the literature around professionals' modes of learning, reflective practice, performance change, theory in action, CPE learning models, and CPE leadership.

Houle's three modes of learning. Houle (1980) explained how "the term continuing education, whether it designates the improvement of professional competency or any other goal, implies some form of learning that advances from a previously established level of accomplishment to extend and amplify knowledge, sensitiveness, or skill" (p. 77). It is important to note, according to Houle (1980), that the structure of any professional's ongoing learning is determined by its "foundation" and any post entry level study, "is likely to be determined, at least in part, by what has happened earlier in life" (p. 77). Therefore, the educational methods within law school are likely to drive the format of CLE, whether it is formal or informal. Houle (1980) defined three modes of learning that apply to the professions:

- Inquiry – is a "process of creating some new synthesis, idea, technique, policy, or strategy for action" (p. 31). Houle believes that "inquiry mode is blighted by any tinge of didacticism, which destroys the spontaneity of the discovery process" (p. 31).

- Instruction – is ""the process of disseminating established skills, knowledge, or sensitiveness" (p. 32). This is learning most often associated with formal professional education.

- Performance – includes "the process of internalizing an idea or using a practice habitually, so that it becomes a fundamental part of the way in which a learner thinks bout and undertakes his or her work" (p. 32).

Houle claimed that performance learning could be formalized through drill and supervision, or reinforced with rewards and punishment.

Other authors have carried forward this multilevel view of professional learning. For example, Queeney (2000) described a view of competence as comprising three components that professionals must master, including "knowledge: the body of information of the profession, skill: use of professional knowledge to perform tasks, and performance abilities: application of knowledge and skills in the provider setting" (p. 377). Likewise, Fox and Bennett (1998) presented a model for CME, including (a) physician self-directed learning; (b) organizational learning (collaboration within the organization, peer reviews, patient satisfaction, case reviews, surveillance); and (c) group learning (lectures, formal education, agencies). For professional librarians, Auster and Chan (2004) segmented their continued learning into formal versus informal modes, stating, "Formal activities include courses and workshops offered in-house, by educational institutions, or by professional associations. Informal activities included attending conferences, discussions with colleagues, participating in e-mail discussion lists, reading the professional literature, and pursuing self-directed projects" (p. 59). Although the specific terminology can vary, the concept of professional learning as being comprised of combination of self-directed, informal inquiry; practice-based experiential learning; and formal, structured teaching was a key concept considered in this study on CLE within Kansas.

Schön's reflection-in-action. Schön (1983) explored how professionals used their formal and informal education to solve the problems they face in practice. Schön (1983) expressed a concern that traditional professional education takes "a view of knowledge that fosters selective inattention to practical competence and professional artistry" (p. vii). Schön (1983) used the term *technical rationality* to describe this underlying, positivist epistemology, whose proponents hold that "professional activity consists in instrumental problem solving made rigorous by the application of scientific theory and technique" (p. 21). According to Schön (1983), in technical

rationality, a professional knowledge base is viewed as "specialized, firmly bounded, scientific, and standardized" (p. 23). As such, Schön (1983) stated that professional education curriculum developed with this view follows a "hierarchical separation of research and practice" (p. 27) in which basic and applied scientific leads later to application against real-world problems (p. 27). Schön (1983) explained that, although technical rationality is driven towards "ends that are fixed and clear" (p. 41), in fact, the ends faced in professional practice can be "confused or conflicting and the problem ill defined" (p. 41).

Instead, Schön (1983) argued for an epistemological view that considers the "art" of practice, which Schön called "knowing-in-action" (p. 54). Schön (1983) described the knowing-in-action practice as being "actions, recognitions, and judgments" (p. 54) that professionals do spontaneously, without conscious thought. Professionals might not be aware of doing these behaviors and might have difficulty describing them. According to Schön, it is "the knowing which our action reveals" (p. 54). Schön (1983) further suggested that the most effective practitioners engage in reflection-in-action, "a capacity for reflection on their intuitive knowing in the midst of action . . . [used] to cope with unique, uncertain, and conflicted situations of practice" (p. ix). According to Schön (1983), reflection-in-action can be about "patterns of action, on the situations in which they are performing, and on the know-how implicit in their performance" (p. 55), and it is reflection on the "outcomes of the action, the action itself, and the intuitive knowing implicit in the action" (p. 56). Schön (1983) claimed that this form of knowing "is central to the art through which practitioners sometimes cope with the troublesome 'divergent' situations of practice" (p. 62).

In Schön's (1983) view, CPE would be more effective if it incorporated this artistic side of practice along with the technical, scientific aspects. However, in Schön's opinion, reflection in

action is not generally not accepted in the professions because the professionals are still rooted in technical expertise (p. 69). Schön (1983) also argued that similarities occur in reflection-in-action across the professions, but that the professions differ in the "media, languages, and repertoires [used to] describe reality and conduct experiments" (p. 268), the "overreaching theories by which they make sense of phenomena" (p. 269), and the "role frames within which they set their tasks and through which they bound their institutional settings" (p. 270). However, Schön admitted that reflection-in-action might not be appropriate in situations where insufficient time is available before the professional reaches a critical point, if reflection can overcomplicate a problem, or if it causes a relooping of reflection that completely restricts action (pp. 277–278).

Since Schön (1983) wrote, many other authors have explored the concept of reflection-in-action and its usefulness in continuing education for attorneys and other professionals (Armytage, 1995; Cervero, 1988; Confessore & Confessore, 1994; MacFarlane, 1992; Roessger, 2015). Earlier, Schein and The Carnegie Commission on Higher Education (1972) set the stage for Schön by explaining the differences between convergent and divergent "modes of thinking" (p. 45) and the knowledge that the professions require. Schein and The Carnegie Commission on Higher Education (1972) described how some professions, such as law and medicine, tend to be more convergent than social work, but argued that all profession must use both forms, stating,

> Even though the underlying disciplines of the profession may be highly convergent, there will be, in all professions, necessary skills that are highly divergent and will remain divergent so long as the problems requiring professional help continue to have unique and unpredictable elements. (p. 45)

Although most authors agreed that reflection plays a key role in defining and resolving the complex problems encountered in professional practice, they also found little evidence of its inclusion in CPE programs. Some authors recommended the addition of CPE topics to help

professionals refine their reflective skills, but others expressed concern for the lack of research to support the theory. Regardless, an understanding of the positivist epistemology that dominates most CPE, coupled with an awareness of the reflective nature of problem solving in practice, provided an important context for any analysis of the common practices that Kansas CLE providers reported.

    Nowlen's double helix. Nowlen (1988) compared and critiqued three models of continuing professional education: (a) the update model, (b) the competency model, and (c) the performance model.

    Nowlen (1988) claimed that most, current continuing education follows an update model that is "heavily didactic . . . [and is] . . . directed towards keeping professionals up-to-date" (p. 25). In Nowlen's (1988) view, "this overreaching and ambiguous aim provides continuing professional education with conceptual unity without wedding it to performance outcomes" (p. 20–21). The update model is focused on closing gaps and is tied to positivism (p. 25). According to Nowlen (1988), it is popular in CPE programs because "many providers and consumers believe that the fully up-to-date professional is a person who functions effectively" (p. 153). Actually, Nowlen (1988) stated that the updated model "rarely addresses competence-related aptitudes and strengths such as interpersonal skills and motivation, or the events and personal weaknesses that impact competence" (p. 31).

    In contrast, the competence model, focuses on development of the aptitudes and strengths that are necessary for successful professional performance. However, according to Nowlen (1988), the competence model does not explain why performance varies across individuals or settings, despite evidence of comparable competency (p. x): "The most serious flaw in the competence approach is its implicit assumption that performance is entirely an individual affair"

(p. 60). Nowlen (1988) described how the "ensemble of peers, subordinates, superiors, and systems [can] cripple or enhance individual effectiveness" (p. 61). Nowlen (1988) also described how competence models rarely consider "competence in personal affairs . . . [despite that fact that] the absence of knowledge, skill, and maturity in managing private lives unfailingly affects the performance of business and professional people" (p. 60).

Instead, Nowlen (1988) argued for a performance model that would be based on a concept called the *double helix*. According to Nowlen, "performance is structured by a double helix in which there are two complex interactive strands, each bearing only part of the performance code" (p. 73). Nowlen (1988) explained that the two strands carry "the powerful influences of culture [and] the traits and dispositions, knowledge and skills shaped by individual human development" (p. x). Therefore, according to Nowlen, continuing educators seeking to affect professional performance must consider individual factors such as knowledge and skills, employer expectations, judgment, critical thinking, self-regard, values, and physical health (p. 95). However, in addition, they must also analyze the impact of cultural leadership, intragroup and intergroup behavior; the sum of individual performances; the appropriateness of structures, processes, and policies; physical and financial resources; and latitude and support from clients or the public (p. 95). Nowlen (1988) argued that, if one understands this complexity of the influences on performance, it "limits expectations of change from any single intervention" (p. 73). Alternatively, according to Nowlen (1988), a double helix view allows employers, education providers, and professional associations to use a variety of strategies to influence performance such as "performance assessment, assessment-based learning agendas, and the matching of individuals' agendas with organizational needs" (p. 79). Nowlen also stressed that individuals are influenced by numerous cultures at the workplace (e.g., office friendships,

clients, colleagues, organizational bureaucracy) and at home (e.g., neighbors, friends, charitable activities; p. 122) and that they might perform better in some cultures than others (p. 83).

In a modern view of the double helix model, Bierema (2016) proposed a T-shaped conceptual framework of CPE. In this model, Bierema (2016) claims "CPE incorporates disciplinary and system depth (the vertical part of the T) with key boundary-crossing competencies crucial to developing as a collaborative, communicative, multidisciplinary professional (the horizontal part of the T)" (p. 58). Bierema (2016) described how all professionals develop from novice to expert to generative leader in their disciplines, but argued that this must take place though "evidence-based knowledge and ethical practice" (p. 59–60). Like Nowlen (1988), Bierema (2016) positioned system depth, obtained through culture knowledge and contextual sensitivity, as critical to practice change. Lastly, Bierema (2016) contended, "Boundary-crossing cognitive and relational competencies like lifelong learning capacity, interpersonal and organization skills, and generativity" (p. 59) are essential components to professional development that should be incorporated in CPE programs.

Nowlen's (1988) and Bierema's (2016) theories were important in the analysis of the data collected with the Kansas CLE Commission's Education Initiative. First, the practices reported by the MCLE providers were categorized using the update, competency, or performance model tiers. In addition, the data on the planning, content, and conduct of the CLE programs was evaluated against the double helix and T-shaped CPE concepts, in an effort to find evidence of any providers' attempts to influence both individual and cultural attributes.

Argyris and Schön's theory of action. Argyris and Schön (1974) discussed another key concept from the continuing professional education literature—theory of action. Argyris and Schön (1974) defined theory of action as "a theory of deliberate human behavior, which is for

the agent a theory of control but which, when attributed to the agent, also serves to explain or predict his behavior" (p. 6). Argyris and Schön (1974) explained that each profession "not only has a practice but also a theory of action in which that practice can become a reproducible, valid technique" (p. 149). According the Argyris and Schön (1974), when the professional applies this theory-of-action to their work, he or she establishes a theory-of-practice, "consist[ing] of a set of interrelated theories of action that specify for the situations of the practice the actions that will, under the relevant assumptions, yield intended consequences" (p. 6). Cervero (1992) seemed to agree, writing about professions as having an "action-orientation [in which] practice is a normative, not a descriptive, enterprise" (p. 92).

According to Argyris and Schön (1974), it is common to find that the espoused theory of action of a profession is not, in fact, its actual theory in use. Theories-in-use include assumptions about "self, others, the situation, and the connections among action consequence, and situation" (p. 7). They are based on governing variables such as priorities, openness, and the role of emotions, and their relationship to one another (p. 16). Argyris and Schön (1974) also explained that it could be difficult for professionals to state or explain their theory-in-use; therefore, it is hard to change through learning (p. 10). Argyris and Schön (1974) also indicated that professionals often describe "practicing and learning skills as through these activities were of an entirely different sort than learning a theory or leading to apply a theory" (p. 12). This description implied that there are different kinds of continuing learning activities that might take place in different places. Argyris and Schön (1974) also advised that an educator cannot say a that professional has learned a theory of action when they can recite it; they must be able to put it into practice (p. 12).

Recognizing that there are theories-of-practice within the legal profession, and understanding that these espoused theories might differ from actual theories-in-use, was important grounding for this researcher's study. In the data analysis, the researcher attempted to look deeper into the survey or focus groups responses, seeking inconsistencies or implied realities, in an effort to differentiate between the stated practice and actual practice.

Daley and Cervero's model of learning in continuing professional education. In another CPE learning model, Daley and Cervero (2016) proposed "reframing CPE to include a constructivist view of learning created by linking professional practice, context, and knowledge into an integrated learning system" (p. 20). Building on earlier research (Cervero, 1988; Daley, 2001), this model was used to define professional knowledge as the outcome of both constructivist and transformative learning that is highly influenced by the realities of a given professional's workplace context and professional practice.

Daley and Cervero (2016) contended that providers of CLE "often make the assumption that attendance at CPE programs constitutes learning for professionals and that they will automatically use this information once they return to their work sites" (p. 19). Instead, Daley and Cervero claimed, CPE providers find that professionals never use the course materials, seldom transfer knowledge or theory to practice, or are inhibited from learning transfer by work environment factors (p. 19). Daley and Cervero (2016) stated, "To be truly effective in CPE, we must include a model of learning at the heart of our education practice" (p. 19).

According to Daley and Cervero (2016), in this model of learning, "knowledge is viewed as a social construction of information that occurs through a process of constructivist and transformative learning" (p. 22). Daley and Cervero (2016) explain that, in the constructivist-

learning portion of the model, professionals are seen as creating new knowledge by linking it with their experiences:

> Professionals construct a knowledge base for themselves in the context of their practice by linking concepts from new knowledge with their practice experiences. At this point, they actively make decisions on how to incorporate new knowledge into the context of practice based on their interpretations of the environment. (p. 20)

Daley and Cervero (2016) then explained why they incorporated transformative learning into the model, describing how professionals adjust their learning according to the challenges and realities experienced throughout their years of practice. Daley and Cervero (2016) described professional learning as a "critically reflective process wherein the learner ultimately assesses previous understanding to determine whether those assumptions still hold in the learner's present situation" (p. 23). Daley and Cervero (2016) contended that "combining a constructivist and transformative perspective allows us to understand how the learner creates a knowledge base yet changes that knowledge base when faced with practice experiences" (p. 22).

In addition, Daley and Cervero (2016) included context and professional practice in their model as important contributors to the overall creation of professional knowledge and learning. They explained how, because professionals practice within a workplace, their learning is influenced by the structure, politics, dynamics, bureaucracy, and cultural frame of that workplace context (p. 24). According to Daley and Cervero (2016), "context shapes how professionals look at new information, influencing not only what information professionals seek to learn but also what information they try to incorporate into their professional practice" (p. 25). Likewise, Daley and Cervero claimed that the unique circumstance of a given professional's practice affects his or her CPE learning through factors such as individual learner identity or skill sets that range from novice to expert (p. 26). Daley and Cervero (2016) explained how "enhancing professional

practice development requires a model of learning that incorporates the professional along with identity, the work environment, and the practice itself into our educational endeavors" (p. 26).

According to Daley and Cervero (2016), their CPE model of learning requires providers to change their understanding of their role from program content developer to "facilitator of learning, growth, and change in professional practice" (p. 26). They proposed that providers use the methods in their programs that help learners to link content into their actual practice and work situation (p. 26). Specifically, Daley and Cervero (2016) recommended using tools like concept maps, reflective journals, practice-based cases, Venn diagrams, action planning, and the formation of professional learning communities because "they create a record of professional practice events or experiences and then allow the professional to reflect upon them and make connections between them and the context of their practice" (p. 26–27). They also recommended interprofessional education and evidence-based practice (p. 27).

In a recent article about the formation of a CPE program in the health and medical professions that Penn State University and Penn State College of Medicine developed, Tisdell, Wojnar, and Sinz (2016) described a graphic that they used for their curriculum development that included many of the same factors from the Daley and Cervero (2016) model. For example, social context was a key consideration. Tisdell et al. (2016) explained, "We begin by considering the social context of practice and how one's beliefs and assumptions as philosophy along with how learning theory inform curriculum design in this particular institutional context" (p. 72). Tisdell et al. also stressed that CPE developers need to consider all stakeholders and power issues that might influence decisions in curriculum and pedagogy (p. 72). According to Tisdell et al. (2016), in this program development case study, "having champions and collaborators with enough institutional power and a good collaborative relationship with mutual benefits to both

sides was key to making the program happen as a form of CPE" (p. 70). Lastly, Tisdell et al. specifically highlighted the role of institutional context in program planning.

Throughout the conduct of this study, the researcher identified evidence of these recommended practices to enhance constructivist and transformative learning in CLE classes. In addition, the researcher noted the consideration of workplace context or the providers' practice realities.

Knox's continuing professional education leadership strategies. From a consulting practice of 30 years with a variety of organizations and their learning programs, Knox (2016) developed a list of leadership tasks that were found to be helpful in making continuing professional education programs more effective. Knox (2016) argued that "effective leadership of learning is central to more effective professional performance" (p. 1) and that effective professional education requires coordinating efforts with participants, administrators, leaders (instructors), and sponsoring organizations (p. 1–2). A summary of Knox's (2016) recommended CPE leadership strategies includes:

- Establishing shared purposes – "effective leaders seek to align program goals with participants' experiences and expectations" (p. 5).
- Selecting able leaders – instructors should be "supportive and challenging" (p. 5). In addition, selection criteria that are agreed on by all stakeholders should be established (p. 21).
- Being responsive to participants' experiences and expectations – leaders should consider participant "content mastery, change orientation such as acceptance or resistance, communication style, self-assurance" (pp. 5–6).

- Specifying current participant proficiencies – proficiencies are a "combination of knowledge, skills, and attitudes" (p. 6) that can be sufficiently evaluated using a learner self-assessment tool combined with one other method of measurement.

- Developing shared expectations – "making learning outcomes explicit" (p. 6) with a combination of what students want to learn but also "past experience and perceived opportunities" (pp. 6–7).

- Addressing gap between current and desired proficiencies – helping participants in "understanding discrepancies related to participant and session goals, persisting in relevant practice to enhance proficiency, understanding multiple influences on learning and proficiency, using various ways to assess discrepancies, engaging in activities to reduce gaps, using feedback, and being reflective about their professional learning expectations and progress" (p. 49).

- Analyzing situational influences on performance – such as "societal and organizational trends, norms and issues" (p. 7). These might include technology, practice standards, and regulations (pp. 7, 60).

- Enhancing learning transactions – by employing "active engagement" (p. 8) with ideas such as "building joint agendas to agree on shared objectives, case analysis, opportunities for practice, learning agreements, and evaluation feedback" (p. 8).

- Using active methods with participants – "active learning includes attention to situational influences, performance, standards, use of technology, encouragement of reflection, and provision of evaluation feedback to guide participants' decisions and application of these elements to enhance professional practice" (p. 69).

- Sequencing activities for progress – such as "distributed opportunities for practice, early agreement on objectives, ongoing feedback" (p. 9).

- Providing evaluation feedback to stakeholders – "Evaluating judgments reflect values and ethics as well as descriptions of the educational process and content" (p. 9). It is recommended to use both qualitative and quantitative methods.

- Recognizing contextual influences – such as "program image, deterrents to progress, attraction of additional participants, retention of current disciplines, extent of participation, application of knowledge" (p. 9).

This researcher's study compared current practice by Kansas CLE providers with best practices as defined by the adult and continuing education literature. Therefore, it was useful to refer to Knox's list to the theories and models above during data analysis, discussion of findings, and recommendations formulation.

Education Program Evaluation

This researcher was concerned with current MCLE provider practices within Kansas, and the way that those practices compare with theory or best-practice recommendations from the literature. Therefore, an analysis of the program evaluation practices that the Kansas MCLE providers employ was an important output of the study. The two models of program evaluation used as the theoretical basis for this analysis, the Phillips and Phillips (2007) learning evaluation model, and the Cervero (1988) and Cervero et al. (1986) CPE evaluation framework are described in this section. In addition, the views from the literature on what constitutes "good" or effective practice are summarized in the Defining Effective Practice section to show an understanding of what the end goal of MCLE should be and how it helped to guide the data analysis.

Defining effective practice. A variety of views in the literature defines what good or effective professional practice is. First, a common theme is that effective practice is ultimately measured by the result for the client—quality patient care, the service of justice, or improving student learning (American Bar Association, 1976; Johnson, 2005; Smith & Topping, 2001). In other words, the result is how effectively the professional defines and resolves the problem at hand, using his or her expertise and knowledge for the benefit of his or her client. According to the New York State Bar Association Task Force on the Future of the Legal Profession (2011), "Society has shifted from a static understanding of professional competence as memorized knowledge to a dynamic conception of lawyers adding value through judgment and their ability to manage and solve complex problems" (p. 38). Second, some authors qualified good professional practice as that practice in which few or no cases of neglect, malpractice, ethical violations, or disciplinary issues occurred (Harris, 2006; Ziegler & Kuhn, 2015). For example, Nowlen (1988) wrote, "Competence is most generally defined as marked or sufficient aptitude, skill, strength, judgment, or knowledge without noticeable weakness or demerit" (p. 31). Third, several authors focused on the proficient execution of a set of skills, competencies, or standards viewed as essential in effective practice (American Bar Association, 1992; Auster & Chan, 2004; Bernhard, 2010; Chochard & Davoine, 2011). According to the ALI–ABA and ACLEA Continuing Professional Education Association for Continuing Legal Education (2009), "What really matters is whether the lawyer has the practice competencies needed for the work he or she is doing" (p. 5). However, in other works, effective practice was viewed as an individualized, lifelong effort in which knowledge, skills, and experience are knit together to continually improve client service. U.S. Supreme Court Chief Justice Burger (1973) said,

> A truly qualified advocate—like every genuine professional—resembles a seamless
> garment in the sense that legal knowledge, forensic skills, professional ethics, courtroom

etiquette and manners are blended in the total person as their use is blended in the performance of the function. (p. 4)

In a similar view, Houle (1980) stated that the most "fruitful" (p. 208) practice improvement is an ongoing, individualized effort in which "practitioners constantly monitor their own work, making judgments about success or failure and subsequently altering behavior as a consequence" (pp. 208–209). Finally, some authors claimed that the definition of effective practice is context and profession dependent. For example, Cervero (1992) explained, "One of the fundamental problems in conceiving of effective practice as the application of principles to situations is that each principle means different things and emerges as different practices in varying contexts" (p. 151). Cervero (1992) argued that effective practice is relative and can only be "judged by what is best in a given set of circumstance" (p. 154). Cervero also claimed that the view of effective practice varies across different types of providers such as universities and professional schools, professional associations, employers, and independent providers (pp. 76–90). Cervero (1992) also stated, "Institutional context is a major, if not the major, determinant of continuing educators' understanding of effective practice" (p. 75).

The ALI-ABA and ACLEA Continuing Professional Education Association for Continuing Legal Education (2009) provided a definition of attorney competency that brings together many of these ideas:

> Legal competence is measured by the extent to which an attorney (1) is specifically knowledgeable about the fields of law in which he or she practices, (2) performs the techniques of such practice with skill, (3) manages such practice efficiently, (4) identifies issues beyond his or her competence relevant to the matter undertaking, bringing these to the client's attention, (5) properly prepares and carries them through the matter undertaken, and (6) is intellectually, emotionally, and physically capable. (p. 13)

In this research, it was important to evaluate the practices of Kansas MCLE providers not only against adult education best practices, but also against some of these varied measures or definitions of effective practice, all within the specific context of the legal professional and provider type.

Phillips and Phillips' learning evaluation model. Part of the analysis of the data that was collected during the Kansas CLE Commission's Education Initiative was used to compare survey and focus group findings to Phillips and Phillips' (2007) learning evaluation model. Phillips and Phillips (2007) claimed, "Measuring and evaluating learning has earned a place among the critical issues in the learning and development and performance improvement fields" (p. 1). Phillips and Phillips (2007) model was based on the classic versions in which program evaluation was conducted along four categories: "reaction or satisfaction, learning, application or changes in behavior, and impact or outcomes" (as cited in DeSilets, 2010, p. 149). Phillips and Phillips (2007) model focused on what they called a "chain of impact" (p. 16) through which learning program impacts are tied to business value. Phillips and Phillips (2007) delineated five levels of program evaluation. CLE program evaluation practices that Kansas providers reported were categorized using these levels:

- Level 0, Inputs and Indicators – considers program inputs, including types of topics, number of people, costs and hours, and program objectives (pp. 17, 78-94).
- Level 1, Reaction and Planned Action – is focused on the attendees' reaction to the program and their plans to put their learning in action. Level 1 evaluations measure topics like usefulness, appropriateness, importance, and intent on use (pp. 17, 110-114). These measures are typically captured using postprogram evaluation surveys or interviews (pp. 115-123).

- Level 2, Learning and Confidence – during which evaluators assess the learners'

  ability to use the content and materials provided, including a concern for their

  confidence in doing so (pp. 17, 132-137). Measures related to skills, knowledge,

  competencies, contacts, and confidence are captured with devices such as testing,

  simulations, and exercises (p. 145).

- Level 3, Application and Implementation – identifies using new skills, knowledge,

  behaviors, or attitudes on the job, capturing data on frequency or extent of use,

  actions taken, and barriers and enablers to use (pp. 17, 163-164). Tools such as on-

  the-job observation, follow-up surveys and interviews, and performance measurement

  plans are used at this level (p. 168).

- Impact and Consequences (Level 4) – seeks to measure business metrics change in

  areas such as productivity, revenue, quality, and employee and customer satisfaction

  (pp. 17, 212-219). Collection processes include record keeping, questionnaires, and

  action plans to determine the impact of learning.

- Level 5, Return on Investment – attempts to compare the costs and benefits of the

  learning program. Measures such as benefit cost ratios, return on investment (ROI)

  percentages, and payback period are calculated with the data collected throughout the

  evaluation effort (p. 17).

Cervero's continuing professional education evaluation framework. In a series of

articles, books, and research studies spanning several years, Cervero (1988), Cervero et al.

(1986), and Cervero and Rottet (1984) developed a model with which researchers can look at

continuing professional education evaluation from a much broader view than simply evaluating

the learning program alone. These authors contended that much of the conflicting or inconclusive

findings from efforts to tie CPE to practice improvement came, not from issues with the programs themselves, but from incorrectly restrictive evaluation models. In Cervero et al.'s (1986) view, "the one-variable research model is inadequate for explaining the relationship between continuing education and performance" (p. 78). Instead, Cervero et al. (1986) proposed in their framework capturing evaluation data on four variables:

- Characteristics of the individual professional – with data on topics such as professional's age, years in practice, or highest degree achieved in an area of practice. This can also include measures of the student's motivation for learning and disposition for change.

- CPE program components – capturing learners' views on the relevance of the content to the needs of their practice, clarity of objectives, effectiveness of faculty, duration, level of learning involvement, and the match between preferred learning style and strategies used.

- Nature of the proposed change – asking the professional their likelihood of implementing the program goals into their practice, difficulty in implementing a change, and its perceived benefits.

- Social system in which the professional practices – to assess expectations and support for apply new learning at the workplace, including barriers or enablers to enacting the change in practice.

In one study with nurses, Cervero et al. (1986) found that this framework explained 63% of performance variation immediately following the delivery of a CPE program and explained 57% 6 months after completion (p. 79). They also found that factors such as the participants' attitudes towards nursing, intent to implement the goals of the program, or clear program

objectives were strong indicators of higher performance results (Cervero et al., 1986; Cervero & Rottet, 1984). Since its development, several other researchers have used versions of this framework to evaluate CPE programs in disciplines such as teaching, nursing, and social work (Barrett, Butler, & Toma, 2012; Dia, Smith, Cohen-Callow, & Bliss, 2005; Farrah & Graham, 2001). They too found that, with this framework, they were able to identify factors beyond the CPE program itself that affected practice change. In these studies, items such as learner effectiveness, value or benefits to clients anticipated from the change, and high expectations for application of learning at the workplace were the strongest drivers of improved performance.

Cervero et al.'s (1986) model was also used when analyzing the data collected in the Kansas CLE Commission's Education Initiative. For example, responses from providers on the evaluation of CLE programs were screened for mention of methods that capture information about attorney characteristics, their attitudes about the change, lawyers' motivations to learn, or the role of employers and workplace environment in practice change postdelivery. In addition, any recommendations of process changes for CLE program evaluation methods in Kansas were made with the Cervero et al. (1986) and the Phillips and Phillips (2007) models in mind.

Grounded Theory Method

In this study, the researcher used a mixed-methods approach, completing both quantitative and qualitative analysis of the data collected from the Kansas CLE Commission's Education Initiative. The quantitative approach involved a data analysis using statistical tools such as correlation, analysis of variance, and regression analysis. The approach for the qualitative portions of the research used the grounded theory method.

According to Ravitch and Carl (2016), "Grounded Theory is an approach to qualitative research that attempts to develop theory that comes from data or the field" (Table 1.2; p. 54).

According to the Sage Dictionary of Qualitative Inquiry (2007), the grounded theory method involves the constant comparison of the data that leads to the formation of concepts, which are then "compared with more empirical indicators and with each other to sharpen the definition of the concept and to define its properties . . . [until] theories are formed from proposing plausible relationships among concepts" (p. 12). Charmaz (2014) also described the data-driven and theory-seeking nature of the method:

> Grounded theory involves taking comparisons from data and reaching up to construct abstractions and simultaneously reaching down to tie these abstractions to data. It means learning about the specific and the general –and seeing what is new in them –then exploring their links to larger issues or creating larger unrecognized issues in entirety. (p. 323)

Charmaz (2014) argued, "Grounded theory methods offer a set of general principles, guidelines, strategies, and heuristic devices rather than formulaic prescriptions" (p. 3). Nonetheless, common, essential elements of the method are found in the literature, including (a) coding, (b) categories, (c) memos, (d) theoretical sampling, (e) constant comparison, (f) saturation, and (g) theory building.

The first key element of the ground theory method, *coding,* is the process by which the researcher begins the data analysis line-by-line or segment-by-segment. According to Corbin and Strauss (2008), coding involves "extracting concepts from raw data and developing them in terms of their properties and dimensions" (p. 159). Charmaz (2014) provided a similar definition, describing how "coding means naming segments of data with a label that simultaneously categorizes, summarizes, and accounts for each piece of data" (p. 111). According to Corbin and Strauss (2008), the earliest stages of coding are commonly referred to as *open coding*, which "requires a brainstorming approach to analysis because, in the beginning, analysts want to open

up the data to all potentials and possibilities contained within them" (p. 160). In subsequent iterations with the data, the researcher completes *focused coding*, making decisions about which codes are likely candidates for data categories and coding the initial codes (Charmaz, 2014, p. 138). Corbin and Strauss (2008) also stressed that coding is more than just naming the data, stating, "It involves interacting with data (analysis) using techniques such as asking questions about the data, making comparisons between data, and so on, and in doing so, deriving concepts to stand for those data" (p. 66). Charmaz (2014) claimed, "Coding is the pivotal link between collecting data and developing an emergent theory to explain these data" (p. 113).

Another important component of grounded theory method is *categories*. According to Corbin and Strauss (2008), categories, which are sometimes referred to as themes, are "higher-level concepts under which analysts group lower-level concepts according to shared properties. They represent relevant phenomena and enable the analyst to reduce and combine data" (p. 159). In the grounded theory method, the researcher describes in detail the properties, dimensions, and characteristics of each category. This step is sometimes called *axial coding*. Charmaz (2014) stated, "Axial coding relates categories to subcategories, specifies the properties and dimensions of a category, and reassembles the data you have fractured during initial coding to give coherence to the emerging analysis" (p. 147).

In addition, common in descriptions of grounded theory (and many other qualitative methods) involves using *memos*. Memos are used at all stages of the process from coding, to category definition, to theory development. Charmaz (2014) called them "analytic notes" (p. 4). Corbin and Strauss (2008) highlighted the idea that memos do more than record data: They "force the analyst to work with concepts rather than raw data [and are] reflections of analytic thought" (p. 122). It is through the process of writing memos, that the researcher identifies and

defines critical codes and categories, synthesizes their analysis into key findings, and articulates

emerging theories. Charmaz (2014) stated, "Memo-writing is the pivotal intermediate step

between data collection and writing drafts of papers" (p. 162).

  Theoretical sampling is the fourth essential element found in materials describing the

ground theory method. As the researcher develops codes and categories from the data, he or she

might find unexpected leads from their analysis or gaps in an emerging theory. Theoretical

sampling is used to pursue additional information about the concepts, themes, and categories that

are uncovered during the data coding process. Corbin and Strauss (2008) stated, "The purpose of

theoretical sampling is to collect data from places, people, and events that will maximize

opportunities to develop concepts in terms of their properties and dimensions, uncover

variations, and identify relationships between concepts" (p. 143). Theoretical sampling is not

intended to be representative sampling of a population, but instead a highly targeted sampling

with a specific purpose. Charmaz (2014) asserted, "Theoretical sampling pertains only to

conceptual and theoretical development of your analysis; it is not about representing a population

or increasing the statistical generalizability of your results" (p. 198).

  As researchers move back and forth between coding, category development, memo

writing, and theoretical sampling, they demonstrate another critical element of ground theory—

constant comparison. Charmaz (2014) argued that constant comparison is the "core category of

grounded theory" (p. 180). Corbin and Strauss (2008) defined constant comparisons as "the

analytic process of comparing different pieces of data for similarities and differences (p. 65).

Charmaz (2014) explained, "Grounded theory begins with inductive data, invokes iterative

strategies of going back and forth between data and analysis, uses comparative methods, and

keeps you interacting and involved with your data and emerging analysis" (p. 1). Therefore,

grounded theory has a highly iterative nature during which the researcher is continuously looking across data concepts to identify commonalities, differences, and gaps in the findings.

The goal of constantly comparing data is to reach what the authors of grounded theory texts called *saturation*. Saturation is not a precisely defined term and the authors admit that it is aspired to, but rarely fully achieved. Corbin and Strauss (2008) described conceptual saturation as "the process of acquiring sufficient data to develop each category/theme fully in terms of its properties and dimensions and to account for variation" (p. 195) (Corbin & Strauss, 2008, p. 195). Researchers iteratively work with their data, seeking to exhaustively describe their categories and how they related to one another, while uncovering emerging theoretical concepts as analysis progresses. Charmaz (2014) suggested, "Categories are 'saturated' when gathering fresh data no longer sparks new theoretical insights, nor reveals new properties of these core theoretical categories" (p. 213).

Finally, the grounded theory method is regularly defined by its ultimate aim of *theory development*. Charmaz (2014) stated, "Our work culminates in a 'grounded theory,' or an abstract theoretical understanding of the studied experience"(p. 4). Corbin and Strauss (2008) described this core element of grounded theory method thus:

> Theory building is a process of going from raw data, thinking about that raw data, delineating concepts to stand for raw data, then making statements of relationship about those concepts linking them all together into a theoretical whole, and at every step along the way recording that analysis in memos. (p. 106)

However, the texts allow that a given research study might not culminate in a formal theory. Charmaz (2014) claimed, "Most grounded theorists produce substantive theories addressing delimited problems in specific substantive areas [but] . . . can reach across substantive areas and move into the realm of formal theory, which means generating abstract concepts and

specifying relationships" (p. 10). Corbin and Strauss (2008) even allowed no theory formulation, saying that a "researcher need not go all the way to theory development. He or she could stop after concept identification and development and do a very nice descriptive study, adding elements of context and process" (p. 162). Charmaz (2014) stressed the difference between the outputs of this method and that of other qualitative methods, saying that, in grounded theory, "theoretical concerns take precedence over collecting stories" (p. 87). Charmaz (2014) also stated, "Grounded theory provides both a way of analyzing situated action and of moving beyond it. In contrast, most qualitative research involves 'what?' and 'how?' questions and sticks to the immediate action" (p. 228). Furthermore, Charmaz highlighted the idea that grounded theories are not restricted to preconceived ideas or theory (p. 32). However, Charmaz (2014) allowed that the researcher might use "guiding interests, sensitizing concepts, and disciplinary perspectives [that] . . . often provide us with such points of departure for developing, rather than limiting, our ideas" (p. 31).

These seven core elements of grounded theory method—coding, categories, memos, theoretical sampling, constant comparison, saturation, and theory building—were used within the qualitative data analysis portion of this study along with quantitative methods.

Summary

In this chapter, the researcher summarized the results of the literature review for this research. The state of contemporary research on CLE was explored, and a discussion of relevant research on other professions' continuing education was presented. In addition, some nonresearch literature on CLE was summarized. Finally, the theoretical models and approaches that served as the basis of this researcher's methods and analysis were described. In Chapter 3,

the researcher will provide detailed information about the methodology that was used in this research.

Chapter 3 - Methodology

Chapter 3 describes the methodology that was used in this exploratory study to examine current MCLE program practices within the state of Kansas, and through the lenses of adult and continuing education theory. The overall design for this study, including the research questions, its purpose and significance, and the role of the researcher are explained. In addition, the participants and sampling technique is described. Next, the data collection, analysis, and verification procedures and tools are discussed. Finally, the chapter ends with a synopsis of ethical considerations and the actions that were taken to ensure IRB compliance and participant protection.

Research Methodology

In this study, the researcher addressed the gap of information determined by the literature review in Chapter 2 concerning the impact of MCLE on the practice of the law within the state of Kansas. Data collected during the Kansas CLE Commission's (2016) Education Initiative project, conducted in 2015 and 2016, was analyzed to identify common practices in MCLE execution, as well as to explore provider attitudes about MCLE. These findings were then evaluated against best practices within adult and continuing education as defined by the literature. The researcher relied on a number of the theoretical frameworks described in Chapter 2 to direct her analysis, justify her interpretation of findings, and guide her recommendations. These frameworks included grounded theory method (Charmaz, 2014; Corbin & Strauss, 2008; Ravitch & Carl, 2016), continuing professional education (Argyris & Schön, 1974; Daley & Cervero, 2016; Houle, 1980; Knox, 2016; Nowlen, 1988; Schön, 1983), and program evaluation (Cervero et al., 1986; Phillips & Phillips, 2007). Using the findings from this data analysis, the researcher provides a detailed description of current MCLE practices by Kansas providers in

program planning and design, delivery, and evaluation. In addition, provider responses to open-ended questions and focus group questions were analyzed for common themes. Where the data analysis warranted, the researcher included in Chapter 5 theories or recommendations on ways in which the stakeholders who are involved with MCLE in Kansas might extend existing good practices or implement new best practices in an effort to improve MCLE within the state. In addition, in the final chapter of the dissertation, the researcher suggests that further research be developed from the study findings and that it describe any additional issues uncovered on the topic.

From the understanding of the current state of MCLE practices and research in Kansas, other states, and other professions as described in Chapters 1 and 2, the researcher decided to conduct a mixed-methods study of the Education Initiative data. This approach was selected for a few reasons. First, some of the data collected in the provider survey were numerical; therefore, they could be analyzed using descriptive and inferential statistics. In addition, the data captured with the survey open-ended questions and focus group notes were qualitative in nature; therefore, they required a qualitative method. Finally, the mixed methods approach was in alignment with the constructivist epistemological view that this researcher held relative to this study content. Specifically, it was the researcher's view that the knowledge created because of the data analysis would be drawn from an interaction between the researcher, the data, and the respondents; therefore, it would be subject to biases of all of the parties involved. Although the quantitative analysis exposed trends or relationships in the survey findings, making meaning of these findings required consideration of the specific context in which the data was collected, as well as a dialog between the researcher and the participants to ensure that the findings would reflect respondents' intent.

Given the purpose of this study (to look for common categories and themes in participant responses, to hope that the researcher could develop theories on how providers in Kansas might improve their MCLE practices), grounded theory was the most appropriate choice of qualitative methodology. The intent of this study matched well Ravitch and Carl (2016) definition of grounded theory as, "an approach to qualitative research that attempts to develop theory that comes from data or the field" (see Table 1.2). Likewise, in the researcher's opinion Charmaz (2014) supported a mixed-methods approach that pairs grounded theory and quantitative analysis: "Mixed methods research benefits when grounded theorists can follow up with qualitative research on intriguing but undeveloped quantitative responses" (p. 324).

Research Design

This research design involved the mixed-methods analysis of an existing data set with both quantitative and qualitative tools. According to Charmaz (2014), "The criteria for effective mixed methods research rest on the analytic coherence of the research product, integrated findings, and illumination of the research problem(s)" (p. 325). Therefore, the researcher moved back and forth between both methods throughout the study. The goal was to allow these two forms of analysis to drive focus within one another and, eventually, to coalesce on the key findings and recommendations of this study.

In the quantitative portion of this study, the researcher used established methods and analytical tools for conducting statistical analysis of numerical data. For example, descriptive statistics were calculated for measures of central tendency and variation. In addition, the capture of provider demographic data allowed the researcher to analyze inferentially the numerical survey responses, using one-way and multiway ANOVA tests. Finally, Poisson and Chi Squared analyses were conducted with the data from those questions that asked providers to select their

responses from a list of options. Details about the quantitative data analysis procedures are explained in a later section of this chapter.

In this study, the researcher used the grounded theory method for the qualitative portion of this mixed-methods approach. The researcher employed several elements of grounded theory method, including (a) coding, (b) category development, (c) using memos, (d) theoretical sampling, (e) constant comparison, (f) saturation, and (g) theory development. The coding and category develop process was conducted using the survey open-ended question responses and focus group session transcriptions. The researcher followed the advice of authors such as Charmaz (2014) and Corbin and Strauss (2008) who stressed that coding and category definition is not merely noting words.

> It involves interacting with data (analysis) using techniques such as asking questions about the data, making comparisons between data, and so on, and in doing so, deriving concepts to stand for those data, then developing those concepts in terms of their properties and dimensions. (p. 66)

Additional, new data sources were also used as required, including extant documentation and theoretical sampling interviews. Details on the data collection procedures and instruments, as well as the data analysis procedures, are in later sections of this chapter.

Throughout the qualitative portion of this study, the researcher wrote memos on codes, categories, and theoretical concepts to "explicate ideas, events, or processes in [the] data—and do so in telling words" (Charmaz, 2014, p. 189). Then, as the codes and categories become saturated, and the quantitative analysis indicated commonalities or relationships within the numerical data, the researcher sought to identify and define emerging theoretical concepts. An important step in this portion of the analysis was the comparison of existing practices by Kansas MCLE providers with best practices for any adult and continuing education event, as defined by

the authors in the literature. This study led to no formal theory. Instead, it finalized in a substantive theory or a set of practical recommendations uniquely related to the specific experience of MCLE within the state of Kansas.

During both the quantitative and qualitative portions of this research, the importance of context in data analysis and theory development was considered.

> Persons or collectives do not live or act within a vacuum, but rather exist and act within a larger framework of structural conditions. Structural conditions do not determine action/interaction/emotional responses. Rather they lead to certain events circumstances, situations, and/or problems that individuals and collectives respond to through some form of strategic action, interaction, or emotional response. (Corbin & Strauss, 2008, p. 114)

Using the knowledge gained as a project member of the Education Initiative, coupled with the literature review for this research and ongoing interaction with the Kansas CLE Commission and MCLE providers, the researcher identified and articulated the role of context in any findings and recommendations from this study. In fact, context is a major category or theme described the Chapter 4, Findings.

Research Questions Situated in this Design

The research design and the researcher's approach to participant selection, data collection, and data analysis, were informed by two research questions:

1. What are the current program planning and design, delivery, and evaluation practices for MCLE of CLE providers in Kansas?

2. How do these practices compare with best practices or proven theories and methods for any learning effort, as established by adult and continuing education research and theory?

Ravitch and Carl (2016) claimed that, "well-chosen research questions are vital to a research study and, in fact, are the center of research design" (loc. 106). They recommend developing research questions by engaging with existing theory and participating in dialogic engagement, which is defined as the "systematic processes for engaging in generative dialogue with intentionally selected interlocutors about (and throughout) the research process" (loc. 103). The questions for this research study were developed in part from existing MCLE practices and continuing profession education theory as uncovered during the literature review. In addition, the questions were generated and refined through extensive dialogic engagement between the researcher, her major professor, and members of the Kansas CLE Commission. They are similar to the research questions of the Education Initiative, but are more focused and specific.

Purpose and Significance of this Study

The purpose of this research was to provide an evidence-based, context-specific understanding of the current practices of Kansas MCLE providers and to identify opportunities to apply adult and continuing education theory as a means of enhancing MCLE practices within the state. Using the data already collected through the Education Initiative provider survey and focus group sessions, this study identified common themes, relationships, and trends in the responses to provide a detailed understanding the current state of Kansas MCLE practice— including common provider practices and their views on the value of these programs. Then, response data was analyzed within the context of adult and continuing education best-practice theory to identify any current "best" practices that are worth propagating, and opportunities for improvement that could benefit all MCLE providers.

As is evident in the literature review of Chapter 2, little empirical evidence has been found on the long-term learning or job performance impact of MCLE in Kansas or any other

state. Through this study, the researcher added to the general body of knowledge concerning MCLE's ImP with contemporary research, a new focus on providers as the source of data, and the specific assessment of adult and continuing education best-practice application in current practices. In addition, this researcher generated findings or theories that suggest recommendations on methods, practices, and tools that Kansas CLE providers might use to improve the service that they provide to attorneys in Kansas. Thirdly, in discussions with other CLE commissioners, the Kansas CLE Commission Board members have learned that this is a subject of interest to many other MCLE organizations, even though they do not have research of their own. Therefore, this study provided important insights about best practices in continuing legal or other professional education that could be helpful to the practice in multiple states and disciplines. Finally, this study could provide fodder for similar research efforts in other states, CLE efforts, and other CPE environments. For example, studies in which the researchers applied a similar method of CPE provider inquiry might be useful in vetting the tools that the Education Initiative used and in comparing the findings from other continued professional education settings.

Role and Background of the Researcher

Differing views exist within the various inquiry paradigms on the role of the researcher. In positivism and postpositivism, "the inquirer's voice is that of the 'disinterested scientist'" (Guba & Lincoln, 1994, p. 115). Conversely, in the constructivism paradigms, the researcher is seen as a participant who is "actively engaged in facilitating the 'multivoice' reconstruction of his or her own construction as well as those of all other participants" (Guba & Lincoln, 1994, p. 115). It was the researcher's view that it would be impossible to conduct this particular research study as a discrete, unobtrusive scientist who maintains complete objectivity throughout the

process. The researcher tends to agree with Guba and Lincoln (1982) that "anyone who has done research involving humans is well aware that one cannot abandon one's own humanness in the interest of 'objective' inquiry; it is both impossible and ethically undesirable to do so" (p. 240). Instead, the researcher followed the recommendation of Corbin and Strauss (2008) and focus on sensitivity rather than objectivity, for "background, knowledge, and experience not only enable us to be more sensitive to concepts in data, they also enable us to see connections between concepts" (p. 34). The mixed-methods approach for this study also allowed the researcher to combine the two paradigms described above. Charmaz (2014) wrote, "Consider that grounded theory as theory contains both positivist and interpretivist [*sic*] elements because it relies on empirical observations and depends on the researcher's constructions of them" (p. 232).

A researcher identity statement follows with the researcher's personal background relative to views on the topics of CLE, professionals and their services, and workplace education. The researcher has also included information about the relationship with members of the Kansas CLE Commission and the possible influence that those relationships might have on the researcher's approach to and analysis within this research study.

- I am not an attorney. Therefore, my personal understanding of MCLE and the legal profession is limited. I do have two attorneys in my family—my father and my sister. So, any initial understanding or opinions that I have on this topic come from what I have heard from these family members. My father is a proponent of CLE, who says that it is helpful to him in his private practice. My sister does not find much value in CLE, because she finds the topics too generic and admits that she is rarely fully attentive to the sessions. Therefore, my initial view of CLE is that it adds value in some ways, but has limitations and is context specific.

- I am a "client" of professional services, having used the expertise of doctors, social workers, attorneys, and the like to help me with complex problems for which I lack the necessary knowledge or experience. I am aware that most professionals are required to attend continuing education. I have a generally positive view of this learning and have always assumed that it helps to ensure that I am receiving service according to recent knowledge. This view is somewhat countered by having witnessed a few "boondoggles" where professionals attend a continuing education conference, but seem to be socializing, rather than learning.

- I have many years of experience in the field of employee education both as a participant and a consultant. I worked for a large consulting firm for 17 years with which I attended many hours of continuing education as an employee learner. In addition, my area of expertise was "human performance" and I worked with numerous Fortune 500 companies in their training and human development programs. From this experience, I have formed these opinions about education in the workplace:

  o I believe that learning differentiates great companies from average ones and that it is critical for the successful transition of employees facing large-scale change.

  o Yet, in my experience, many organizations do not invest enough in such programs and do not think broadly about career-long learning versus one-time skills change.

  o I have seen that education programs can be challenging to plan, develop, and deliver in complex organizational structures.

  o Measuring the direct impact of learning on business metrics is difficult and requires a significant time investment by many stakeholders to produce useful data.

- o I think some of the most valuable training that takes place in a work setting is self-directed, taught through informal mechanisms (such as mentoring or on-the-job practice), and motivated by individual needs, not organizational needs.
- My major professor serves on the Kansas CLE Commission Board. I am privy to some of his opinions of the Commission and its members. He has also shared with me his understanding of the history, practices, players, and politics related to this organization and topic. These have influenced my initial expectations and attitudes about this research topic.
- As a consultant on the Education Initiative since September of 2014, I have also had the opportunity to work with most members of the Kansas CLE Commission and several MCLE providers. My relationships with these individuals, and the views that they have shared with me on the legal profession and MCLE in Kansas, might predispose me to certain opinions. In addition, my involvement in the design and delivery of the Education Initiative survey and focus group sessions might influence my views on the data they have produced.

Participants and Settings for this Study

The participants for this research included the providers who participated in the Education Initiative survey and focus group effort. These providers comprise a sample of the total population of the 698 unique organizations that were delivering CLE to Kansas attorneys at the time the survey was conducted in January of 2015.

Of the total population providers sent the survey, 260 providers responded at least in part to the survey and 198 completed it fully. Those providers completing the survey included a variety of organizations, reflecting the diversity of the total provider population. For example,

there was a mix of public and private, for-profit and not-for-profit, and local and national providers. The sample also included a mix of providers of different organizational sizes, as determined by the number of employees they have focused on CLE and the number of CLE courses they deliver each year to Kansas attorneys. The survey was delivered electronically to providers' work email addresses.

A total of 22 individuals participated in the Education Initiative's focus group sessions. These individuals self-selected to be a part of the sessions by volunteering to do so in the provider survey. Demographics of the attendees' organizations were compared to those from the survey and it was found that the distribution was similar to that of the survey sample in terms of provider type (nonprofit versus for profit), CLE offering size, and CLE staff. Table 3.1 shows this comparison. Focus group sessions were held in locations to facilitate attendance by the desired attendees. These included a conference room at the Kansas CLE Commission headquarters building that is located in Topeka, Kansas, and a Web video conference for remotely located providers using ZOOM. All venues were chosen for their ability to provide a comfortable, equalitarian setting, with the goal that no one participant would feel intimidated or silenced.

As the data analysis of the responses from these survey and focus groups was completed, questions arose or ideas needed clarification regarding some of the findings. Also, given using ground theory method for the qualitative portion of the analysis, gaps in category definition sometimes necessitated theoretical sampling. Wherever possible, member checking and theoretical sampling were conducted with the original survey respondents and focus group members. Members of the Kansas CLE Commission Board and their staff also supported these two activities as needed.

Table 3.1: *Education Initiative Participant Population Demographics: Comparison of Participant Provider Demographics as a Percent of the Education Initiative Survey and Focus Group Session Samples*

Demographic	Survey Percent	Focus Group Percent
Organization Structure		
Nonprofit	62.7	69.2
For profit	37.3	28.2
Number of CLE Offerings		
< 20	68.6	52.6
20 to 49	13.3	18.4
50 to 99	2.7	2.6
100+	15.5	26.3
Number of CLE Employees		
1 to 5	74.6	73.7
6 to 10	7.1	0.0
11 to 20	3.6	5.3
21+	14.7	18.4

Note. Percentage of provider respondents was determined based on their answers to the demographic questions in the Education Initiative survey.

Sampling Methodology

The Kansas CLE Commission staff selected the provider sample for this study during the early stages of the Education Initiative. They gave the researcher a list of all providers that were delivering CLE courses to Kansas attorneys as of January 2015. Therefore, this was a purposeful sample that was only limited in its representation of the total population by whether a given provider chose to complete the survey. The participants had the option to "opt out" of the survey and recommend someone else to complete it in their stead. This was done with the first question of the survey which tested, " Are you still the best contact person to answer questions about your organization and specifically, their CLE offerings targeting Kansas attorneys?" If they answered "No" to this question, the participants were invited to provide the contact name, phone, and email of an alternative. Nineteen individuals (8% of total respondents) recommended an alternative sample member and these individuals were added to the survey distribution.

The providers self-selected to become a participant in the focus group sessions. The final question on the survey stated, "We will be conducting focus groups to gain greater understanding of these survey results and to identify best-practices that can be leveraged across the state. Would you like to participate in this group?" If they replied "Yes," the participants were requested to provide their contact information. Thirty-nine individuals (21% of all respondents) initially volunteered to join the focus groups. The executive director of the Kansas CLE Commission, Shelley Sutton, informed these individuals of the focus group sessions via email and phone call. Some were unable to attend because of schedule conflicts.

Data Collection Procedures and Instruments

Data collection in this research study involved using an existing data set that was gathered through the Kansas CLE Commission's Education Initiative. This section describes

details of the instrument development and data collection process that the Education Initiative used to create these sources, which included data from a survey of Kansas CLE providers and focus group session recordings and transcripts. In addition, the researcher defined the new sources of data that were collected to complete robust category and theory definition in this study.

Provider Survey

The provider survey used in the Education Initiative was a custom instrument that was developed specifically for the project. Efforts to find an existing, proven survey tool for providers of continuing professional education in the literature did not find a suitable option. Therefore, the new survey tool was developed in a coordinated effort between the Kansas CLE Commission's executive director and Board of Directors, a select group of providers, a survey expert from Kansas State University, this researcher, and the researcher's major professor. First, a condensed review of the literature on CLE, continuing professional education in other fields, and adult and continuing education theory was used to identify best practices and to provide legal profession context to build the survey questions. Next, subject matter experts, including the commission's executive director, a group of about six providers, and a survey expert at Kansas State University reviewed survey drafts for question clarity, overall flow and length, and the proper use of legal profession terminology. Finally, about 20 attendees at a Kansas CLE Commission provider conference, the members of the commission Board of Directors, and the commission's executive director completed a pilot of the survey. Feedback and suggestions were received in a fact-finding session with key providers and the commission staff in October of 2013, which helped to identify issues with question clarity or accuracy to enhance survey internal validity and reliability.

The final survey tool included 14 questions on provider practices in MCLE planning and needs assessment, design and development, delivery, and evaluation or measurement. It also included a question with which the project team asked providers to rate the overall effectiveness of CLE in Kansas along several measures. Finally, the survey included three open-ended questions with which the project team queried respondents on their views of the purpose of CLE in Kansas and what is and is not effective about these programs. In the survey, the project team also allowed the respondents to opt-out and to suggest another contact to take the survey in their stead. Finally, in the survey, the project team allowed respondents to volunteer to participate in the focus group sessions. This survey was created and distributed using Qualtrics, an online, Web survey tool that the researcher used to ease delivery, results collection, and data analysis. A complete copy of the survey is included in Appendix C.

Focus Groups

Upon the completion of the survey, key themes, issues, and areas for further exploration were identified. A presentation was made to the Kansas CLE Commission Board in April of 2015 that summarized results from the survey, specifically highlighting those findings that appeared to conflict with previously understood practices, Kansas MCLE regulations, or expected results. Using this material, the commission's Board of Directors and executive director, working with this researcher, developed possible discussion topics for focus groups. A complete copy of the discussion document is included in Appendix D.

Three focus group sessions were held to gain greater insight to the reasons behind responses, have in-depth discussion on current practices or tools, and to brainstorm how findings might be implemented to improve practice. The members of these focus groups were the participants who volunteered during the survey. Each focus group was attended by six to eight

attendees and included a mix of provider types. The focus group sessions were recorded and then transcribed by a professional transcription company. These transcription reports were the data source that was used in this research. The original recordings were also used when needed for confirmation of transcriptions or to understand tone and dialog flow.

New Data Sources

Experts on grounded theory method stress the importance of triangulation, or using a variety of data sources to explore the same problem (Corbin & Strauss, 2008, p. 66). Beyond the Education Initiative survey and focus group session data sources, the researcher used extant documents from the Kansas CLE Commission, MCLE providers, or profession organizations to enhance the information available for analysis. These documents included sources such as evaluations from past MCLE courses, meeting notes from commission board meetings, online resources from professional organization websites, or academic articles on the topic. In addition, the researcher personally attended some MCLE classes, in person and online, and created memos from the observations. Finally, where saturation was lacking in category or theory definition, this study conducted theoretical sampling interviews. The purpose of this theoretical sampling was, "to look for situations that would bring out the varying properties and dimensions of a concept" (Charmaz, 2014; Corbin & Strauss, 2008 , p. 27). When possible, the researcher used this sampling effort to interview the actual focus group or survey participants from the Education Initiative to address any gaps within the analysis. In other cases, the researcher interviewed the Kansas CLE Commission executive director, members of its Board of Directors, and its staff to capture their opinions on how best to complete concept definitions. Decisions on who to interview in the theoretical sampling process were made according to the needs of the analysis, not from a concern to form a representative sample of the population, for "theoretical sampling

pertains only to conceptual and theoretical development of your analysis; it is not about

representing a population or increasing the statistical generalizability of your results" (Charmaz,

2014, p. 198).

Data Analysis Procedure

The data collected in the Education Initiative was analyzed using a mixed-methods

approach with both quantitative and qualitative components in the effort. The researcher moved

between both forms of data analysis. Thus, results from one form guided the analysis conducted

in the other. Likewise, using both forms of analysis iteratively helped to focus attention on the

emerging themes and findings that were the most relevant to the purposes of this study.

The quantitative portion of the data analysis procedures used standard statistical analysis

methods. A statistical analysis software tool (JMP) and the data analysis functions available

within the Qualtrics survey tool were used for these efforts. First, these tools were used to

calculate descriptive statistics on the numerical data from the provider survey, such as means,

standard deviation, and covariance. Next, the researcher ran analysis of variance calculations

(ANOVA) using the quantitative question response data against some of the provider

characteristics, such as organization size or structure. Lastly, Poisson or Chi Square analyses

were applied for the survey data collected through questions that gave respondents a list of

options from which to choose. The selection of which of questions and provider characteristics

were used in ANOVA, Poisson, or Chi Squared analysis was based on a few criteria. First, if the

question responses showed a wide range of variation or large effect size, the named analyses

were run to determine whether provider demographics played a role in response differences.

Second, if the responses trended toward the very low or very high ranges of the answer scales,

the researcher sought in the analyses to explain why this was the case. Finally, as the grounded

theory data analysis progressed, key themes or issues were uncovered. These main and interaction effects captured through the inferential analysis tools helped to illuminate the role that the provider factors played, if any, in these key categories or theory components.

The researcher's goal in the qualitative data analysis portion of this study was to generate *rich data* on the topic of mandatory CLE in Kansas. According to Charmaz (2014), "rich data are detailed, focused, and full. They reveal participants' views, feelings, intentions, and actions as well as the contexts and structures of their lives" (p. 23). To accomplish this goal, the key elements of grounded theory—coding, categories, memos, theoretical sampling, and saturation— were used in the qualitative data analysis.

To begin, open coding was done on the responses to the open-ended question from the survey and the focus group transcription documents. Corbin and Strauss (2008) defined opening coding as "breaking data apart and delineating concepts to stand for blocks of raw data. At the same time, one is qualifying those concepts in terms of their properties and dimensions" (p. 195). Where appropriate, the researcher used in-vivo codes from the legal profession. In-vivo codes are used to define "concepts using the actual words of research participants rather than being named by the analyst" (Corbin & Strauss, 2008, p. 66). Next, focused coding was completed, which "uses the most significant or frequent initial codes to sort, synthesize, integrate, and organize large amounts of data" (Charmaz, 2014, p. 113). The researcher also coded the codes to "look for patterns and think more analytically" (Charmaz, 2014, p. 128). When the coding was finished, the researcher began to identify and describe the categories, including axial coding to relate these categories to subcategories and to each other. The researcher followed the advice of Charmaz to "make your categories as conceptual as possible—with abstract power, general reach, analytic direction, and precise wording" (p. 189).

Throughout the coding and category definition phases of the data analysis, the researcher kept memos of the analysis and thinking. In grounded theory, memos are different from field notes. Corbin and Strauss (2008) explained:

> Field notes are data that may contain some conceptualization and analytic remarks. Memos, on the other hand, are lengthier and more in-depth thoughts about an event, usually written in conceptual form after leaving the field. And as such, they are much more complex and analytical than any remarks that I might make on my field notes. (pp. 123–124)

These memos in turn became a form of data. Also, as the data analysis was undertaken the researcher encountered gaps in category definitions or theory development that required additional data. Where needed, theoretical sampling was conducted with Education Initiative participants, Kansas CLE Commission members, or from extant documentation as described in the data collection procedures and instruments section of this document. The purpose of theoretical sampling was to reach saturation in category definitions. Charmaz (2014) explained, "You conduct theoretical sampling by sampling to develop the properties of your categories until no new properties emerge. Thus, you saturate your categories" (p. 192). Memos were also used to collect the results of the theoretical sample efforts.

Verification Strategy

In this study, the researcher used a mixed-methods approach; therefore, it was necessary to build a verification strategy that would meet the validity, rigor, or "trustworthiness" (Guba, 1981; Ravitch & Carl, 2016, loc. 194) requirements for both the quantitative and the qualitative portions of the research. Guba (1981) argued that trustworthiness in research is concerned with four aspects: truth value, applicability, consistency, and neutrality (pp. 79–82). Traditionally, rationalistic, quantitative researchers have used the terms internal validity, external validity or

generalizability, reliability, and objectivity to define the measures and methods for building

trustworthiness (Guba, 1981). Techniques and tools like control groups, randomization,

probability sampling, replication, and maintaining an insulated investigator are employed in such

studies to ensure that a study is rigorous (Guba, 1981, p. 82). Guba proposed four similar terms

for qualitative research, which were credibility, transferability, dependability, and confirmability

(pp. 79–89). Contemporary authors still use these terms (Charmaz, 2014; Corbin & Strauss,

2008; Ravitch & Carl, 2016). In naturalistic, qualitative studies, researchers use methods such as,

prolonged engagement, triangulation, thick description, member checks, multiple coding,

dialogic engagement, and practiced reflexivity to verify study outcomes (Guba, 1981; Ravitch &

Carl, 2016).

For the verification strategy of this study, the researcher used four of these methods:

(a) triangulation, (b) member checks, (c) dialogic engagement, and (d) practicing reflexivity. The

ultimate goal of this strategy was to affirm that the findings of the study would be "faithful to

participants' experiences" (Ravitch & Carl, 2016, loc. 196).

Triangulation is an important tool for building complexity and rigor in research studies

and involves having "different sources or methods challenge and/or confirm a point or set of

interpretations" (Ravitch & Carl, 2016, loc. 203). In this study, the researcher used

methodological triangulation, data triangulation, and theoretical triangulation. The mixed-

methods design of the study, with its quantitative analysis of the numerical survey data and

qualitative analysis of the open-ended survey question responses and focus group transcriptions,

supported methodological triangulation. Data triangulation was also achieved by using the

survey and focus group data along with extant documents and the memos developed during the

grounded theory analysis. Finally, theoretical triangulation was used when current MCLE

provider practices uncovered in the data analysis were compared to multiple concepts and models from the continuing professional education literature.

Member checking or "participant validation" (Ravitch & Carl, 2016, loc. 206) was also used in this study. Code names and category definitions were checked to ensure that they accurately captured the participants' intent at the time that they completed the survey or participated in the focus groups. Emerging grounded theoretical constructs and study recommendations were also member reviewed so that they were appropriate within the context of Kansas MCLE and the practice of the law within that state. Also, as described in the sections above, some theoretical sampling was necessary to complete the qualitative data analysis, which served as another form of member checking. When possible, the original provider participants who took the survey or attended a focus group session during the Education Initiative were asked to complete these member checks. Checks were also done with members of the Kansas CLE Commission Board and staff. These sessions were done via document reviews or one-on-one interviews or discussions in person, over the phone, or via zoom meetings.

According to Ravitch and Carl (2016), the goal of dialogic engagement is to "create the conditions in which others (and yourself) can challenge our interpretations of the research process and data at all stages throughout the research project" (loc. 212). Certainly, the member checking process just described provided numerous opportunities for dialogic engagement. In addition, dialogic checks were made in sessions with the Kansas CLE Commission's executive director and the researcher's major professor at preplanned points during this study.

Practicing reflexivity involves "systematically and critically engaging with our biases, interpretations, processes, and reflection . . . to produce more complex and ethical research" (Ravitch & Carl, 2016). In this study, the researcher practiced reflexivity in two ways. First, as

described in the data analysis procedure section, the researcher used memos to capture the thinking and reflections throughout data coding, category definition, and theory development. Second, potential biases of the researcher were explored at the onset of the study in the researcher identify statement. The researcher revisited and updated this memo as needed during the study to reassess the impacts of past experiences and relationships on the analysis and continually to acknowledge and adapt to these biases.

Ethical Considerations

This study was conducted in an ethical manner and complied with Kansas State University Institution Review Board (IRB) protocols through several methods: (a) voluntary participation, (b) participant confidentiality, (c) secure storage of data and study materials, (d) informed consent forms, and (e) member checking.

First, all participants retained the right to refuse to participate at any point during any theoretical sampling interviews. The researcher explained this before the interviews began. Second, participant confidentiality was maintained. Verbatim comments and personal descriptions that would expose the identity of an interviewee were not included in any outputs of this research without the express consent of the individual. Instead, the results were summarized and any identifying descriptors were removed before the researcher would publish the study. In addition, the researcher ensured that all notes and memos from the research were stored in a secure location with controlled access. Fourth, an informed consent form was provided to each interviewee to explain the intent of the session and the specific methods by which the researcher would ensure that the participants would be protected. Finally, for the memos and analysis that were created through the theoretical sampling interviewees, the researcher used member checking to ensure that they would fairly represent the participants' intent.

Note that many of these same ethical consideration techniques were applied in the Education Initiative survey and focus group processes. First, in both of them, the researcher explicitly notified the participants of their right to not participate. The survey provided an option to opt out of the survey in its first question, which said, "Before we begin, are you the right person to complete this survey? Are you still the best contact person to answer questions about your organization and specifically, their CLE offerings targeting Kansas attorneys?" The participants could select "No" on this question, and could give the name and email address of another contact if they desired. Providers could also choose not to participate simply by not completing the survey. Likewise, in the focus group meetings, Dr. W. Franklin Spikes (the major profession for this study) explained the Institutional Review Board process at the beginning of each session. The participants were advised that they could choose to not participate in any or all of the focus groups discussion topics and questions, and that they could leave at any point. Second, the researcher used the Educational Initiative survey to collect demographic information about the organizations that completed it; however, it was done in such way as to maintain individual organization confidentiality. For example, the respondents were asked to describe their CLE organizational size, using four broad ranges of category: *less than 5, 6–10, 11–20*, and *21+* employees. In addition, the respondents were notified at the beginning of the survey that all data would be summarized and reported in aggregate so that no individual organization would be identifiable from their responses. The wording was as follows: "Please be assured that all individual responses and information will be kept strictly confidential. Any reporting of survey results will be summarized." The importance of provider confidentiality and intellectual capital was also addressed for focus group members. The participants were advised that all transcripts from the sessions would be kept secure and that the results would be reported in aggregate so

that no one individual could be attributed to particular comments. The focus group members were also made aware that member checking would be done to ensure that the analysis would reflect their intent. This member checking took place during this research study.

Summary

In this chapter, the researcher defined the methodology for this research study. The overall methodological design was explained, followed by details on the research questions, purpose, and significance of the study, and role and background of the researcher. Information was also provided on the participants for the study and the method by which the research sample was determined. In addition, specifics on the data collection procedures and instrument were explained. Finally, the researcher's intentions related to verification and ethical practices were described.

Chapter 4 - Findings

In Chapter 4, the researcher describes the findings of this research study. Specifically, the outputs of the data analysis of two existing data sources—provider survey data and focus group transcripts or recordings from the Kansas CLE Commission's Education Initiative—are described in detail.

These results are presented and organized along key categories or major theoretical concepts that were identified through this research. These categories include (a) the context and realities of the legal profession and the Kansas MCLE space, (b) the purpose and effectiveness of MCLE according to providers, and (c) common Kansas CLE provider practices. For each category and concept, the outputs of both the quantitative and qualitative analyses are presented where applicable. Quantitative analyses of the numeric data collected by the provider survey are presented in two groupings: (a) descriptive statistical summaries of the survey response data, and (b) inferential test results comparing provider responses with factors like provider demographics to identify any statistically significant relationships. For the qualitative data, the results of the grounded theory coding of the open-ended survey responses and provider focus groups transcripts and recordings are organized along the themes or subcategories that emerged in the analysis. Grouped by key theoretical category these subcategories or themes include:

- Category 1: Context and Realities of the Legal Profession and the Kansas MCLE space
  - Subcategory 1.1: MCLE space structure
  - Subcategory 1.2: The highly diverse MCLE learning environment
  - Subcategory 1.3: Culture of the legal profession
  - Subcategory 1.4: Attorney learner types, attitudes, and behaviors

- Category 2: The Purpose and Effectiveness of MCLE

  - Subcategory 2.1: Improving the practice of the law; Expanding lawyers' knowledge

  - Subcategory 2.2: Sharing new developments; Keeping attorneys "up-to-date"

  - Subcategory 2.3: Connecting attorneys with their peers; Law community of practice

  - Subcategory 2.4: Ensuring ethical practice

  - Subcategory 2.5: Supporting law practice management

  - Subcategory 2.6: Enhancing the public image of the profession

  - Subcategory 2.7: Increasing Attorney Job Satisfaction; Attorney wellness

  - Subcategory 2.8: Effectiveness of CLE in Kansas

- Category 3: Common Provider Practices

  - Subcategory 3.1: Program planning and design

  - Subcategory 3.2: Program delivery

  - Subcategory 3.3: Program evaluation

Category 1: Context and Realities of the Legal Profession and Mandatory Continuing Legal Education Space

As described in Chapter 2, the literature on continuing professional education highlights the importance of context in understanding and interpreting the practices, structures, culture, and limitations of any continuing learning environment (Clark et al., 2015; Daley, 2001; Farrah & Graham, 2001; Knox, 2016; Nowlen, 1988; Queeney, 2000; Tisdell et al., 2016). Cervero (1992) argued that "institutional context is a major, if not the major, determinant of continuing educators' understanding of effective practice" (p. 75). Bierema (2016) explained how, "as

professionals build expertise, they must simultaneously understand the system where the profession resides . . . this knowledge equips professionals to respond more nimbly and creatively to unpredictable problems and uncertain contexts" (p. 60). Similarly, Daley and Cervero (2016) described how, "in professional practice, context shapes how professionals look at new information, influencing not only what information professionals seek to learn but also what information they try to incorporate in their professional practice" (p. 25).

The coding of the qualitative data was captured in the focus groups transcripts and the open-ended survey responses resulted a number of themes on the context surrounding MCLE in Kansas. Given the import of such context in understanding how effective practice is defined and how attorneys learn, these themes are described in the findings chapter first. Also, this contextual knowledge served as a frame from which to evaluate MCLE provider practices against CPE best practice, by exposing for the researcher realities and limitations that would impact provider capabilities, priorities, or choices. These context-related codes and themes are grouped into four subcategories: (a) the structure of the MCLE space; (b) the diverse learning environment surrounding the attorney learner; (c) the culture of the legal profession; and (d) attorney learner types, attitudes, behaviors.

Subcategory 1.1: Mandatory Continuing Legal Education Space Structure

The first context related subcategory provides insight into the structure of the Kansas MCLE space. The data analysis revealed that any MCLE effort within the state is an effort spread across multiple stakeholders, each of whom own only a part of the process. Specifically, the planning, development, delivery, and evaluation of MCLE programs are shared across regulators, providers, attorneys, and employers. Although the regulators enforce the rules for CLE course accreditation and monitor attorney compliance, the providers are typically the

designers and developers of the courses themselves. Attorneys not only attend the sessions as learners, they often serve as the instructors. Employers play a role in allocating the resources necessary to attend courses, but also support or discourage application of new learning in the workplace. Employers also establish any links from learning to employee development and evaluation.

This multiplayer reality of MCLE within Kansas means no one party can influence practice change alone, nor is any one stakeholder group completely responsible for the success or failure of attorney development efforts. Therefore, change to the system would require agreement and involvement by all four groups. Likewise, providers explained that their knowledge of what is or is not effective about the CLE courses that they deliver is limited, for they are not usually attorneys themselves, or employers of attorneys; therefore, they cannot witness how learning affects practice change. When asked what they thought was effective or not effective about MCLE in Kansas, one provider simply replied, "Since I'm not an attorney, this question is a little more difficult for me to answer." Yet, attorneys are instrumental in selecting and developing content and as CLE instructors.

Subcategory 1.2: The Highly Diverse Mandatory Continuing Legal Education Learning Environment

The second contextual subcategory uncovered using grounded theory analysis of the qualitative data shows the highly diverse environment that surrounds any attorney learner as he or she takes CLE courses. Specifically, for any given learning event, the experience for an individual lawyer is essentially unique to any past classes that learner attended, and any other lawyer's experience within the same or another course. In this study, the researcher uncovered that this is because the MCLE experience is highly diversified across three dimensions:

- Learning event diversity (course and program content, length, learner profile, and delivery medium);

- Practice diversity (employer and practice size, structure, culture, and resources); and

- CLE provider diversity (provider size, structure, reach, or level of sophistication).

Learning event diversity. Providers' comments in the focus groups, their responses to some of the survey questions, and the information in extant documentation all demonstrate that substantial variety exists when comparing the individual MCLE learning events that Kansas attorneys attend. First, the study participants explained that they offer a wide variety of course topics to attorneys, targeted to different learner audiences, and delivered through a variety of medium. For example, course curriculum often covers new law, regulatory changes, hot topics, or recent court decisions, but these are unique to a specific practice area, such as tax or criminal law. CLE courses can also cover a much broader set of topics such as ethics, practice management, and attorney wellness. One survey respondent explained that CLE courses should *"provide instruction and information that is useful for the enhancement of knowledge in areas of practice and provide knowledge in other areas of law."* Second, the experience of the attorney learner is highly varied because the courses are targeted to different levels of expertise or experience with some geared towards novice attorneys and others toward seasoned practitioners. Similarly, providers reported that the diverse skills sets that attorneys bring into a classroom affect the learning environment. One focus group member described teaching an ethics negotiation course "about eight, ten times at different places, and each one was a completely different experience." Lastly, CLE course delivery medium and formats are diverse. Kansas providers explained that they deliver courses through traditional methods, like live, in-person classroom sessions, but also through nontraditional, live formats like webinars, or online through

prerecorded sessions, computer-based courses, and MP3 downloads. Likewise, in-person sessions can range in format from a brown-bag lunch session at a bar association office or law firm office, to a multiday event held at a destination hotel. One provider explained, "We can be, you know, in the back of a restaurant or we can be at the Overland Park Convention Center." As a result of these three factors—course content, learning skill sets, and delivery medium—each attorney at each CLE class will experience a wholly unique learning experience.

Practice and employer diversity. The delivery of MCLE is also unique at each occurrence because attorneys work at a widely diverse set of practices. Many attorneys are employed by law firms, but providers explained that the firms can range in size from small practices of one or two attorneys to what one provider termed "Big Law" or large firms employing hundreds of attorneys across several states. Other attorneys work within corporations, nonprofits, or government entities. Some work in rural areas where they are the only attorney for miles and serve as a general practitioner, but others work in cities at megafirms and practice one area of law. One provider described this variance this way:

> In a large firm, your average attorney does one thing. But, you know, the guy down in Ellaville, Georgia, he does a little of everything. And his needs are completely different, than somebody who just does M&A International.

The providers in this study explained that this diversity of practices or employers affects the resources available to attendees for attending CLE courses (e.g., tuition support, travel expense reimbursement, or paid time off work). Where an attorney works also affects how he or she applies his or her learning to practice, for each employer has a unique culture and expectations regarding the importance of CLE, its role in attorney development, and how it should be applied to client work. Providers particularly described how attorneys who are in small or solo firms in geographically large states face unique challenges in meeting their MCLE

requirements. These providers reported that 70%–80% of attorneys in the United States work for a small firm or in solo practice. One survey respondent wrote, "Many CLE offerings are beyond the reach of government and small office/sole practitioners." Another provider, described the significant impact that employer size can have on the CLE experience, saying,

> The difference between lawyers that work at big law and lawyers who . . . work in Western Kansas . . . [and] have to do everything from taking out the trash to, you know, jump to court is enormous. Everything is different. The resources that are available to them are different. The access to education, the types of programs that are available to them are different.

Recognizing the diversity of practice environments in which Kansas attorneys work and its impact on the attorney learning experience is important contextual framing to consider in the evaluation of CLE practices.

Provider diversity. Finally, great diversity exists among the providers of MCLE for Kansas attorneys, dramatically changing the experience for any given learning event. As is demonstrated by the Education Initiative survey and focus group participant demographic makeup reported in Table 3.1, CLE providers in Kansas can range in size from the very small to the very large. Some employ only a few CLE professionals and offer one or two classes a year, while others keep a sizable CLE staff and deliver hundreds of courses a year. Providers also vary in organizational structure with some being for-profit entities such as national learning-delivery companies and law firms, and others being public or nonprofit entities such as bar associations or law schools. This diversity means that how and where CLE courses are delivered can be very different, depending on the geographic reach, sophistication, and resources of that given provider. Practising Law Institute (PLI) or other national providers will deliver courses in a very different way than the Wichita Bar Association. Some members of the focus groups talked about

how they partner with other providers to expand their offering or to fulfill a specific learning need that they are not well positioned to deliver. One provider argued that this make sense, saying,

> An organization is best suited when it understands its own "sweet spot" for that knowledge base and delivers accordingly. It's not always wise to be a "jack of all trades, master of none." Be good at what you're good at, and partner with other organizations whose offering complements your own.

Depending then on which provider is delivering the CLE course that an attorney might attend, the learning environment will look and feel different from that of other classroom experiences.

Subcategory 1.3: The Culture of the Legal Profession

The coding of the qualitative data from survey and focus group responses also generated a contextual subcategory describing the culture of the legal profession. The themes within this topic expose underlying provider beliefs on topics such as attorney egos, competitiveness, and traditionalism.

Attorney egos. First, several providers shared their opinion that attorneys as a group are quite proud of their education, intelligence, and accomplishments; therefore, they have strong egos. One provider said, "One of the things about practicing attorneys is that they are, in general, very sure of their own brilliance." Another focus group participant said, "I think it's tougher, too, to work with attorneys because of their ego. Right? I know it's probably a shocking thing to say." Other group members responded to this comment with robust laughter.

Believing this, providers then explained how they adjust their CLE practices to account for attorneys egos. For example, providers admit that it can be difficult to share negative course evaluation results with the senior attorneys or judges that teach CLE sessions, who are experts in their area of law, but poor instructors. One participant explained, "It's very difficult to tell

somebody [who] has been practicing for 40 years and is already in front of the Supreme Court. 'Oh, well, you know, your teaching methods are terrible and your learning objectives are poor.'" Other providers said they must take care when writing course objectives and descriptions for their more novice-level courses because attorneys are unlikely to admit the need for any basic learning. One provider explained that, when reading some course descriptions, her attorneys reply, "This is beneath me. I don't need to take this." Finally, providers say that egos affect the course or instructor feedback. Focus group members gave examples of evaluation comments such as "If I had a chance to write this chapter and present it, I wouldn't have done it like so and so" or "I could teach better than he could."

      Competiveness. Another cultural aspect of the profession that was identified in provider responses was the competitive nature of law practice and a resulting lack of trust. This characteristic affects classroom dynamics. For example, a few providers described how attorneys become competitive during class exercises. In one example from a course on ethics, the provider described how some attorneys "were kind of mediators and weren't really negotiators and would cut in." A source of this competitiveness might be an underlying lack of trust or fear of being judged. One participant said, "The attorneys, once they got there . . . liked it, but it took a while for them to feel like, okay, this is okay to do and I'm not being judged." Providers say that it can be difficult to get attorneys to participate in mock trials, exercises, or group discussion because of this lack of trust. One respondent claimed, "Attorneys are not conditioned to discuss cases. The peer pressure is to keep silent."

      Traditional learners and generational differences. A third cultural theme that emerged from the qualitative analysis showed the legal profession as one that is primarily traditional in its views and approach to learning. Several of the survey and focus group responses point to

challenges that providers face in trying to implement more innovative teaching methods. One comment was "Our folks are tradition. I mean, they are traditionalists and they're backwards." In another example, a provider who sits on an American Bar Association committee said,

> I think at the bar association, we're in an interesting time period where we're trying to transition what our CLE looks like. And what we're running into is, because we are kind of governed by our committees, and the committees like doing what they've always done because they think it works, our staff run into issues with trying to suggest new methods. Because they're, like, well, no. We've done it this way; we're going to do it this way.

However, providers describe seeing generational differences among attorneys and their learning preferences. One participant said, "We are seeing a huge gap between the older generation and the newer generation." In their experience, providers have found that the more-tenured learners want to keep their CLE in a traditional format. A focus group member said that the older generation "expects the talking and they expect a handout and they expect to get their hours and walk out. And that will never change." However, according to the providers, younger attorneys are more likely to appreciate interactive learning methods. In one illustration, a provider contrasted the responses that they received to a course exercise using amusing video clips to demonstrate bad lawyer behavior, revealing,

> When we present it to the older attorneys, they don't do it, they don't understand it, and they don't appreciate it. And we're getting just horrible feedback. When we're in with the Millennials, they think it's hysterical. They're engaged, they love it."

Other providers describe how newer generations of attorneys are asking for learning mediums that are more nontraditional, want shorter sessions, and actually dislike the traditional speaker delivery model, saying for example, "It has to be simpler and they're very intrigued. But . . . if you start talking, you lose them." Another provider questioned, "As they get younger, their

expectations differ from just the strict you got somebody standing up at the front of the room talking to you. And how does that change how they are actually imbibing that learning?"

In addition, providers are also encountering new challenges with the younger generations of lawyers that they do not have with more seasoned professionals. Several expressed concerns about newer lawyers not understanding the importance of networking and connecting. One respondent said, "I'm not sure that the younger kids appreciate the value of networking. And that it's not about, 'I'm dumb.' It's about improvement, and it's about understanding." Others talked about younger attorneys' tendency to be on their laptops or phones, and not engaged in the class. "I literally had to go about 4 years ago to a no-laptop policy to get this generation to learn how to have a conversation with somebody."

This subcategory of cultural themes provides important context to the research study. The answers regarding which learning methodologies are effective for and acceptable to attorney learners will be more traditional than those for other student audiences will be. Yet, those preferences are changing and providers are trying to adapt.

Subcategory 1.4: Attorney Learner Types, Attitudes, and Behaviors

The coding of the focus group transcripts and recordings also revealed insights about attorneys' overall views on learning, many of which cause significant concern among providers. The themes included in this subcategory were (a) attorney learner types, (b) attitudes about MCLE, and (c) last-minute learners.

Attorney learner types. First, several respondents talked about grouping MCLE learners into three groups: (a) those who love learning for the sake of learning and will take numerous hours; (b) those who have identified a gap in their knowledge, are seeking learning, and are open to making the best of the CLE experience; and (c) those who are only there to meet the

requirement and will take anything for credit. One provider called these groups the "autodidacts," the "I have a new client or I have a new case or I have this need for information," and the "credit-driven customer." The director of the Kansas CLE Commission (2016) described these same three types of attorney learners. The providers also shared research findings and anecdotal evidence that the attorney learner population seems to be split fairly evenly across these groups.

The different motivations that these three learner types appear to bring to the classroom present challenges for MCLE providers. For example, one provider talked about the difference in teaching an oil and gas course to attorneys who specialize in that area of law versus those who were taking the same class only because they needed the credit. In the first group, he said, "Everybody comes there wanting to know something. And when they leave, they know something." For the credit-driven learners, he said, "I take a totally different approach to that group . . . . It's more entertainment value. It's a much more challenging presentation."

Attitudes about mandatory continuing legal education. Even though about two-thirds of attorneys are at least somewhat motivated to learn, providers are acutely aware of a strongly negative view of mandatory CLE among some Kansas attorneys and employers. A few providers who work within law-firms spoke about their attorneys viewing their CLE requirement as punishment. One such provider said, "My attorneys want nothing to do with CLE at all. If they could run away from it they would, they just see it as a burden." Likewise, several study participants talked about attorneys not paying attention in class, describing them on their laptops checking email or reading the paper. The overall negative view by some attorneys of CLE appears to frustrate providers, many of which sincerely seek to deliver high-quality offering. One survey participant wrote, "I wish we could get more attorneys to view CLE different in Kansas . .

. I would like to create a culture where taking CLE is place they want to be . . . and that they feel that they truly gained something from the experience." Another provider shared her frustration, saying,

> I feel it's extremely excruciating to try to repeatedly go through all of this to try to make sure that we are providing what people will use in their practice. But it is also hard when you're trying to do all of those things and we are well aware that attorneys, at least some of them, go only because they have to.

Nevertheless, providers believe the ultimate responsibility for learning falls to the individual attorney. One provider said, "You are offering the opportunities, and it's up to the individual to take that opportunity." Another argued, "You know, if somebody doesn't want to learn . . . it doesn't matter how good the education is, you have to be teachable."

Last-minute learners. A third theme that providers frequently mentioned is the phenomenon of a segment of the attorney population who cram in their required CLE hours just before the compliance deadline. One respondent warned, "March is going to be completely insane because everybody is like, I need one hour of this, I need one hour of this," referring to an upcoming deadline for one state. Providers recognize that this group is often not motivated for meaningful learning and will likely give more negative feedback on course evaluations. One provider instructor called this population of attorneys "the least motivated group of all." Another focus group member said,

> You've got those end of the year who are there because it's a requirement and those are the people who are going to put down, "I hated the wallpaper. The carpet was horrible. The break snacks need to be better." You know, because they are not there for the right reasons. They think they know it all already and they don't need to be there.

Providers also explained that these last-minute learners often take courses that have nothing to do with their area of practice. There is no requirement in the Kansas CLE rules stating

that an attorney must take a course related to his or her specialty. For some providers this is a concern. One provider wrote, "Attorneys have to do it, so they end up taking whatever is available in a crunch to complete hours by a deadline; so while there may be some learning, it may not be in their area of practice." A survey respondent wondered,

> There is no requirement that the hours of CLE relate in any way to the type of practice the attorney maintains. When it is crunch time and CLE hours need to be had, attorneys often look to what is available on the day that they have open for the least cost. You may have an attorney who does nothing but criminal law attending an employment law seminar. If there are no refresher courses ever required in your area of practice, how is that bettering our profession?

Each of these themes about attorney learner types, attitudes, and behaviors that are related to their MCLE provided important insights for the researcher into the contextual reality that providers face. Likewise, understanding the multistakeholder space of MCLE in Kansas, the highly diverse learner experiences, and the cultural realities of the legal profession was a critical frame from which to evaluate other study results. In comparing and critiquing the Kansas provider practices against those best practices proposed by the authors in the literature as presented in Chapter 2, the researcher took these limitations into account.

Category 2: The Purpose and Effectiveness of Mandatory Continuing Legal Education

The second major theoretical category uncovered through the data analysis of the outputs from the Education Initiative shows the purpose and effectiveness of CLE, as the providers participating in the study suggested. Provider opinions on the purpose of CLE were captured through an open-ended question on the survey that asked simply, "What should the purpose of CLE be?" Provider views on the effectiveness of CLE were collected through three survey

questions. The first of these questions asked the respondent to rate the overall effectiveness of CLE in Kansas along seven measures:

- Improving practice of the law;

- Sharing new developments, cases, or ideas;

- Connecting attorneys with their peers;

- Ensuring ethical practice;

- Supporting law practice management;

- Enhancing public image and opinion of the profession; and

- Increasing attorney job satisfaction.

Survey participants could rate the *effectiveness* of CLE in Kansas on a Likert-style scale with six options: 1 (*very ineffective*), 2 (*ineffective*), 3 (*neither effective nor ineffective*), 4 (*effective*), 5 (*very effective*), or 6 (*don't know/not applicable*). The remaining survey questions on the effectiveness of CLE in Kansas were open-ended, text entry questions. The first of these questions invited respondents to write their views on "What is effective about CLE in Kansas?" and the second question asked, "What is not effective about CLE in Kansas?" Lastly, in some of the focus group discussions, the participants explored directly or indirectly both the purpose and the effectiveness of CLE in Kansas.

First, the results of the grounded theory data analyses on the purpose of CLE in Kansas are described in this section. These outputs can be grouped along eight themes, similar to those used in the survey question on effectiveness. Later, the quantitative and qualitative results of the data analyses on the topic of CLE effectiveness are shared.

Subcategory 2.1: The Purpose of Continuing Legal Education in Kansas

Grounded theory analysis of the data collected in the Education Initiative provider survey and focus groups identified eight themes related to the purpose of CLE in Kansas. Each of these themes is described below, with illustrative quotations from the data sources.

Theme 2.1.1: Improving the practice of the law. A common theme identified through the survey and focus data analyses indicates that most providers view the purpose of CLE as improving the practice of the law. In fact, approximately one-third of the 334 codes within the theoretical subcategory entitled "Purpose of CLE" falls within this theme. In some of the open-ended question responses, a link from CLE to improved practice is mentioned explicitly. For example, one provider wrote, "The purpose of CLE should be to improve the practice of law, make attorneys better at what they do, and keep them up to date on relevant issues." In another entry, the participant wrote that CLE is about "improving practice of the law—including new developments, ensuring ethical practice of law, providing resources to members/attorneys, connecting attorneys with their peers, [and] providing credentialing for the profession."

A term that also appeared frequently in the provider responses or discussion on this topic was "attorney competence." For example, one survey respondent said, "The purpose of CLE is to enable attorneys to maintain and increase their professional competence so to ensure that efficient, competent, and ethical legal services are provided to the public." Another respondent wrote that the purpose of CLE in Kansas was "to advance individual lawyer's competence in the practice of law generally and specifically in their practice area as well as compliance with applicable rules in professional responsibility." In addition, some of the focus group participants expressed a concern that attorneys leave law school without the competencies they need to practice law effectively. One law school professor admitted, "I know, being part of the group that

sends them out the door, they are not ready to practice law when they walk out. They're ready to be trained by somebody for about 10 years." Another provider said, "Well one of the things that the profession has been very clear about, at least in my time in the profession, is that law schools are not doing an adequate job of preparing attorneys for the actual practical practice of law."

Theme 2.1.2: Expanding lawyers' knowledge. Next, there emerged in the grounded theory analyses an important concept linking improved legal practice to the career-long development of attorney knowledge and skill. About half of the coded responses specifically identified knowledge enhancement as the purpose of CLE in Kansas. As example, one provider claimed, "The purpose of CLE should be to increase the knowledge and thereby the practice of the attorney throughout all stages of their career." Study participant responses mentioned several types of knowledge or skills that attorneys must build to practice well, including: (a) basic law, (b) specific practice area law, (c) critical thinking, (d) using technology in practice, (e) client service, (f) courtroom protocol, (g) life balance or well-being, and (h) general practical knowledge. One respondent called their definition a "wide definition" of the purpose of CLE, saying that it should "better prepare attorneys for practicing, whether that be in understanding the substantive law or running their law practice, or dealing with clients, or leading their employees, etc." Using a similarly broad definition, another respondent claimed, "The purpose of CLE should be to provide a continued emphasis of quality education opportunities with heightened awareness of professionalism, service, business savvy along with balance of health (mental, physical, emotional) and well-being."

Theme 2.1.3: Sharing new developments; keeping attorneys "up-to-date." The grounded theory coding revealed that many study participants' view sharing new developments or keep attorneys "up-to-date" as an important purpose of CLE. Of the 334 coded references

grouped under the theoretical category related to the "Purpose of CLE," 89 of them (25%) are on this theme.

According to the survey respondents, Kansas attorneys need CLE to stay abreast on four topics: (a) new law or changes to the law, (b) recent cases or court decisions, (c) current or "hot" topics in the field, and (d) practice trends. For example, one provider wrote, "The purpose of CLE should be to ensure attorneys are aware of industry trends, the latest developments in case law, and to ensure each attorney is compliant within his/her state bar." Another respondent tied to these updates improved client service, saying that CLE should "continue to inform attorneys regarding law updates and recent court decisions to help them assist their clients in a more effective manner." Finally, one participant described how these updates could build on past experience and "enable attorneys to expand on knowledge they already possess and gain new information about changes in law, advances to enhance their practice, practice methods/approaches other attorneys have used with success."

Theme 2.1.4: Connecting attorneys with their peers; building a law community of practice. Another important purpose for conducting CLE, according to the study participants, is to connect attorneys with their peers. In this case, 46 of the 334 codes that the researcher collected within the major category "Purpose of CLE" were related to this theme.

The comments collected in the survey open-ended question on the purpose of CLE and the focus group transcripts point to an interest in allowing attorneys to network with their peers, meet subject matter experts, and share what they have learned works well in practice. For example, providers described how attending CLE courses in their specific legal practice area, "gives attendees an opportunity to network with other attorneys in the same field." Likewise, the CLE session was seen as a way to connect experienced attorneys with newer entrants to the

profession who might use those contacts later when faced with a particularly challenging case or client. One provider described how the instructors who teach their courses are often the subject matter experts on that area of law and how attending that class is "giving the attendees a source to contact if a future issue comes up." Finally, the providers described how CLE is a means of building the legal community of practice—where the sharing of best practices and experiences lead to improve client service. One provider argued that the purpose of CLE is "to bring lawyers together in a collaborative forum to learn more about their field and discuss problems and potential solutions that they are all facing together." In another example, the respondent wrote that CLE "offers specialized trainings that bring together experts and specialty practitioners to share best practices." Lastly, some study participants seem to highlight how the networking and sharing of experiences that takes place in CLE sessions allows for more advanced levels of learning. One respondent described a CLE classroom as "a lot of folks in specialty areas that [are] sitting there and talking about cases and practice and issues and things that are changing. There is almost more value in that than having an outline that you're going over because it's literally that higher level thinking."

Theme 2.1.5: Ensuring ethical practice. The next common theme within providers' views of the purpose of CLE is that it should ensure ethical practice. Less prevalent than some of the other themes, teaching ethics or other subjects that might encourage professionalism and civility in practice were uncovered in about 20 of the 334 codes. One provider replied that the purpose of CLE was "promoting civility and ethical conduct among members of the profession." Some providers also seemed to view the Kansas requirement for a minimum of 2 hours of ethics-related CLE positively. One provider wrote, "I think that the requirement for 2 hours of ethics each year is a great reminder for all attorneys about the parameters of acceptable professional

behavior." However, one respondent disagreed writing, "I don't believe requiring certain numbers of hours or different types of hours (ethics) is effective at meeting the objective of having an informed, ethical legal community. This leads to too many people attending to merely check the box."

Theme 2.1.6: Supporting law practice management. The next theme uncovered in the grounded theory analyses of the survey and focus group data identifies supporting law practice management as another but less important purpose of CLE in Kansas. Only about three of references coded under the "Purpose of CLE" category are related to this topic. Nevertheless, practice management was a mentioned often in the focus groups as an important topic of many CLE offerings. Providers who listed supporting practice management as an important output of CLE in the survey describe a range of topics that attorneys in solo practice or small law firms must possess to run an office successfully. These are not related to knowledge or the law per se. For example, one focus group participant included the following skillsets in practice management: "how to run a law office, how to make sure you can keep the lights on financially, how to . . . advertise and manage your law office and, . . . the nuts and bolts of it or the technology." Another provider said these courses look at "the very fundamentals of law practice management and what lawyers need to know about even if it's not black letter law. They need to know about how to run a law practice efficiently." One survey respondent criticized Kansas' rule limiting the number of CLE credits within law practice management that can receive credit each year. He claimed that one court has "examined bar complaint cases and finds some complaints could have been avoided with better practice management tactics, techniques, and suggestions."

Theme 2.1.7: Enhancing the public image of the profession. In addition, some survey respondents included enhancing the image of the legal with the public as one purpose of CLE in

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Kansas. This was a less frequently found theme with only about five references in this theoretical subcategory mentioning this need. As example, a survey participant included "providing credentialing for the profession" as one of the purposes of CLE. Another proponent of this CLE function wrote,

> It seems that KS expects CLE to keep attorney's [*sic*] up with training and developments in the law as well as a watchful eye on a professional field which the public often has to have trust in their abilities.

Some of the focus group participants also alluded to historical rationale for making CLE mandatory, talking about the impact of Watergate and eroding public confidence in the legal profession during the 1970's. Nevertheless, others argued that states that are newly adapting mandatory CLE programs are likely doing so for other reasons. One provider said,

> But you know, Connecticut doesn't have CLE right now, mandatory CLE, which it may very soon . . . . If they do adopt MCLE, it's certainly not going to be because of Watergate. You know, they're going to have to have a different reason for it. And I'm sure they're also going to measure effectiveness differently then, one of the early MCLE states.

Regardless of the specifics, some providers clearly view the role of CLE in credentialing the profession with the pubic as important.

Theme 2.1.8: Increasing attorney job satisfaction and attorney wellness. The role of CLE in increasing attorney job satisfaction was rarely mentioned in the survey responses or focus group discussions. In fact, only one survey respondent specifically listed "increasing job satisfaction" as one of the purposes of CLE in Kansas. However, a few respondents allude to an increasing concern for overall attorney wellness and recommend that states approve more courses on these topics. For example, one provider argued, "The focus should expand from just professional to include personal issues as well to better the overall well-being of attorneys."

Another said, "Attorneys are stressed with concerns about finances and performing work quickly to be able to adapt the changing world of law." A few respondents specifically mentioned work-life balance in their response, including one who wrote that CLE should be about "balance of health (mental, physical, emotional) and well-being." Finally, one focus group member discussed a recent study that found that 20.6% of American attorneys screened positive for "hazardous, harmful, and potentially alcohol-dependent drinking" (Krill, Johnson, & Albert, 2016, p. 49) and that many suffer from depression (28%) or stress (23%) issues (p. 51). In that study, the authors specifically recommend education aimed at prevention (p. 54).

Each of these eight themes that have emerged from the grounded theory analysis guided the researcher's understanding of the providers' views on the purpose of MCLE in Kansas and influenced her conclusions in Chapter 5. Most of the study participants stressed improving practice, expanding lawyer knowledge, keeping attorneys up-to-date, and connecting professional peers. Some of the participants also identified ensuring ethical practice, supporting law practice management, and improving public image of the profession as important purposes of the program. Finally, a newly emerging idea among providers is their concern for overall attorney well-being and the role that CLE might play in supporting it.

Subcategory 2.2: The Effectiveness of Continuing Legal Education in Kansas

Quantitative and qualitative analysis of the survey or focus group data related to the effectiveness of CLE in Kansas provided insights into the providers views on how their programs do or do not affect the practice of the law.

Quantitative results on effectiveness. Summarized outputs from the survey question, asking providers to rate the effectiveness of CLE in Kansas, are presented in Table 4.1. These results seem to point to a belief among many providers that CLE positively affects many areas of

value within the profession. For example, more than half of the providers who responded to the survey said that CLE in Kansas is *effective* or *very effective* in improving practice, sharing new developments, connecting attorneys, and ensuring ethical practice. Less than 4% of those responding rating CLE as *very ineffective* or *ineffective* for these four measures. In addition, more than 40% of them said that they found CLE *effective* or *very effective* in supporting law practice management, and about a third said that it enhances the public image of the profession. Only about a quarter said that CLE is *effective* in increasing attorney job satisfaction.

However, a fairly large number of providers responded *Don't know* when answering these questions, indicating that a least some of the group were uncertain regarding the true effectiveness of CLE in relation to these areas. At least a third of all providers seemed unsure about whether CLE in Kansas is effective at influencing any of these measures of success, and for some measures, more than 40% of the providers were unsure.

Table 4.1: *Survey Responses: Overall, How Effective Is CLE in Kansas for . . . ?*

	Percent and number of responses											
Variable	Very ineffective	*n*	Ineffective	*n*	Neither	*n*	Effective	*N*	Very effective	*n*	Don't know	*n*	Total *N*
Improve law practice	1.14	2	0.57	1	7.43	13	36.5	64	17.1	30	37.1	65	175
Share new developments	1.14	2	0.00	0	5.71	10	32.0	56	28.5	50	32.5	57	175
Connect attorneys	1.15	2	0.57	1	5.75	10	31.0	54	28.1	49	33.3	58	174
Ensure ethical practice	1.14	2	2.86	5	10.8	19	32.5	57	18.8	33	33.7	59	175
Support practice management	1.16	2	2.89	5	12.7	22	28.9	50	12.7	22	41.6	72	173
Enhance public image	2.29	4	4.57	8	21.1	37	23.4	41	8.57	15	40.0	70	175
Increase job satisfaction	2.30	4	6.32	11	16.6	29	21.8	38	6.32	11	46.5	81	174

A chi-squared test was conducted to explore the statistical relationship between the provider responses on how effective CLE in Kansas is along these seven measures and providers' organizational structure (for-profit; nonprofit) or size (number of CLE offerings and number of CLE employees). The null hypothesis was

> *H$_0$ 1.0: Providers' views on the effectiveness of MCLE in Kansas for any measure*
> *(improving practice, sharing new developments, etc.) is not correlated to or*
> *predicted by provider demographics.*

The data analysis results indicate that, in most cases, no relationship exists between provider organizational structure or size and their rating of the effectiveness of CLE. In other words, the null hypothesis is true. In fact, statistical significance was found for only two data pairs. In each of these cases, the number of data points for any given cell was quite small; therefore, any conclusions drawn from the analysis in Chapter 5 were made with caution.

For example, a statistically significant finding was identified through a chi-squared test that the researcher used to evaluate the providers' ratings of CLE effectiveness in improving practice with organization size as measured by the number of CLE employees, $\chi2$ (15, 172) = 45.96, $p < .001$. Providers with 6–10 CLE employees were more likely to evaluate CLE as *very effective* than providers with 1–5 ($p = .03$) or 21+ CLE employees ($p = .003$). In addition, providers with 11–20 employees rated CLE as *ineffective* on this measure more than those with 1–5 employees ($p < .001$), but with only one response in this cell, this result was not considered (see Figure 4.1).

In a second example, the chi-squared test was significant between a respondents rating of the effectiveness of Kansas CLE in increasing attorney job satisfaction and a providers' number of CLE employees, $\chi2$ (15, 171) = 28.33, $p = .02$. This test found that providers with 6–10

employees are more likely to rate CLE as *effective* on this measure than providers with 1–5 (*p* < .001) or more than 21 employees (*p* = .02). In addition, a statistically significant relationship between providers with 21+ CLE employees and a rating of *very ineffective* (*p* = .05) was found. However, in both of the cases, the number of data pairings is very small, seven and two respectively. Figure 4.2 shows this test output.

			Don't know/Not Applicable	Effective	Ineffective	Neither Effective nor Ineffective	Very Effective	Very Ineffective	Total Responses	Mean	Std Dev
			54	43	0	10	24	1	132	2.3182	1.5448
	1-5	A	40.9%	32.6%	0.0%	7.6%	18.2%	0.8%			
			0.4859	0.50658	0.38101	0.99413	0.8387	0.66593			
			2	4	0	0	5	0	11	3.1818	1.7787
	6-10	B	18.2%	36.4%	0.0%	0.0%	45.5%	0.0%			
			**	**	**	**	A,D**	**			
			0.30088	0.98602	0.80035	0.36187	0.02611	0.72061			
			1	4	1	0	0	0	6	2.0000	0.6325
	11-20	C	16.7%	66.7%	16.7%	0.0%	0.0%	0.0%			
			**	**	A**	**	**	**			
			0.40942	0.21157	2.37e-7	0.50068	0.30631	0.79168			
			7	11	0	3	1	1	23	2.2609	1.3888
	21+	D	30.4%	47.8%	0.0%	13.0%	4.3%	4.3%			
			**	**	**	**	**	**			
			0.5943	0.34674	0.7146	0.33863	0.13268	0.15662			

The top-left header reads: Freq / Share / Comparisons / Cell Chisq PVal. The spanning column header reads: EM6: how effective is CLE in Kansas for 1 Improving practice of the law. The row label on the left reads: D3: What is the number of employees within your organization with CLE responsibilities?

Figure 4.1. Chi-squared test: CLE Effectiveness in improving practice of the law and provider number of CLE of employees. Uppercase alpha level 0.05, Lowercase alpha level 0.1. A = 1-5 employees, B = 6-10 employees, C = 11-20 employees, CLE = continuing legal education, D = 21+ employees, EM = effectiveness measure *Base count warning 100, **Base count minimum 30.

D3: What is the number of employees within your organization with CLE responsibilities?		Freq Share Comparisons Cell Chisq PVal	EM6: how effective is CLE in Kansas for 7 Increasing attorney job satisfaction								
			Don't know/Not Applicable	Effective	Ineffective	Neither Effective nor Ineffective	Very Effective	Very Ineffective	Total Responses	Mean	Std Dev
1-5	A		66 50.4% b 0.48121	22 16.8% 0.23335	9 6.9% 0.8435	24 18.3% 0.70512	8 6.1% 0.88309	2 1.5% 0.54318	131	2.1756	1.4437
6-10	B		2 18.2% ** 0.17159	7 63.6% A,D** 0.00275	0 0.0% ** 0.40024	0 0.0% ** 0.17199	2 18.2% ** 0.12444	0 0.0% ** 0.61197	11	2.3636	1.3618
11-20	C		2 33.3% ** 0.6429	3 50.0% a** 0.13529	1 16.7% ** 0.32297	0 0.0% ** 0.3131	0 0.0% ** 0.53443	0 0.0% ** 0.70793	6	1.8333	0.7528
21+	D		9 39.1% ** 0.61797	5 21.7% ** 0.99163	1 4.3% ** 0.69341	5 21.7% ** 0.57775	1 4.3% ** 0.69341	2 8.7% ** 0.04624	23	2.5652	1.7010

Figure 4.2. Chi-squared test: CLE Effectiveness in increasing attorney job satisfaction and provider number of CLE of employees. Uppercase alpha level 0.05, Lowercase alpha level 0.1. A = 1-5 employees, B = 6-10 employees, C = 11-20 employees, CLE = continuing legal education, D = 21+ employees, EM = effectiveness measure *Base count warning 100, **Base count minimum 30.

Overall, the results of the chi-squared data analyses showed little correlation between a providers' size or structure and their ratings of CLE effectiveness for any of the seven measures. Discussion on these quantitative findings is included in Chapter 5.

Qualitative results on effectiveness. The coding of the responses to the open-ended survey questions and the focus groups transcripts supported the results of the quantitative regarding the effectiveness of CLE in Kansas for (a) sharing new developments, (b) connecting attorneys, (c) ensuring ethical practice, and (d) supporting law practice management. For example, several survey or focus group participants highlighted the critical importance of disseminating information on changes in the law and court rulings, pointing to CLE as an effective tool for delivering that knowledge. One provider wrote that CLE is effective for "keeping their education updated and current; will keep them updated on all current laws and what is happening in their state." In addition, many survey and focus group comments spoke of

the high value placed on connecting attorneys to others in their area of practice and having introductions to experts or practitioners in other specialties whom they could call on for support in future cases. In one example a provider said, "Attorneys are able to network and often mentor newer or younger attorneys because of the face-to-face meetings most attended by members of the local bars." Others applauded the ethical course requirements and the Kansas CLE Commission's (2016) ruling of awarding credit of practice management courses, citing both of them as improving practice and enhancing the profession's public image. One survey respondent claimed, "The emphasis on subject matter content and ethical components keeps the program pointed in the right direction." Likewise, one participant argued that CLE does help to credential the profession with the public writing, "KS CLE is an effective way to help the public have confidence in attorney's [*sic*]." Lastly, it should be noted, that several providers mentioned how, although some attorneys might attend CLE only because they must, even the most negative often learn something of value despite their negativity. One respondent wrote, "I used to think it was the mandatory requirement, but after years of experience I have seen many lawyers forced into CLE events where they grudgingly admitted they enjoyed it, learned something, and are a better lawyer because of it."

However, evidence of the uncertainty that many providers have on this topic was also identified in written responses to the two open-ended questions about what is or is not effective about CLE in Kansas. For example, one respondent wrote that CLE is not effective at, "provoking actual change in the behavior of attorneys." Another provider expressed his or her concerns that, "Most programs have to be one-size-fits-all because of practical and financial considerations. Smaller attendance programs on narrow topics may be more effective learning experiences but at much higher financial cost." Other respondents questioned the impact of

MCLE on public opinion writing: "If improving the public perception of attorneys is a goal of CLE, I do not believe that it has that effect. Either the public is not aware of it or the public believes that attendees get together to play golf and call it education." Another argued that the number of hours required in most states is insufficient to this purpose. They wrote, "The legal profession might see an improvement in public perception if their required yearly education were brought up to half of the medical professions, or a minimum of 50 hours."

Overall, the findings of the quantitative and qualitative data analysis seem consistent in indicating that a majority providers in Kansas see their CLE programs as important for and reasonably effective at expanding or keeping current lawyers skills and knowledge, connecting attorneys to their peers, encouraging ethical practice, and supporting law practice management. Nevertheless, these participants have expressed substantial uncertainty about the overall impact that CLE has on improving the practice of law in the state overall, or on influencing public image of the professional, ethical practice, and attorney well-being. The researcher discusses in Chapter 5 the role of the providers' views on the purpose and effectiveness of CLE in Kansas as related to their common practices.

Category 3: Common Provider Practices

Much of the data collected in the Education Initiative survey and focus group transcription was focused on the MCLE providers' CLE program planning, design, delivery, and evaluation practices. Thus, the third major theoretical category of data results is related to these common practices as the study participants have reported. This section describes the data analysis along three subcategories of provider practices: (a) planning and design, (b) delivery, and (c) evaluation. Each of these subcategories is broken down further into lower-level categories or themes.

Subcategory 3.1: Program Planning and Design

The survey questions and focus group discussion on the topic of program planning and design were focused on three areas and themes: (a) identifying attorney learning needs and course topics, (b) stakeholders involved in program planning, and (c) using specific course objectives.

Identifying attorney learning needs and course topics. The first Education Initiative survey question on program planning and design asked providers to identify the sources they used to determine attorney learning needs and course topics. The survey participants could select multiple options from a list of sources or choose *other* and fill in a text response. The options included:

- Law, code, or regulatory changes;

- Mandated topics set by CLE organizations (i.e., ethics);

- Hot topics, recent court cases, and developments;

- Planning committee/focus group recommendations;

- Suggestions from previous course evaluations;

- Attorney development benchmarks or competency models; and

- Attorney performance evaluations with identified gaps in skills or knowledge.

In addition, sources for course curriculum and attorney learning needs were discussed during the provider focus group sessions and were captured in the recordings and transcripts of those sessions. Finally, some of the survey respondents wrote about their sources for CLE topics in their open-ended survey question responses.

Table 4.2 shows the percentage of respondents who selected each possible source when answering the survey question. At least two-thirds of the responses that the researcher received

indicate that the providers use law code or regulatory changes; mandated topics set by CLE organizations (e.g., ethics); hot topics, recent court cases, and developments; and suggestions from previous course evaluations to identify potential topics. Almost half of the participants also reported using planning committees or focus groups recommendations. Using attorney developmental benchmarks and competency models to identify learning needs is relatively rare (13%). Similarly, only about a quarter of the responses indicated that the providers used attorney performance evaluations with identified gaps in skills or knowledge to identify topics or needs. Text-entry responses with the selection of *other sources* added faculty recommendations, attorney or membership suggestions, various institute recommendations, and attorney skills assessments as sources of course topics or attorney learner needs for some providers.

Table 4.2: *Survey Responses: Which of the Following Sources Do You Use To Identify Course Topics and Attorney Learning Needs?*

Variable	Law changes	Mandated topics	Hot topics or cases	Focus groups	Course evals	Comp. Models	Perform. evals	Other sources	N
All	**63.82**	**59.80**	**78.39**	**46.73**	**63.82**	**13.07**	**22.61**	**14.07**	**199**
Organizational structure									
For-profit	61.11	51.39	75.00	29.17	61.11	20.83	27.78	15.28	72
Nonprofit	65.08	64.29	80.16	57.14	65.08	8.73	19.05	13.49	126
Number of CLE offerings									
< 20	57.66	53.28	75.18	43.07	57.66	8.03	12.41	15.33	137
20–49	81.48	66.67	77.78	55.56	66.67	11.11	25.93	11.11	27
50–99	100.00	100.00	100.00	50.00	100.00	75.00	100.00	0.00	4
100 +	70.97	77.42	90.32	54.84	83.87	29.03	54.84	12.90	31
Number of CLE employees									
1–5	63.09	53.69	78.52	51.01	65.10	8.72	20.81	14.77	149
6–10	66.67	75.00	75.00	33.33	66.67	25.00	16.67	16.67	12
11–20	62.50	87.50	87.50	25.00	37.50	37.50	25.00	0.00	8
21+	68.97	75.86	79.31	37.93	65.52	24.14	34.48	13.79	29

For the inferential statistical analysis on this survey question, the researcher used a chi-squared with Poisson rates test to identify any relationship between provider demographics and whether they used these program-planning sources. The underlying question was, "Does provider size (i.e., number of CLE employees or course offerings) or structure (i.e., for-profit versus nonprofit) in any way influence their use of a greater number of best practice programming planning methods?" Specifically, the analysis tested Hypothesis 1.1:

> *H_0 1.1: There is no difference between the frequencies of providers' use of attorney development benchmarks/competency models or attorney performance evaluations with identified gaps to identify attorney learning needs or MCLE course topics.*

Results of the test indicated that a statistically significant finding exists between the number of CLE course offerings that a provider delivers and his or her use of two of these sources (Figure 4.3). Specifically, providers with more than 100 CLE offerings more frequently responded that they use attorney development benchmarks and competency models, χ^2 (18, 168) = 10.66, *p* = .01. Cell comparison details indicate that the largest variances are with providers with 20–49 courses offerings (*p* = .05) or less than 20 offerings (*p* = .002). In addition, larger providers who offer 100+ CLE courses each year are also more likely than other providers to use attorney performance evaluations and gaps to identify CLE course topics, χ^2 (18, 168) = 17.61, *p* < .001, with the largest variance occurring when compared to providers with less than 20 offerings (*p* < .001). In addition, Figure 4.4 shows that nonprofit organizations identified suggestions from committee recommendations more frequently as a source of course topics than for-profit counterparts χ^2 (7, 168) = 5.95, *p* = .01. However, no difference was found for the two best-practice sources—development models and attorney evaluations. Lastly, no statistically

significant difference was found when evaluating provider's number of CLE employees against the using any of the curriculum sources.

Coding of the focus group transcripts and the open-ended questions from the survey indicated similar sources of course topics and attorney learning needs to those indicated in the numerical survey output. For example, providers indicated the importance of changes to the law and recent case outcomes as fodder for new CLE material. This new knowledge is often described as specific to a given area of law—those specialties in which the target learners practice—with providers mentioning examples in sections such as oil and gas, workers compensation, taxes, and agriculture. In another example of how recent changes drive the CLE curriculum, a provider described how a new Kansas requirement that attorneys file appellate briefs through electronic filing led to the creation of a well-attended course. In addition, many providers reinforced the importance of planning committees in determining curriculum needs for the section members. They also described how judges frequently make suggestions of what should be taught according to what they currently witness in the courtroom. Finally, one respondent described how her organization was seeking to incorporate attorney developmental plans in its CLE curriculum planning. She said,

> We've gotten a learning management system and we're beginning to attempt to kind of give each attorney and each staff member their own sort of plan for what it is they need to do. And it's mostly based on technology but . . . we're hoping that it'll kind of help people figure out what topics they need to take and spread it across the year.

| | | | PPNA1: Multiple CLE course topics and attorney learning needs? | | | | | | | | | |
Freq Share Rate Comparisons			1	2	3	4	5	6	7	Total Responses	Total Cases	Total Cases Responding
D2: What is the number of CLE offerings per compliance period provided by your organization?	Less than 20	A	73 19.8% 58.9%	60 16.3% 48.4%	90 24.4% 72.6%	54 14.6% 43.5%	70 19.0% 56.5%	8 2.2% 6.5%	14 3.8% 11.3%	369	124	115
	20-49	B	21 21.2% 80.8% **	18 18.2% 69.2% **	20 20.2% 76.9% **	14 14.1% 53.8% **	17 17.2% 65.4% **	2 2.0% 7.7% **	7 7.1% 26.9% a**	99	26	26
	50-99	C	2 16.7% 100.0% **	2 16.7% 100.0% **	2 16.7% 100.0% **	1 8.3% 50.0% **	2 16.7% 100.0% **	1 8.3% 50.0% **	2 16.7% 100.0% A**	12	2	2
	100+	D	18 15.1% 69.2% **	21 17.6% 80.8% a**	23 19.3% 88.5% **	14 11.8% 53.8% **	22 18.5% 84.6% **	8 6.7% 30.8% A,B**	13 10.9% 50.0% A**	119	26	25

Figure 4.3. Poisson test: Provider's number of course offerings and sources of curriculum. 1 = law change, 2 = mandated topics, 3 = hot topics, 4 = committee recommendations, 5 = suggestions from previous course evaluations, 6 = attorney development models, 7 = attorney performance evaluations. Uppercase alpha level 0.05, Lowercase alpha level 0.1. A = less than 20 offerings, B = 20-49 offerings, C = 50-99 offerings, CLE = continuing legal education, D = 100+ offerings, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

| | | | PPNA1: Multiple CLE course topics and attorney learning needs? | | | | | | | | | |
Freq Share Rate Comparisons			1	2	3	4	5	6	7	Total Responses	Total Cases	Total Cases Responding
D1: Which best describes your organization?	Not For Profit	A	77 18.7% 64.7%	72 17.5% 60.5%	90 21.9% 75.6%	65 15.8% 54.6% B	74 18.0% 62.2%	10 2.4% 8.4%	23 5.6% 19.3%	411	119	111
	For Profit	B	37 19.7% 60.7% *	29 15.4% 47.5% *	45 23.9% 73.8% *	18 9.6% 29.5% *	37 19.7% 60.7% *	9 4.8% 14.8% *	13 6.9% 21.3% *	188	61	57

Figure 4.4. Poisson test: Provider structure and sources of curriculum. 1= law change, 2 = mandated topics, 3 = hot topics, 4 = committee recommendations, 5 = suggestions from previous course evaluations, 6 = attorney development models, 7 = attorney performance evaluations. Uppercase alpha level 0.05, Lowercase alpha level 0.1. A = not for profit, B = for profit, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

The grounded theory coding revealed another important insight about the planning of MCLE and sources of content. Several focus groups participants stressed that program planning takes place throughout the year, so that it can reactive to new changes or requirements. One focus group participant stated, "We developed our curriculum as the year progressed; it's still reactive, but you know, it's faster, as we can to meet those needs." Another said, "It's a yearlong job, truly."

Both the quantitative and qualitative analyses of the Education Initiative data demonstrated a reliance on sources of CLE course topics and attorney learning needs such as law code or regulatory changes; mandated topics set by CLE organizations; hot topics, recent court cases, and developments; and suggestions from previous course evaluations. Using attorney developmental benchmarks or attorney performance evaluations with identified gaps to identify topics or needs is fairly rare, but larger providers with more than 100 CLE course offerings per year might use these best-practice methods more frequently than the smaller provider organizations. Many study participants explained how, regardless of source, CLE program planning and needs analysis in an ongoing process.

Participants in mandatory continuing legal education program planning and design. With another set of questions from the survey, the Education Initiative project team asked MCLE providers to describe whom they involve in their program planning and design and how important that stakeholder's input is in the final topic or course selection. The providers could select all that applied from six groups of possible contributors: (a) attendees, (b) section officers or members, (c) law firm or company partners or executives, (d) CLE directors, (e) program planning committees, and

(f) focus groups. The providers could also select an *others* option and enter a text description. The respondent was then asked to rate the importance of each contributor's input or vote in the planning process on a 4-point Likert scale from 1 (*not at all important*) to 4 (*extremely important*). In addition, the topic of who was involved in program planning and the value of their contributions was discussed in the focus groups and captured in the qualitative data.

Survey data output from these questions are summarized in Table 4.3. The descriptive statistics gathered from these data indicate that program-planning committees are well used by

MCLE providers in program design and planning. In addition, nearly two-thirds of the respondents said that they involve attendees and CLE directors in their efforts. Another 50% of the responses indicate that providers look to section officers or members and law firm partners or company executives for guidance. Focus groups are involved far less frequently. Those who selected the *others* response to this question wrote in groups such as faculty, speakers, court executives, board members, professional development teams, and hired meeting planners.

The data from the responses that rated the importance of each group's input or vote in the planning process (Table 4.3) indicate that attendees are viewed as absolutely critical with over 92% of respondents rating their role as *somewhat important* or *extremely important*. This indicated an area for further exploration in Chapter 5, given that only about 65% of the respondents said attendees were involved with program planning. In addition, four other groups—sections officers or members, law firm partners or company executives, CLE directors, and program planning committees—were also rated as *somewhat important* or *extremely important* to the process by 83% of those responding. Again, a variance appeared to exist between these ratings and the actual use of these groups in provider planning efforts. The lower use of focus groups in the planning process is more consistent with the result that 33% of the respondents responses rated the import to the process as *not at all important*.

Table 4.3: *Survey Responses: Who Is Part of the Continuing Legal Education Planning Process and How Important Is Their Vote in the Final Decision of Which Course and Topics Are Offered?*

	Part of planning?			Importance of input of vote in planning?				
	Percent		n	Percent				n
Variable	Yes	No	No. of responses	Not at all important	Somewhat unimportant	Somewhat important	Extremely important	No. of responses
Attendees	64.48	35.52	183	2.68	5.37	42.28	49.66	149
Section officers	52.73	47.27	165	14.29	1.79	35.71	48.21	112

| Variable | Part of planning? | | | Importance of input of vote in planning? | | | | |
| | Percent | | *n* | Percent | | | | *n* |
	Yes	No	No. of responses	Not at all important	Somewhat unimportant	Somewhat important	Extremely important	No. of responses
and members								
Partners and executives	52.07	47.93	169	11.97	4.27	29.06	54.70	117
CLE directors	65.29	34.71	170	10.77	5.38	30.00	53.85	130
Planning committees	72.41	27.59	174	11.11	5.19	15.56	68.15	135
Focus groups	19.73	80.27	147	39.13	13.04	23.19	24.64	69
Others	33.33	66.67	54	33.33	5.56	11.11	50.00	36

Note. CLE = continuing legal education, *n* = number.

The variances found between the providers' reported use of certain groups and their ratings of the importance of these same groups in the planning process were further explored through a chi-squared analysis of Null Hypothesis 1.2:

H_0 1.2: Providers' views of the importance of a group's participation is in the planning process is not reflected in (correlated to) their inclusion of that group in their planning processes.

In other words, the purpose of this particular analysis was to evaluate whether providers, who identified a given group (e.g., attendees) as *extremely important* to the MCLE planning process, would more frequently have answered *yes* for that particular group (e.g., attendees) being part of their efforts. Conversely, the researcher wondered whether providers who reported a group's input to planning as *not at all important* would also tend not to report including that group in their processes.

The results of the chi-squared tests indicated that a clear relationship does exist between these two measures. The test response homogeneity for each group is listed below. Output tables from the data analysis tool follow. These output tables demonstrate that mean responses from the

survey participants show that inclusion or exclusion of a particular group in CLE program

planning is correlated to the group's rated importance in the process.

- Attendees, χ^2 (3, 129) = 11.64, p = .008 (see Figure 4.5).

- Section officers or members, χ^2 (3, 95) = 50.13, p < .001 (see Figure 4.6).

- Law firm or company executives, χ^2 (3, 98) = 51.18, p < .001 (see Figure 4.7).

- CLE directors, χ^2 (3, 113) = 75.25, p < .001 (see Figure 4.8).

- Program planning committees, χ^2 (3, 118) = 67.62, p < .001 (see Figure 4.9).

- Focus groups, χ^2 (3, 58) = 32.24, p < .001 (see Figure 4.10).

- Others, χ^2 (3, 25) = 13.44, p = .003 (see Figure 4.11).

	Freq Share		PPNA2: Importance of Input/Vote in CLE planning process 1 Attendees						
Comparisons Cell Chisq PVal			Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 1 Attendees	No	A	9	2	16	2	29	2.3793	1.0147
			31.0%	6.9%	55.2%	6.9%			
			**	B**	**	**			
			0.12967	0.02077	0.30116	0.57502			
	Yes	B	57	0	39	4	100	1.9000	1.0589
			57.0%	0.0%	39.0%	4.0%			
			A						
			0.41446	0.21308	0.57767	0.7627			

Figure 4.5. Chi-squared test: Importance versus inclusion of attendees. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

	Freq Share		PPNA2: Importance of Input/Vote in CLE planning process 2 Section officers or members						
Comparisons Cell Chisq PVal			Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 2 Section officers or members	No	A	1	13	11	1	26	2.4615	0.64689
			3.8%	50.0%	42.3%	3.8%			
			**	B**	**	**			
			0.00109	5.56e-7	0.57851	0.54067			
	Yes	B	45	0	23	1	69	1.7101	0.98670
			65.2%	0.0%	33.3%	1.4%			
			A*	*	*	*			
			0.04496	0.00212	0.73308	0.70725			

Figure 4.6. Chi-squared test: Importance versus inclusion of section officers and managers. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

Freq Share Comparisons Cell Chisq PVal			PPNA2: Importance of Input/Vote in CLE planning process 3 Law firm/company						
			Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 3 Law firm/ company partners or executives	No	A	3 11.1% ** 0.0024	12 44.4% B** 1.74e-6	8 29.6% ** 0.91807	4 14.8% B** 0.02546	27	2.4815	0.89315
	Yes	B	50 70.4% A* 0.06116	0 0.0% * 0.00319	20 28.2% * 0.94942	1 1.4% * 0.16825	71	1.6056	0.94837

Figure 4.7. Chi-squared test: Importance versus inclusion of law firm and company executives. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

Freq Share Comparisons Cell Chisq PVal			PPNA2: Importance of Input/Vote in CLE planning process 4 CLE director						
			Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 4 CLE	No	A	2 13.3% ** 0.02779	10 66.7% B** 1.6e-12	0 0.0% ** 0.03635	3 20.0% B** 0.01355	15	2.2667	0.9612
	Yes	B	61 62.2% A* 0.38934	1 1.0% * 0.00569	33 33.7% A* 0.41288	3 3.1% * 0.33405	98	1.7755	1.0207

Figure 4.8. Chi-squared test: Importance versus inclusion of CLE directors. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

Freq Share Comparisons Cell Chisq PVal			PPNA2: Importance of Input/Vote in CLE planning process 5 Program planning committee						
			Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 5 Program planning committee	No	A	1 6.3% ** 0.00208	10 62.5% B** 5.2e-11	2 12.5% ** 0.90839	3 18.8% B** 0.01535	16	2.4375	0.89209
	Yes	B	83 81.4% A 0.22273	2 2.0% 0.00933	14 13.7% 0.96365	3 2.9% 0.33702	102	1.3824	0.83303

Figure 4.9. Chi-squared test: Importance versus inclusion of program planning committees. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

			Freq Share Comparisons Cell Chisq PVal	PPNA2: Importance of Input/Vote in CLE planning process 6 Focus Groups						
				Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 6 Focus	No	A		3	23	3	6	35	2.3429	0.8726
				8.6%	65.7%	8.6%	17.1%			
				*	B*	*	*			
				0.06087	0.01436	0.08367	0.59362			
	Yes	B		11	0	10	2	23	2.1304	1.1403
				47.8%	0.0%	43.5%	8.7%			
				A**	**	A**	**			
				0.02076	0.00253	0.03286	0.51038			

Figure 4.10. Chi-squared test: Importance versus inclusion of focus groups. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

			Freq Share Comparisons Cell Chisq PVal	PPNA2: Importance of Input/Vote in CLE planning process 7 Others						
				Extremely Important	Not at all Important	Somewhat Important	Somewhat Unimportant	Total Responses	Mean	Std Dev
PPNA2: Part of the CLE planning process? 7 Others	No	A		2	8	1	1	12	2.0833	0.7930
				16.7%	66.7%	8.3%	8.3%			
				**	B**	**	**			
				0.15345	0.03376	0.50672	0.96744			
	Yes	B		9	0	3	1	13	1.6923	1.1094
				69.2%	0.0%	23.1%	7.7%			
				A**	**	**	**			
				0.17024	0.04139	0.52354	0.96871			

Figure 4.11. Chi-squared test: Importance versus inclusion of others. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = no, B = yes, CLE = continuing legal education, PPNA = program planning/needs analysis *Base count warning 100, **Base count minimum 30.

The qualitative data analysis of the survey open-ended responses and the focus group discussions in many ways supported and provided a broader understanding of the quantitative results above. For instance, several providers commented on the high value they place on attendee input to MCLE planning and design. A common theme that was identified in the transcripts was related to attorneys as the best source of information regarding the challenges that they currently face in law practices. In one case, a provider described a group of four attorneys coming to her with a topic and offering to present it. She said her response was, "Great guys. I love when you guys come to me, and have issues that you need to address." Another provider

described using attorneys as CLE planning committee members to identify problems that would need educational support:

> So many of those programs we target and have meetings with the practicing lawyers as to what are the issues, what are the problems that they're seeing? And most of the time, the things that people on the committee are dealing with are exactly what the other folks are dealing with, so being able to target that is really helpful.

A third provider explained how they seek out attorneys from the given law section and gather their input: "I make sure that I pulled people from that area, look at all of the results yearly and they choose the topics, what's most important and who they think should present it."

The researcher wondered why, if the input of these groups is so valued, are they not included in the MCLE needs analysis and program planning process at even higher percentages? A few coding results provided some possible explanation. The importance of billable hours in the attorney's or partner's performance ratings is a recognized limitation to these groups' involvement in CLE efforts. One in-house provider explained, saying, "We don't necessarily make teaching these programs something that get you any respect. You don't get anywhere by teaching CLE programs here. You get some place by billing, billing, billing." Another reality discussed was the immense workload placed on attorneys and whether their leadership restricted their availability. One participant said, "The caseload is outrageous."

Another theme that emerged from the focus group transcript analysis was the role and challenges or benefits of working the program planning committees. One concern that the focus groups raised was the impact of committee membership tenure. In a few examples, providers described planning committee membership that is stagnant, remaining the same for many years. In these cases, it can be difficult to implement new ideas for MCLE. One participant explained, "What we're running into is because we are kind of governed by our committees and the

committees like doing what they've always done." In contrast, a different provider described

how her committee membership changes throughout the year and how that has helped her to

keep planning dynamic: "It's interesting when you have just a change of leadership or one or two

new people that get involved. It's helped with that." Regardless, many providers seemed to view

committees as their conduit to attorneys and their learning needs, when it is not practical to

involve them directly. One provider claimed, "CLE committees should guide the audience in

topic development, while earnestly soliciting ideas for topics and improvement in design and

delivery from attendees." However, the challenge for some providers appears to be ensuring that

the committee is accurately representing attorney-learning needs. A provider expressed this

concern in this way:

> It's very easy for our committees to think they know everything that's going on, you
> know, and they know what the education can be. Do we go out and actually talk to the
> people practicing and just rely on the committee? You know, do we go out and talk to the
> people and say what are you seeing and what are the issues? Or do we assume that we
> know what needs to be offered?

In summary, both the quantitative and qualitative data analyses on stakeholder

involvement in the CLE planning and design process resulted in similar findings. Both analyses

indicated that providers used and valued the input of attendees, planning committees, section

members or leaders, firm partners or corporate executives, and CLE directors. In some cases,

they also used a correlation between a provider's view on the import of a particular stakeholder's

input to program planning and that group's inclusion in the process. Nevertheless, the providers

mentioned the challenges they sometimes face in involving attorney participants in the process or

balancing the input of committee members who prefer the most traditional educational

approaches.

Course objectives. The final survey question related to MCLE program planning and design asked participants, "What percentage of your CLE courses or topics have specific learning objectives defined?" The survey tool allowed the respondent to slide a marker to the number that best matched the percentage of their CLE offerings with a specific course objective in a range from *0%* to *100%.* The topic of specific course objectives was also widely discussed in the focus groups.

Table 4.4 shows the descriptive statistics that the researcher captured from provider responses to the survey question on specific course objectives. On average, the CLE providers in Kansas reported that over three-fourths of their offerings have specific course objectives. However, the variation is fairly wide when comparing the means across various provider demographic groups.

Table 4.4: *Survey Responses: What Percentage of Your Continuing Legal Education Courses or Topics Have Specific Learning Objectives Identified?*

Variable	M	SD	SEM	Lower 95	Upper 95	*n*
All	**77.88**	**27.19**	**2.26**	**73.56**	**82.48**	**149**
Organizational structure						
Nonprofit	76.37	29.11	2.94	70.53	74.41	98
For-profit	81.21	24.21	3.39	74.41	88.03	51
Number of CLE offerings						
<20	78.83	27.04	2.69	73.50	84.17	101
20–49	84.83	23.13	4.82	74.82	94.83	23
50–99	78.00	4.24	3.00	39.88	116.12	2
100+	69.41	32.62	6.96	54.94	83.87	22
Number of CLE employees						
1–5	78.38	26.89	2.55	72.32	83.44	111
6–10	67.36	33.71	10.17	44.71	90.02	11
11–20	100	0	0	100	100	4

21+	78.81	27.74	6.05	66.18	91.43	21

Note. Mean figures expressed in percentages. CLE = continuing legal education, M = mean, n = number, SD = standard deviation, SEM = standard error of the mean

A multiway ANOVA test was conducted to determine whether a relationship existed between provider demographics—the number of CLE offerings, the number of CLE employees, or the for-profit versus nonprofit structure—and their use of specific course objectives. The researcher tested Null Hypothesis 1.3:

> H_0 1.3: *Provide demographics do not predict the percentage of courses with specific learning objectives that they design.*

The results of the MANOVA analysis showed no statistically significant difference among MCLE providers because of their provider size or organization structure, F (20,146) = 1.16, p = .29.

The providers' practices and experiences in using specific course objectives was also a topic of discussion in the focus groups. These transcripts and recordings were coded into three themes on this topic: (a) the formality of the course objectives writing processes, (b) law schools' use of specific course objectives, and (c) the importance of other instructional best practices to ensure learning.

First, the data analyses revealed a difference in the methods by which providers develop course objectives with some using formal processes and others establishing course intent in a much more informal way. For example, a few of the larger, national providers described using Bloom's Taxonomy and a set a criteria to ensure that all courses would have "learning objectives that are measurable, use the infinitive of a verb, [and] itemize what the learner will learn." In contrast, a provider from a small organization described how she works with her instructors to get them to think in terms of course objectives without using that exact term. She described how she says to them, "Tell me what you're going to say in a paragraph, and then tell me in three or

four sentences, of what someone should learn in your presentation." In a similar comment, a provider described her objectives emerging according to the curriculum recommendations of judges; "So, then it is a, okay, your honor, what do you want me to raise to them? Yeah, so it is learning objectives, but we just don't use the education format or jargon."

Regardless of the formality of the process or using the specific terminology, several of the providers claimed that course objectives are in fact created as the CLE courses are designed. One focus group member said, "I do agree with whether they're required . . . the same amount of work and prep time for the speakers [occurs and] . . . they're still going through the same process to get the end result." A second individual argued.

> Without understanding, you know, what the outcomes will be when you're building that course, then our instructors wouldn't actually create the agendas and the program materials and some of the other things that are required from a legal perspective. So I think that in reality that is something that most of our instructors do sort of incorporate whether it's formal or not.

The qualitative data analysis also revealed that specific learning objectives are a fairly new concept even in law schools. One provider who works within a law school described how the ABA is starting a 5-year phase-in requirement for specific learning outcomes. He felt that there was value in this effort, saying, "To me, it's invaluable, because you can really look at it and say, why am I doing this? And why am I doing this instead of something else. But, I've never had anybody do that at the CLE setting." Another law professor said that his institution was also just now beginning to use specific course objectives in its law program. In contrast, one provider argued that setting specific objectives for law classes is particular challenge explaining, "I'm still trying to wrap my head around objectives for law school, because it is so; I mean, the

nature of the law is, it's very difficult to say X, Y, Z. I mean, if you're going to do it, you have to do it very broadly."

Finally, some of the providers expressed the view that specific course objectives must be followed up by other, instructional design best practices to impact positively law practice. One provider described how he was unsure whether well-crafted learning objectives alone would lead to a higher level of education. He argued instead for instructor preparation and development, saying, "I think more instructor work gets you greater lift." With a similar argument, another participant said:

> You can have the most brilliantly designed program, you know, refined with learning objectives and prerequisites and all of that type of stuff. But if the faculty are also terrible, if the handouts and the written materials are terrible, if the presentation materials are terrible, doesn't matter how good the learning objectives are, clearly the student is not going to meet those learning objectives.

Therefore, the qualitative data analysis seemed to align with the quantitative results in which a majority of CLE providers in Kansas are using specific learning objectives in their course design, even if those practices are informal or a fairly new requirement in law school settings.

Subcategory 3.2: Program Delivery

The survey questions and focus group discussion on the topic of CLE program delivery focused on three areas and themes: (a) course delivery format or medium, (b) learning methods employed during delivery, and (c) methods for refining course topics, sequencing, or methods as required.

Course delivery format/medium. Using the first survey question about program delivery practices, the Education Initiative team asked providers, "What percentage of your

courses are delivered in the following formats?" Providers could enter values, from *0%* to *100%*, next to five options of learning format, including:

- Traditional (classroom, speaker events, seminars, brown-bag lunches, etc.),

- Live nontraditional (via phone, video streaming, Web conferences, etc.),

- On-demand nontraditional (via websites, DVDs, etc.),

- Blended (with both traditional and nontraditional components), or

- Other

Table 4.5 summarizes the participant responses. The vast majority (80%) of providers reported using traditional classroom or speaker formats. Most of the remaining CLE classes appeared have a live component, either thru live, nontraditional formats (12%) or blended sessions that combine traditional and nontraditional delivery (5%). Very few of the CLE courses that the survey participants delivered were done in a strictly online format (>5%). The participants who used the *other* option wrote in formats that appear to overlap with the four listed options, including, "CDs or downloadable audio," "active engagement," and "recorded (i.e., DVD or CD-ROM)."

Table 4.5: *Survey Responses: What Percentage of Your Courses Are Delivered in the Following Formats?*

Variable	Traditional		Live nontraditional		On-demand		Blended		Other	
	M	***n***	**M**	***n***	**M**	***n***	**M**	***n***	**M**	***n***
All	**80.87**	**198**	**12.24**	**198**	**4.86**	**198**	**5.27**	**199**	**.67**	**198**
Organization structure										
Nonprofit	91.23	124	6.79	125	4.04	125	3.62	125	0.90	124
For-profit	65.71	70	22.84	69	6.64	69	8.51	70	029	70
Number of CLE offerings										
<20	93.51	134	6.12	134	1.69	134	3.10	134	0.13	133

	M	n	M	n	M	n	M	n	M	n
20–49	71.54	26	27.59	27	5.30	27	13.04	27	0.00	27
50–99	96.00	3	0.00	3	2.33	3	1.67	3	0.00	3
100+	42.80	30	28.76	29	19.34	29	9.20	30	3.83	30
Number of CLE employees										
1–5	87.38	145	12.69	146	4.92	146	3.82	146	0.91	145
6–10	70.67	12	15.42	12	3.92	12	1.67	12	0.00	12
11–20	75.57	7	12.71	7	8.86	7	2.86	7	0.00	7
21+	67.22	27	10.50	26	4.23	26	16.74	27	0.00	27

Note. Mean figures expressed in percentages. CLE = continuing legal education, M = mean, *n* = number.

Inferential statistical analysis of this question data was completed using ANOVA tests to evaluate the mean responses with provider demographics, including organizational structure (i.e., for-profit, nonprofit) and size (i.e., number of CLE offerings, number of CLE employees). The researcher tested Null Hypothesis 1.4:

H_0 1.4: Provide demographics do not predict format or medium in which that provider delivers CLE classes.

The results of these analyses indicated that in fact statistically significance differences exist in which the null hypothesis is not true for six of the data pairings. First, a significant result was found, comparing the means of reported traditional format use with provider structure $F(1,178) = 4.72$, $p = .03$, but with a small effect size ($\eta^2 = .03$) and provider number of course offerings, $F(3,176) = 3.99$, $p = .008$, $\eta^2 = .06$. The ordered differences results indicated that nonprofit providers who had less than 20 offerings per year used traditional formats significantly more frequently than did for-profit providers who offered more than 21 CLE courses per year. Second, the 2 X 5 ANOVA test indicated that the means for using live, nontraditional formats are statistically different when comparing for-profit and nonprofit providers, $F(1,178) = 20.17$, $p < .001$, with for-profit providers using these formats more often ($\eta^2 = .10$). In addition, means for live, nontraditional formats are significantly higher for larger providers with 100+ or 20–49

CLE offerings as compared to providers with less than 20 offerings, $F (3, 176) = 10.62$, $p < .001$ with 14% (η^2) of the variance accounted for in this factor. Third, the ANOVA analysis showed a significant difference between the means of providers use of on-demand formats and the number of CLE course offerings they deliver, $F (3, 176) = 9.89$, $p < .001$, $\eta^2 = .15$. In this comparison, the mean for providers with 100 or more offerings is significantly higher than that of providers with 20–49 or less than 20 offerings. Lastly, the ANOVA tests demonstrated a statistically significant difference in the means for use of blended formats in providers with more than 21 CLE employees as compared to providers with 1–5 employees, $F (3,175) = 3.84$, $p = .01$, but with a small effect size of 6% (η^2).

The qualitative data analysis results from the focus group transcripts reinforced these quantitative findings on CLE delivery format. Using predominantly traditional classroom or other live formats was acknowledged in the focus groups, but was also viewed as appropriate for this professional context. One provider claimed, "The live format is critical. By having a live format, attorneys can discuss cases amongst themselves and learn from each other. The class becomes a think tank with an expert leading the discussion." In addition, in-house providers gave a detailed description of how their traditional CLE classes take the form of brown-bag sessions that are delivered at the workplace. One provider explained, "If you have your attorneys there in the office already and you're ordering lunch and you have 20 people that are actually going to get CLE hours, it's very cost-effective." Another firm-based provider said, "We do a lot of in-house programs where we get our attorneys that may be proficient in that area to hold the program. So any way they can cut cost is what the firms are doing."

The grounded theory analysis also revealed insights into the marketplace for online courses. For example, focus group members explained that online delivery is often used for

niche, highly specialized content that is targeted to a smaller, geographically dispersed audience. They also described how online options provide cost-effective, on-demand courses for attorneys who are in solo practice, have demanding schedules, or need last minute hours to meet their annual CLE requirement. One provider said, "Attorneys are very busy and live seminars may be cost ineffective. Online learning allows attorneys to stay up-to-date at convenient times." Other providers described how larger law firms buy prepaid, unlimited access to national CLE providers' online courses, relying on these heavily for associate learning. One focus group member said, "We are a PLI-privileged member, which means that our attorneys, unless some dire situation rears its ugly head, you have to take PLI." Interestingly, when asked whether the Kansas CLE Commission was finding that younger, newly admitted attorneys were using online formats more often than more tenured lawyers were using it, the Kansas CLE Commission executive director said that they were not. She explained,

> The demographic is very interesting because it's not what you expect it to be. The people you think are going to do the nontraditional are not the ones doing it. And there is no uniformity with geography. There is no uniformity with age.

These findings from both the quantitative and the qualitative analyses, indicated that traditional, in-person sessions, and other live formats are by far the most prevalent medium for CLE course delivery to Kansas attorneys. Larger providers more frequently use online learning mediums, and attorneys and larger firms rely on them for quick, inexpensive, or niche CLE sources.

Learning methods used in course delivery. The Education Initiative project team used the second survey question on the topic of course delivery to query, "How often does your organization use the following learning methods in course/session delivery?" Providers were asked to indicate their level of use for 11 learning methods, using a Likert-type scale of 1 (*not at*

all), 2 (*occasionally*), 3 (*frequently*), and 4 (*don't know/not applicable*). The 11 learning methods

listed included

- Instructor/speaker presentations;

- Question and answer sessions;

- Discussion, bulletin boards, or chat rooms;

- Mock trials, discussion, or negotiations;

- Networking (e.g., peer attorney discussion);

- Quizzes, tests, or understanding checks;

- Time for practice;

- Expert panels;

- Hand-outs (i.e., materials binders, Power point slide copies);

- Take-home job aids (e.g., checklists); and

- Other.

Quantitative data outputs from the survey tool were used to identify means, trends, and

relationships in provider responses. In addition, the open-ended survey questions and focus

group transcripts and recordings were used for a grounded theory analysis of the providers' use

of learning methods in CLE classes.

The quantitative outputs from the survey (see Table 4.6) indicated that instructor or

speaker presentation is by far the most commonly used learning method in Kansas CLE course

delivery with more than 97% of respondents saying they use it *frequently* or *occasionally*.

Likewise, nearly all providers (85%+) reported using Q&A sessions, expert panels, and handouts

frequently or *occasionally* in their CLE sessions. Half of those responding the survey used

networking, mock trials, and take home aids least occasionally. Only about a quarter of

participants reported using other methods such as discussions, bulletin boards, or chat rooms and time for practice occasionally in the classroom. Finally, the respondents rarely used testing, quizzes, or understanding checks. In fact, 70% of those responding said they never use these tools and only 3% said that they use them frequently. Additional methods listed by the respondents who selected *other* included "small roundtable discussion," "website resources which complement the courses," and "polling questions."

Table 4.6: *Survey Responses: How Often Does Your Organization Use the Following Learning Methods in Course and Session Delivery?*

Variable	Not at all		Occasionally		Frequently		Don't know or NA		
	Percent	***n***	**Percent**	***n***	**Percent**	**N**	**Percent**	**N**	**Total**
Instructor and speaker presentations	1.60	3	1.06	2	96.28	181	1.06	2	188
Question and answer sessions	3.80	7	20.11	37	75.54	139	0.54	1	184
Discussion, bulletin boards, and chat rooms	58.66	105	20.11	36	15.08	27	6.15	11	179
Mock trials, discussions or negotiations	46.63	83	41.57	74	8.43	15	3.37	6	178
Networking (e.g., Peer attorney discussion)	33.52	59	40.91	72	22.16	39	3.41	6	176
Quizzes, tests, understanding checks	64.04	114	23.03	41	5.62	10	7.30	13	178
Time for practice	69.66	124	19.66	35	2.81	5	7.87	14	178
Expert panels	14.84	27	30.77	56	52.20	95	2.20	4	182
Hand-outs (i.e., materials binders, PPT slide copies)	3.28	6	6.56	12	89.62	164	0.55	1	183
Take-home job aids (e.g., checklists)	36.16	64	37.29	66	20.90	37	5.65	10	177
Other	34.29	12	2.86	1	5.71	2	57.14	20	35

Note. N = number, NA = not applicable, PPT = MS PowerPoint.

For the inferential statistical analysis on this survey question, the researcher used a chi-square with Poisson count tests to evaluate any relationship between provider demographics and

using these course delivery methods. The underlying question was, "Does provider size (i.e., number of CLE employees or course offerings) or structure (i.e., for-profit versus nonprofit) in any way predict using best practice delivery methods?" Specifically, the analysis tested the Null Hypothesis 1.5:

> H_0 1.5: There is no difference in the frequency of provider use of discussions, bulletin boards, or chat rooms; mock trials; networking; quizzes or tests; or time for practice within Kansas CLE program delivery.

The results of the Poisson tests indicated that no statistically significant differences were found when evaluating providers' structure (i.e., for-profit or nonprofit) or number of employees and using any of these delivery methods. However, this analysis identified a statistically significant difference between a provider's size, as measured by the number of CLE course offerings they deliver each year, and their use of three of these methods: (a) discussion, bulletin boards, or chat rooms, (b) mock trials, discussions, or negotiations, and (c) time for practice.

First, the chi-squared test output (see Figure 4.12) indicated a statistically significant relationship between number of CLE offerings and using discussion, bulletin boards, or chat rooms, χ^2 (9, 168) = 18.89, p = .03. Specifically, providers with 100+ offerings used this method more frequently than providers with less than 20 offerings ($p < .01$).

Freq Share Comparisons Cell Chisq PVal			CCD4: Methods Discussion/bulletin boards/chat rooms						
			Don't Know/Not Applicable	Frequently	Not At All	Occasionally	Total Responses	Mean	Std Dev
D2: What is the number of CLE offerings per compliance period provided\by your organization?	Less than 20	A	8 7.0% 0.86394	10 8.7% 0.08553	76 66.1% B,D 0.23869	21 18.3% 0.54558	115	2.9565	0.74211
	20-49	B	2 8.0% ** 0.77657	5 20.0% ** 0.50701	11 44.0% ** 0.366	7 28.0% ** 0.43241	25	2.9200	0.90921
	50-99	C	0 0.0% ** 0.71745	1 50.0% ** 0.19793	1 50.0% ** 0.88549	0 0.0% ** 0.51861	2	2.5000	0.70711
	100+	D	1 3.8% ** 0.59035	9 34.6% A** 0.00909	9 34.6% ** 0.12075	7 26.9% ** 0.49631	26	2.8462	0.88056

Figure 4.12. Chi-squared test: Provider number of course offerings and discussion, bulletin boards, or chat rooms. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = less than 20 offerings, B = 20-49 offerings, C = 50-99 offerings, CCD = CLE course delivery, CLE = continuing legal education, D = 100+ offerings *Base count warning 100, **Base count minimum 30.

Similarly, the chi-squared test results in Figure 4.13 indicated a statistically significant difference in the occasional use of mock trials by providers with more than 100 CLE course offerings as compared to providers with less than 20 CLE course offerings per year ($p = .04$). The overall chi-square result was $\chi^2 (9, 168) = 18.31$, $p = .03$.

	Freq Share Comparisons Cell Chisq PVal		CCD4: Methods Mock trials, discussions or negotiations						
			Don't Know/Not Applicable	Frequently	Not At All	Occasionally	Total Responses	Mean	Std Dev
D2: What is the number of CLE offerings per compliance period provided by your organization?	Less than 20	A	5 / 4.3% / / 0.66927	8 / 7.0% / / 0.59721	61 / 53.0% / D / 0.27336	41 / 35.7% / / 0.29948	115	3.2000	0.75161
	20-49	B	0 / 0.0% / ** / 0.34326	2 / 8.0% / ** / 0.94723	11 / 44.0% / d** / 0.87666	12 / 48.0% / ** / 0.63846	25	3.4000	0.64550
	50-99	C	0 / 0.0% / ** / 0.78865	1 / 50.0% / ** / 0.04208	1 / 50.0% / ** / 0.93539	0 / 0.0% / ** / 0.35988	2	2.5000	0.70711
	100+	D	1 / 4.0% / ** / 0.91446	3 / 12.0% / ** / 0.53225	4 / 16.0% / ** / 0.02662	17 / 68.0% / A** / 0.04397	25	3.4800	0.87178

Figure 4.13. Chi-squared test: Provider number of course offerings and mock trials. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = less than 20 offerings, B = 20-49 offerings, C = 50-99 offerings, CCD = CLE course delivery, CLE = continuing legal education, D = 100+ offerings *Base count warning 100, **Base count minimum 30.

Lastly, the chi-squared test result (Figure 4.14) indicated a significant variance in the means for the provider number of offerings and using time for practice in CLE course delivery, χ^2 (9, 168) = 43.77, $p < .001$. Detailed cell comparisons indicated that providers with more than 100 CLE offerings are statistically more likely to include time for practice in their course delivery occasionally as compared to providers with less than 20–49 CLE courses ($p = .01$) or less than 20 courses per year ($p < .001$). In addition, although a statistically significant finding was identified between providers with 50–99 CLE offerings and the frequent use of time to practice ($p < .001$), with only 1 data pairing in this cell, this result was not considered important to the analysis.

Freq Share Comparisons Cell Chisq PVal			CCD4: Methods Time for practice						
			Don't Know/Not Applicable	Frequently	Not At All	Occasionally	Total Responses	Mean	Std Dev
D2: What is the number of CLE offerings per compliance period provided by your organization?	Less than 20	A	8 / 7.0% / / 0.60903	4 / 3.5% / / 0.75497	89 / 77.4% / c,D / 0.24661	14 / 12.2% / / 0.05457	115	2.9478	0.6602
	20-49	B	3 / 12.0% / ** / 0.52537	0 / 0.0% / ** / 0.38837	17 / 68.0% / D** / 0.97819	5 / 20.0% / ** / 0.97889	25	2.9600	0.8406
	50-99	C	0 / 0.0% / ** / 0.68309	1 / 50.0% / a,b,d** / 0.00012	0 / 0.0% / ** / 0.24198	1 / 50.0% / ** / 0.34948	2	3.0000	1.4142
	100+	D	3 / 11.5% / ** / 0.5713	0 / 0.0% / ** / 0.37904	9 / 34.6% / ** / 0.03704	14 / 53.8% / A,B** / 0.00014	26	3.3077	0.9703

Figure 4.14. Chi-squared test: Provider number of course offerings and time for practice. Uppercase alpha level 0.05; Lowercase alpha level 0.1. A = less than 20 offerings, B = 20-49 offerings, C = 50-99 offerings, CCD = CLE course delivery, CLE = continuing legal education, D = 100+ offerings *Base count warning 100, **Base count minimum 30.

Transcripts from the focus group captured extensive provider discussion on learning methods, including sharing details about the techniques used in CLE classes, what the providers have found works, the challenges they face, and what they would like to see improved. The coding of these data reinforced and refined the quantitative findings just noted. For example, focus group members acknowledged that speakers use slides to present much of the CLE course material in a traditional classroom setting. A commonly used term in the focus group was "talking heads." Still, some participants argued that, coming from a similar method of teaching in law school, this delivery approach is what most attorneys expect. "I can say you're mostly talking heads and a lot of it is the comfort of who our audience is." Still, providers also described actions they take to increase interactivity within these speaker events. For example, some spoke about switching between multiple instructors in one session or interrupting presentations with panels or breakout sessions. Another said, "I have been encouraging our speakers to have more of a dialog format versus a talking at the group." Finally, the focus group members discussed

ideas about breaking sessions into shorter modules, of perhaps 20 minutes in length, to allow for variation in presenters, topic, or delivery approach and increase interactivity.

An important concept uncovered through the coding of the qualitative data on this subject is the volunteer CLE instructor workforce. According to providers, most instructors teaching in CLE classrooms are attorneys who have volunteered to teach. Many are asked to teach because they are the recognized expert in the course subject matter. These individuals are often very knowledgeable on the content, but might not have experience or skills in teaching, nor do they have sufficient time for class preparation. As one participant explained:

> The actual faculty members and speakers are volunteers and they come from the legal profession. But just because one is an attorney and one could be the . . . most skilled knowledgeable attorney possible doesn't mean they know how to teach, doesn't mean they know anything about continuing education or education period.

Providers recognize this, and they described the ways in which they try to prepare the volunteers to teach. For example, one provider said, "I create [an] instructor packet every year that tells them a little bit of the history of the event, why we're doing it, what's expected of them. And the biggest thing is remember to just stay on task." Other participants in the focus group shared ideas such as providing instructors sample PowerPoint presentations or handouts, providing to the presenter before the session attendee lists with details such as years of practice and practice area, and sharing the results from past session evaluations as methods to enhance instructor readiness.

Coding of the focus group dialog also revealed details about how providers incorporate interactive practices in their classroom. For example, several providers described their best practices for breakout sessions, comprising smaller learner groups led by a moderator with discussion topics. A local provider described one of her sessions in which

There's a presenter with a chosen topic and then they have a list of subtopics . . . then they'll all break and it's usually a judge or two at each table . . . . If you don't have somebody just talking at you, where you're sharing information, you're learning from everyone at the table.

The providers also discussed how they use more interactive techniques such as mock trials, panel discussions, and structured mentoring sessions. For example, a few providers described acting out past trials in which actors, or sometimes the attorneys who were involved in the original case, re-enacted portions of the trial, stopping occasionally to explain their rationale or asking the learners what they would have done. In addition, providers talked about their approach to (and the challenges they face in) conducting panels during CLE courses. Participants shared useful tips such as using a moderator, doing practice runs, and balancing the power of panel members. One provide said,

I try to have the most private conversations with the moderator so that they know we've got to keep this moving along, keep it interesting, keep it fresh, but yet let all those individuals have a few moments to share their piece of the puzzle . . . and then have them practice.

Lastly, a handful of providers described building structured mentoring into their classroom, pairing newer attorneys with more senior members from their practice area. In some cases, providers also set time limits on the session or provide discussion topics, describing them as "speed networking" events.

The last theme or topic discussed at length in the focus groups were practices and preferences regarding class materials, including handouts, take-home aids, or binders. Kansas rules stipulate that all CLE courses must provide quality materials to learners, but do not specify the form that they must take. Some providers expressed a preference for providing these materials in hard copy during the session, arguing that it helps the learner to follow along and to

take notes that might help him or her apply what he or she has learned in practice. Others said that handing out the materials distracts the attorney from the session saying, "They're not actually listening to the presentation. If they're actually interested, they're reading it, and this destroys the continuity of engaging with a lot of people sometimes when you do that." Overall, providers described a wide variety of distribution approaches for CLE class materials. Some CLE materials are delivered electronically via email or external drives for lawyers to view during the session or upon returning to work. Likewise, hard copies, ranging from hundreds of pages in notebooks, to smaller outlines, checklists, worksheets, or presentation highlights, are distributed before, during, or after sessions.

Results from the quantitative and qualitative data analyses offered consistent evidence that CLE in Kansas is delivered primarily using instructor or speakers presentations, Q&A sessions, expert panels, and handouts of course materials. Some providers, perhaps more often those who deliver more than 100 courses per year, are experimenting with more interactive learning methods, including discussion or chat rooms, mock trials, and time for practice. The providers rarely use testing or quizzes.

Methods for refining course topics, sequencing, or methods. The last survey question on CLE program delivery practices asked the providers, "Which of the following do instructors or your organization use to refine course sequencing, pace, or learning methods?" The respondents could select from a list of five methods all of the options that applied, including,

- Pretests and assessment of attorney mastery of topic,

- Individual learning styles and preferences,

- Feedback and suggestions from previous courses,

- Feedback and suggestions from attendees, or

- Degree of difficulty (e.g., beginner versus advanced attendees).

The respondent could also select an option of *other* that allowed text-entry. Focus group transcripts and recordings also include provider discussions on how they use these methods in course delivery.

The summarized survey data (see Table 4.7) indicated that providers rely primarily on feedback and suggestions from attendees (91%) or feedback and suggestions collected from previous classes (75%) to adjust course delivery. Almost half of respondents indicated that they adapt the degree of difficulty in their courses to the skill set of the attendees. Fewer providers adapt to attendee learning styles (26%) and almost none (6%) use pretests or assess level of mastery when conducting classes. Text-entry responses from those who selected the *other* option included additional methods such as product interest cards (PICs), suggestions from CLE directors, and guidance from governing organizations.

Table 4.7: *Survey Responses: Which of the Following Do Instructors or Your Organization Use To Refine Course Topics, Sequencing, Pace, or Learning Methods?*

Variable	Pretests of mastery Percent	N	Individual learning styles Percent	N	Feedback from courses Percent	n	Feedback from attendee Percent	n	Degree of difficulty Percent	N	Other Percent	n	Total
All	**5.46**	**10**	**25.68**	**47**	**75.41**	**138**	**90.71**	**166**	**45.9**	**84**	**4.37**	**8**	**183**
Organizational structure													
Nonprofit	5.98	7	28.21	33	78.63	92	93.16	109	47.01	55	3.42	4	117
For-profit	4.62	3	21.54	14	69.23	45	87.69	57	43.08	28	6.15	4	65
Number of CLE offerings													
< 20	5.51	7	25.98	33	70.08	89	88.98	113	40.16	51	3.15	4	127
20–49	7.41	2	29.63	8	81.48	22	92.59	25	51.85	14	14.81	4	27
50–99	0.00	0	0.00	0	100.00	3	100.00	3	66.67	2	0.00	0	3
100 +	4.00	1	24.00	6	92.00	23	96.00	24	64.00	16	0.00	0	25
Number of CLE employees													

Variable	Pretests of mastery		Individual learning styles		Feedback from courses		Feedback from attendee		Degree of difficulty		Other		
	Percent	N	Percent	N	Percent	n	Percent	n	Percent	N	Percent	n	Total
1–5	5.88	8	25.00	34	75.74	103	91.91	125	46.32	63	4.41	6	136
6–10	8.33	1	8.33	1	58.33	7	91.67	11	25.00	3	0.00	0	12
11–20	0.00	0	28.57	2	100.00	7	71.43	5	42.86	3	0.00	0	7
21+	3.85	1	38.46	10	76.92	20	88.46	23	53.85	14	7.69	2	26

Note. CLE = continuing legal education, N = number.

A chi-squared analysis with Poisson count test of the data collected via this question was completed to determine whether provider demographics such as organizational format (i.e., for-profit, nonprofit) or size as measured by CLE offerings or employees, predicted using any of the more sophisticated delivery refinement methods. The researcher tested Null Hypothesis 1.6:

> *H_0 1.6: No differences exist in frequency of provider use of pretests/assessment of attorney mastery, individual learning styles, or degree of difficulty to refine Kansas CLE program delivery.*

Results of the Poisson test indicated no statistically significant relationships existed between the means for provider structure or number of employees and their use of these three course refinement methods. A statistically significant difference was found for providers with 20–49 CLE course offerings and the *Other* response, $\chi2$ (15, 171) = 8.00, p = .05, but it is not particularly useful in understanding the best practices in this category. No statistically significant findings were identified for the other provider CLE course offering categories.

Grounded theory coding of the focus group transcripts provided more details on how providers use these methods to refine their course delivery, as well as insight into the challenges they sometimes face in doing so.

First, many focus group members spoke about using suggestions and feedback from past course evaluations or attendees to improve on their offerings. In one example, a provider talked

about how past session evaluations help her: "The suggestions for future topics and speakers and things that they actually want to hear are what is most valuable and I feel like I'm getting more and more of that because they're seeing that they've requested it and it's come."

In addition, the qualitative data provided specific information on how providers refine their course delivery for levels of mastery. One provider–instructor described how its courses for expert learners are much more interactive; "Our folks who are more advanced prefer to see those panels with discussion because you are talking at a more advanced level and multiple folks have pieces of the answer as opposed to be one authoritarian, authority on that particular subject." Another ethics CLE provider said, "If I know I'm talking to a baby lawyer group . . . we'll go through with the disciplinary process . . . just as background. If I'm talking to older lawyers, I spend more time on lawyers' assistance."

Nevertheless, several providers spoke about the challenge they often encounter when trying to adjust course delivery to levels of mastery when attorneys overestimate their ability or skill set. They explained how attorneys, as a group, are generally unwilling to admit that they do not know something or need basic education on a subject. As provider explained,

> Attorneys are rather subjective in their own determination of what their expertise is in these certain areas, too. You know, a lot of attorneys won't admit that they need that basic training . . . . if you ask them, they would consider themselves advanced in the topic and so that's a challenge too to match up . . . making sure that they don't think that the course is beneath them, even though it may be concepts that they do need to understand.

Lastly, although some of the focus groups members mentioned hearing about other states using pretests of mastery to refine CLE course delivery, and many felt such methods would be highly valuable, none of this study's participants report using pretest tools at this time.

Commonalities found in the both the quantitative and qualitative data analyses indicated that a majority of CLE providers in Kansas rely on feedback or suggestions from past classes or attendees and information about the levels of mastery in their attendees to refine CLE course topics, sequencing, or methods. These data analyses also demonstrated that providers use or do not use these practices in similar ways, regardless of organizational structure or size.

Subcategory 3.3: Program Evaluation

The Education Initiative team used the survey questions and focus group discussion on the topic of CLE program evaluation to query in three areas: (a) program evaluation methods or tools used,

(b) information gathered via postcourse evaluation forms, and (c) the usefulness of postprogram evaluation outputs. Results of this analysis are grouped, using the Phillips and Phillips (2007) evaluation model that suggests five levels of program evaluation:

- Level 1: Reaction and Planned Action*, which is focused on the attendees' reaction to the program and their plans to put their learning in action. These measures are typically captured using postprogram evaluation surveys or interviews (pp. 115-123).

- Level 2: Learning and Confidence, during which evaluators assess the learners' ability to use the content and materials provided, including a concern for their confidence in doing so (pp. 17, 132-137). Measures related to skills, knowledge, competencies, contacts, and confidence are captured with devices such as testing, simulations, and exercises (p. 145).

- Level 3: Application and Implementation, which identifies using new skills, knowledge, behaviors, or attitudes on the job, capturing data on frequency or extent of use, actions taken, and barriers and enablers to use (pp. 17, 163-164). Tools such as

on-the-job observation, follow-up surveys and interviews, and performance measurement plans are used at this level (p. 168).

- Level 4: Impact and Consequences, which seeks to measure business metrics change in areas such as productivity, revenue, quality, and employee and customer satisfaction (pp. 17, 212-219). Collection processes include record keeping, questionnaires, and action plans to determine the impact of learning.

- Level 5: Return on Investment, which attempts to compare the costs and benefits of the learning program. Measures like benefit cost ratios, ROI percentages, and payback period are calculated with the data collected throughout the evaluation effort (p. 17).

Program evaluation methods and tools. A question on the survey asked providers of CLE in Kansas to identify the evaluation methods or tools that they typically use for their courses. The question was, "Which of the following do you used to evaluation CLE programs or sessions?" Respondents could select all that applied from a list of six options, including

- Postprogram participant reaction or satisfaction evaluations;

- Presenter or instructor feedback;

- Test scores, grades, or other learning evaluation tools;

- Anecdotal discussion with attendees and/or supervisors;

- Attendance rates or trends; or

- ROI, cost-benefit ratios, or other business results metrics.

The respondent could also select an option of *other* that allowed text-entry. In addition, if a provider selected that they use testing forms of CLE program evaluations they were directed to an open-ended question that asked, "Would you please tell us more about the CLE testing and

learning evaluation process you use?" Similarly, if a provider indicated that it used ROI, cost-benefit ratios, or other business metrics to evaluate courses, another text-entry question appeared saying, "Would you please tell us more about the CLE results metrics and measurements you use?" Lastly, focus groups transcripts and recordings also captured provider discussion about their specific use of these tools and how much value they add to the provider evaluation processes.

The results of the quantitative data analysis of the survey responses to this question indicated that nearly all of the providers (92%) capture much of the feedback for their courses through Level 1 participant course reaction and satisfaction evaluations. However, some evidence exists that they use higher levels of assessment, for more than half of the providers reported also relying on anecdotal discussion and presenter or instructor feedback to refine their evaluation of a given CLE course. Using Level 2 evaluation methods such as test scores, grades, or quizzes is extremely rare. These results also indicated some program evaluation at the highest levels, including that nearly 58% of providers reported using attendance rates and trends to evaluate the usefulness of a given course and almost 15% use ROI, cost-benefit ratios, or other metrics. Providers who selected the other option in this question reported using "follow-up phone calls and meetings with attendees per responses to surveys and Product Interest Cards," "room counts," "post presentation discussions," and "Kirkpatrick Levels 1, 2, and 3" feedback mechanisms to evaluate CLE programs. Table 4.8 shows the summarized survey results on the Kansas providers' use of these six program evaluation tools and methods.

Further quantitative analysis of the data collected using this survey question was completed with a chi-squared, Poisson count test to determine whether provider demographics, such as organizational format (i.e., for-profit, nonprofit) or size (i.e., number of CLE offerings or

employees) would predict using any of best-practice program evaluation methods. Specifically, the researcher tested Null Hypothesis 1.7:

> H_0 1.7: *There is no difference between the frequencies of provider mean use of test scores, grades, or other learning evaluation tools or their use of ROI, cost-benefit ratios, or other business metrics to evaluate Kansas CLE program results.*

Table 4.8: *Survey Responses: Which of the Following You Use To Evaluate Continuing Legal Education Programs or Session?*

Variable	Postprogram evaluations %	N	Presenter feedback %	N	Test scores, grades, etc. %	N	Anecdotal discussion %	N	Attendance rates/trends %	N	ROI, ratios, metrics %	N	Other %	N	Total
All	**91.94**	**171**	**66.13**	**123**	**4.84**	**9**	**52.69**	**98**	**57.53**	**107**	**14.52**	**27**	**3.76**	**7**	**186**
Structure															
For-profit	87.69	57	60.00	39	3.08	2	38.46	25	47.69	31	16.92	11	3.08	2	65
Nonprofit	94.17	113	69.17	83	5.83	7	60.83	73	62.50	75	13.33	16	4.17	5	120
Number of CLE offerings															
< 20	89.84	115	62.50	80	3.13	4	56.25	72	57.81	74	10.16	13	3.91	5	128
20–49	96.30	26	66.67	18	7.41	2	33.33	9	48.15	13	7.41	2	3.70	1	27
50–99	100.0	3	100.0	3	33.33	1	100.0	3	100.0	3	33.33	1	0.00	0	3
100 +	96.30	26	77.78	21	7.41	2	48.15	13	59.26	16	40.74	11	3.70	1	27
Number of CLE employees															
1–5	92.75	128	69.57	96	5.07	7	58.70	81	58.70	81	13.04	18	3.62	5	138
6–10	91.67	11	58.33	7	0.00	0	41.67	5	50.00	6	33.33	4	0.00	0	12
11–20	85.71	6	42.86	3	0.00	0	57.14	4	42.86	3	14.29	1	0.00	0	7
21+	92.59	25	59.26	16	7.41	2	25.93	7	55.56	15	14.81	4	7.41	2	27

Note. CLE = continuing legal education, N = number, ROI = return on investment.

Results of the Poisson test indicated that no statistically significant relationship existed between provider structure or number of CLE employees and their use of these two program evaluation methods. A statistically significant difference was found when comparing provider

use of metrics such as ROI, cost–benefit ratios, or other business results measures against provider size in terms of CLE offerings, χ^2 (15, 174) = 14.69, p = .002. Specifically, mean responses of providers with 100+ CLE course offerings are significantly higher than those of smaller providers with 20–49 (p = .002) and less than 20 offerings (p < .001). No statistically significant findings were identified for the other provider CLE course offering size categories and these two methods of CLE course evaluation. Figure 4.15 shows the output from the software analysis tool.

			EM1: Multiple evaluation tools								
Freq / Share / Rate / Comparisons			1	2	3	4	5	6	Total Responses	Total Cases	Total Cases Responding
D2: What is the number of CLE offerings per compliance period provided by your organization?	Less than 20	A	107 32.0% 86.3%	73 21.9% 58.9%	4 1.2% 3.2%	68 20.4% 54.8% b	70 21.0% 56.5%	12 3.6% 9.7%	334	124	120
	20-49	B	25 37.3% 96.2% **	17 25.4% 65.4% **	2 3.0% 7.7% **	8 11.9% 30.8% **	14 20.9% 53.8% **	1 1.5% 3.8% **	67	26	26
	50-99	C	2 25.0% 100.0% **	2 25.0% 100.0% **	0 0.0% 0.0% **	2 25.0% 100.0% **	2 25.0% 100.0% **	0 0.0% 0.0% **	8	2	2
	100+	D	25 28.4% 96.2% **	21 23.9% 80.8% **	2 2.3% 7.7% **	13 14.8% 50.0% **	16 18.2% 61.5% **	11 12.5% 42.3% A,B**	88	26	26

Figure 4.15. Poisson test: Provider number of continuing legal education offerings and use of return on investment or other metrics. 1= postprogram evaluations, 2 = presenter/instructor feedback, 3 = test scores and grades, 4 = discussion with attendees and supervisors, 5 = attendance rates and trends, 6 = ROI, cost–benefit ratios, other metrics. A = less than 20 offerings, B = 20-49 offerings, C = 50-99 offerings, CLE = continuing legal education, D = 100+ offerings, EM = evaluation methods, ROI = return on investment. Uppercase alpha level 0.05; Lowercase alpha level 0.1. *Base count warning 100, **Base count minimum 30.

The results of the grounded theory coding of the open-ended survey questions and the focus group recordings and transcripts reinforced the quantitative findings and provided greater depth of understanding on Kansas CLE program evaluation practices. For example, respondents to the survey and focus group members shared details about how they use Level 1 evaluation forms to gather course feedback. One survey respondent said, "We use that information to refine our programs and topics as well as gather valuable information on the speaker and presentation

by those that actually took the course." Some providers also describe methods in which they go back to attorneys or their employers some time after program completion to gather feedback on the effectiveness of MCLE sessions. One way that this is being done is with short, delayed surveys sent to participants in the weeks after the session to ask about application of the material in practice, but without actual performance data capture. This is an example of Level 3 learning assessments in current use. In addition, many providers described planning committee sessions that involved past instructors, firm leadership, subject matter experts, and past students to gather feedback on course effectiveness and to adjust future session design and content the better to meet practice needs. Although driven more by anecdotal information than by metrics, these joint planning efforts could also be described as higher-level, CLE evaluation and objective setting.

Another important insight revealed through the qualitative analysis is strong resistance among attorney learners to any form of testing, quizzing, or exercises within CLE courses. One provider directly stated, "Can we talk about quizzes and tests first? Do not try to get into having quizzes and tests!" Essentially, the providers described a view among attorneys that they passed the bar, therefore, they should never be tested again. Also, some in profession share the view that the law is an "amorphous" area of practice for which it is difficult to test for "right" answers. One focus group participant said:

> Objectively measuring [learning] outcomes is something else that we haven't done in the legal sphere; that gets a lot harder because then you're talking about things like potentially testing, which attorneys are very opposed to because, again, there's never one right answer to a question, so how could you test?

These qualitative insights likely explain the lack of testing and other similar Level 2 evaluations in Kansas CLE courses. The few methods for testing that are in use, as described by survey respondents, included "50 question, multianswer summative evaluations" or "multiple

choice survey with relevant topics on the class material presented." In addition, some participants described the ways in which they incorporate nonthreatening methods of testing for understanding in their programs such as "open-ended questions and guided discussion, modules also contain labs where students are assessed by instructors during practical exercises to reinforce learning objectives." The providers did say that the online, nontraditional teaching formats make assessing learning more palatable to attorneys. "You can sort of do a little assessment of learning at the end; just naturally, because it's online, which is a lot easier to pull than in a presenter's session. Where you hand out a test, and they're going to be like, 'I'm out. I'm not doing this.'"

Lastly, provider responses to the survey or in focus groups seemed to indicate that any ROI or metrics that are captured are more related to the business of course delivery, rather than the transfer of learning or practice impact. For example, the providers reported capturing metrics on course attendance year after year, the impact of pricing changes on attendance levels, or on how instructor ratings compared with overall course satisfaction results. One survey participant explained, "Most of [the] analysis is done by looking at enrollment and financial information." However, some practitioners who work directly within a law practice (e.g., law librarians, in-house trainers, section administrators) described having more direct interaction with attorneys and their employers had to discuss the practice results of CLE attendance.

These qualitative findings coincide with the quantitative results indicating a predominance of Level 1 program evaluation practice among Kansas CLE providers, especially through tools such as reaction evaluation forms, with some evidence of higher levels of assessment using instructor feedback, attendance rates, and anecdotal discussion. There was also clear consistency in both data analyses that using Level 2 evaluation methods such as testing is

rarely used, primarily because of attorney resistance, unless it is done with online delivery or indirect methods.

Information gathered via postcourse evaluation forms. In the next survey question related to CLE program evaluation practices, the Education Initiative team asked respondents to describe the information collected through postcourse reaction or satisfaction evaluation forms. Providers were asked, "Which of the following do your postprogram evaluations typically measure?" The survey provided 10 options from which the participant could select all that applied to their practices, including

- Overall learner satisfaction;

- Instructor effectiveness, knowledge, and preparation, etc.;

- Topic or content usefulness, relevance, and import to the attendee;

- Fulfillment of course objectives;

- Schedule, session length, and timing;

- Facilities (room, setup, food, and temperature, etc.);

- Audio visuals and materials usefulness;

- Attorney's expectation of course use or influence in his or her practice;

- Attorney's expectation that their organization will encourage application of new learning; and

- Learner professional attributes and demographic information.

The providers could also select an *Other* option from the list with a text-entry window for additional information. Beyond the survey data, qualitative data was available from the focus group transcripts and recordings on this topic.

The results of the quantitative data analysis from the survey question are presented in Table 4.9. Nearly all postcourse surveys (95%+) captured information on overall learner satisfaction, instructor effectiveness, and topic and content usefulness. Also consistent with Level 1 analysis, most providers collected basic feedback about course materials or logistics such as facilities, schedule, and timing. However, a certain amount of evidence existed that these tools reach towards higher-level assessment, for 60% of the providers said that their postcourse surveys asked attorneys about their expected use of the learning in practice. Likewise, more than half of those surveyed, said that they asked whether course objectives were fulfilled. Only about 25% of the providers reported collecting information on the attorneys' expectations of firm support to apply their learning on the job. Nonetheless, a number of studies on the impact of continuing education on practices in other professions have pointed to expectation and support in applying learning on the job as critical in influencing practice change (Cervero et al., 1986; Cervero & Rottet, 1984). Thus, if one-quarter of providers are measuring this already, some evidence exists of movement towards Level 3 evaluation practices relative to MCLE and its impact on the practice of law.

Table 4.9: *Survey Responses: Which of the Following Do Your Postprogram Evaluations Typically Measure?*

Variable	Overall satisfaction %	Instructor effectiveness %	Topic usefulness %	Course objectives %	Schedule, timing %	Facilities %	AV/ materials %	Practice influence %	Organization support %	Learner traits %	N
All	**97.02**	**95.24**	**94.64**	**66.07**	**56.55**	**70.24**	**76.79**	**60.12**	**24.4**	**16.67**	**168**
Structure											
For-profit	98.21	92.86	96.43	64.29	44.64	57.14	80.36	51.79	21.43	3.57	56
Nonprofit	96.40	96.40	93.69	67.57	62.16	76.58	74.77	63.96	26.13	23.42	111
Number of CLE offerings											
<20	98.25	94.74	94.74	64.91	59.65	71.93	74.56	58.77	21.93	14.04	114
20–49	88.00	92.00	96.00	56.00	60.00	68.00	76.00	60.00	32.00	20.00	25
50–99	100.00	100.00	66.67	66.67	66.67	33.33	100.00	66.67	66.67	33.33	3
100 +	100.00	100.00	96.00	80.00	36.00	68.00	84.00	64.00	24.00	24.00	25
Number of CLE employees											
1–5	97.62	96.03	95.24	65.87	55.56	73.02	77.78	62.70	24.60	19.84	126
6–10	100.00	90.91	90.91	63.64	63.64	54.55	72.73	36.36	18.18	0.00	11
11–20	83.33	83.33	100.00	83.33	66.67	66.67	83.33	83.33	33.33	16.67	6
21+	95.83	95.83	91.67	62.50	54.17	62.50	70.83	50.00	25.00	8.33	24

Note. AV = audiovisual, CLE = continuing legal education.

A chi-squared analysis with a Poisson count test of the survey data captured on this topic was completed to identify any relationship between provider demographics and using best-practice course evaluation designs in Level 1 evaluation design. Specifically, the researcher used Null Hypothesis 1.8 for this test:

> H_0 1.8: There is no difference between the frequencies of providers' measurement on post course evaluations of course objective fulfillment, attorneys' expectations of course use or influence in his/her practice, or attorney's expectation that their organization will encourage application of learning.

No statistically significant results were found for any of the provider demographic data pairings with their use of these three measures that are recommended for postcourse evaluation tool design.

In the focus groups, the providers described how their evaluation forms capture information about the attorneys' expected use of CLE learning in practice. One provider said she uses a true-false response to the statement, "This will help my practice, or this pertains to my practice." Another provider said its surveys include questions such as, "Is there anything you learned here that you'll apply to practice?" Lastly, a few other members described how they often include a question on evaluations asking whether the attendee would recommend a course to their colleagues. Providers view positive responses to this question as an indirect assessment of program value to attorney practice.

The grounded theory results also uncovered details about the physical format of postprogram evaluation tools. Focus group members discussed the relative pros and cons of paper surveys that are completed immediately at class conclusion versus online surveys sent to participants via email shortly after the session. A few argued that paper forms have lower response rate, but tend to collect higher quality responses. One member said that this occurs

"because the people who take the time to write that and fill it and hand it in are the ones that cared." Other providers felt that online versions produce higher response rates, allow for more thoughtful reflection, and produce more detailed answers "because they have more time to type out the written responses versus just trying to jot something down really quick, get their CLE form, and get out the door because they want to go."

Thus, both the quantitative and the qualitative data analyses outputs identified similar uses of postcourse evaluation surveys. Nearly all of the providers reported using postcourse surveys to gather information on overall learner satisfaction, instructor effectiveness, and topic and content usefulness. Nevertheless, some providers are experimenting with collecting higher levels of program assessment by incorporating questions about course objective fulfillment, attorneys' expectations of course use or influence in practice, or an attorney's expectation that his or her organization will encourage the application of learning.

Usefulness of postprogram evaluation outputs. The final set of survey questions and focus group discussion topics solicited providers' views on the usefulness of or value captured in their Level 1 evaluations. A survey question asked, "Overall, how useful is the feedback you receive on the postprogram evaluations?" Participants were invited to evaluate the usefulness of postprogram evaluations against five measures:

- Future program and course planning,
- Instructor feedback and development,
- Venue selection,
- Assessing attorney learning, and
- Anticipating future improvement in attorney practice.

Respondents rated each measure using a 5-point Likert-style scale of 1 (*very useless*), 2 (*useless*), 3 (*useful*), 4 (*very useful*), or 5 (*don't know or not applicable*). In addition, the focus group members were invited to discuss the value they found in postprogram evaluation feedback.

The quantitative data analysis of the output from this survey question is summarized in Table 4.10. These results indicated that nearly all of the survey respondents found postcourse evaluations *useful* or *very useful* for future program planning and instructor development. In addition, three-quarters of the providers reported that Level 1 evaluations are *useful* or *very useful* in assessing attorney learning. Likewise, when asked about their value in predicting practice improvement more than half of study participants selected the two useful ratings. These responses indicate that the providers at least find these tools useful in higher-levels of program evaluation.

Table 4.10: *Survey Responses: Overall: How Useful Is the Feedback You Receive on Postprogram Evaluations?*

Variable	Very useless %	n	Useless %	n	Useful %	N	Very useful %	n	Don't know or NA %	n	Total
Future program and course planning	3.59	6	1.20	2	29.34	49	64.07	107	1.80	3	167
Instructor feedback and development	3.61	6	3.01	5	28.92	48	60.84	101	3.61	6	166
Venue selection	4.85	8	12.73	21	41.82	69	26.67	44	13.94	23	165
Assessing attorney learning	2.42	4	9.09	15	45.45	75	27.88	46	15.15	25	165
Anticipating future improvement in attorney practice	3.09	5	14.20	23	37.65	61	22.22	36	22.84	37	162

Note. NA = not applicable, N = number.

A chi-squared test was conducted to explore the statistical relationship between the provider responses on how useful the feedback that they receive from postprogram evaluations is along these five measures and providers' organizational structure (i.e., for-profit or nonprofit) or

size (i.e., number of CLE offerings and number of CLE employees). The researcher used Null Hypothesis 1.9:

> H_0 1.9: Providers' views on the usefulness of the feedback they receive from CLE
> program evaluation forms for any measure (future program planning, instructor
> development, etc.) is not correlated to or predicted by provider demographics.

The data analysis results indicate that no statistically significant relationship existed between provider organizational structure or size and their rating of the usefulness of the feedback that they receive from these forms. In other words, the null hypothesis is true.

In focus group discussions on the usefulness of postprogram evaluations providers explained that the feedback that they receive on instructor effectiveness, suggestions for future topics, and identification of those willing to teach are the most valuable output of these tools. As one provider explained,

> One of the questions we do use are [*sic*] what future programs you may want and also is
> the level appropriate for you? And if not, what level would you look for or sometimes
> you could put on there? Are you willing to speak? Do you have a topic you would like to
> discuss?

On the other hand, participants also shared the challenges they face in gathering a sufficient quantity of high-quality evaluations with useful feedback. They described how, because attorneys are "moving so fast," they often just fill in the forms to rate all factors equally and rarely respond to open-ended questions. Nevertheless, when they receive carefully completed evaluations, the providers said they are highly useful:

> Every hundred evaluations, I mean, 90 of them will be just like excellent all the way
> down, which is useless. But . . . there's always 10 of them which are decent and . . .
> there's one of in those 10 that are just incredibly good or thoughtful. They detail what

they thought of the program, topics that should be considered, they critic their faculty members . . . . Those are the gems.

Given the heavy use of Level 1, postcourse reaction evaluations reported in Program Evaluation Methods and Tools Section, it is perhaps not unexpected that most Kansas CLE providers rated and described them as useful or very useful for a variety of purposes. Both quantitative and qualitative analyses results indicated that providers rely heavily on these tools for information on future course planning and instructor feedback. Nevertheless, providers reported a desire for more specific feedback from learners. The data analysis also consistently indicated that some of the best-practice uses of course evaluations to assess the impact on a practice or on learning are used less frequently by all provider types.

Summary

In this chapter, the researcher described the findings of this research study. The results of the quantitative and qualitative data analysis completed on the provider survey responses and focus groups transcripts and recordings were presented along three major categories or concepts: (a) the context and realities of the legal profession and MCLE space, (b) the purpose and effectiveness of MCLE, and (c) common Kansas CLE provider practices. In Chapter 5, the researcher will discuss these findings, and offer recommendations for future research.

Chapter 5 - Analysis and Discussion

Chapter 5 includes the analysis and discussion of the research study findings. First, insights from data analysis results presented in Chapter 4 will be discussed relative to the research study questions. Second, implications for practice and research will be explored. Third, recommendations for future research will be offered. The chapter ends with a conclusion to the study.

Insights and Discussion

The findings of this research study provided detailed, "rich data" (Charmaz, 2014) about the current practices of Kansas CLE providers, and insights into the contextual realities that influence those practices. These results also revealed the providers' views on the purpose and effectiveness of their programs. Analysis and discussion of these findings helped to answer the research questions situated in this study:

1. What are the current program design, delivery, and evaluation practices for MCLE of CLE providers in Kansas?

2. How do these practices compare with best practices or proven theories/methods for any learning effort, as established by adult and continuing education research and theory?

In the evaluation and discussion these data, the constraints inherit in the cultural, structural, or practical realities of the legal profession or the MCLE space in Kansas, and their impact on provider practices, were considered. Doing so aided in creating a realistic list of best practices or proven learning theories to consider implementing in Kansas MCLE programs, and provided guidance on which of these practices would require alteration in this particular professional, geographical, and regulatory context.

Program Planning and Design

The results of the data analyses indicated that most providers are designing CLE curricula that would be categorized as the formal, instruction learning mode according to Houle (1980) or the update model as described by Nowlen (1988) and others (Bierema, 2016; Daley & Cervero, 2016). This was evident in that at least two-thirds of the providers described using law code or regulatory changes; mandated topics set by CLE organizations such as ethics; or hot topics, recent court cases, and developments to identify potential CLE topics. This focus on keeping attorney skills and knowledge up-to-date is not surprising, given that many of the provider participants listed this outcome as one of the most important purposes for and more effective outcomes of CLE in Kansas.

In contrast, it was relatively rare for providers to report using attorney developmental benchmarks and competency models or attorney performance evaluations with identified gaps in skills or knowledge to identify CLE curriculum needs, as is recommended in the CPE literature (Bernhard, 2010; Daley & Cervero, 2016; Knox, 2016; Nowlen, 1988). Yet, most providers described a key purpose of CLE to be improving the practice of the law through enhanced attorney competence across a wide-range of capabilities. Given the fractured structure of MCLE in Kansas, with ownership of the attorney learning experience split across regulators, providers, attorneys, and employers, expanding the use of these best-practice sources for curriculum planning presents a challenge. It may only be achievable for larger, for-profit providers or those who are housed within law firms to establish the partnerships with employers that would be necessary to gather these development and performance inputs. This might explain why the inferential statistical analysis showed that larger providers with more than 100 course offerings use these sources more frequently than do smaller organizations.

However, it is also clear that many providers are seeking to understand curriculum and attorney learning needs early in the program planning process by collaborating with other stakeholder groups in the Kansas MCLE space. For example, more than half of survey respondents reported involving planning committees, section leaders, attorneys, and their employers in program planning and review sessions. Likewise, several of the focus group participants described joint planning sessions that use requests for CLE topics off of past program evaluations, discussions on critical issues and problems faced by lawyers, and the availability of expert instructors to identify course curricula months prior to delivery. In addition, statistical tests indicate that providers who view particular stakeholders groups as extremely important to the planning process are also likely to include them in the effort. By doing so, these providers go directly to those players who will be highly attuned to the gaps in lawyer performance or knowledge that require education.

Therefore, Kansas CLE providers demonstrate some of the best practices suggested by Knox (2016) such as developing shared expectations, being responsive to participants' expectations, and addressing gaps between current and desired proficiencies (p. 5–7, 49). These providers are also employing the multistakeholder planning that authors have frequently recommended in the literature and research on CPE and practice change (Bierema, 2016; Cervero & Daley, 2016; Clark et al., 2015; Durkin et al., 2014; Queeney, 2000; Tisdell et al., 2016). However, some providers face challenges when they encounter the law profession's cultural preference for traditional approaches to learning, especially when working with long-standing program committee members who are comfortable planning CLE the way it has always been done. Also, negative attitudes about MCLE, heavy caseloads, and the focus on billable

hours, can restrict learners or leaders from participating in CLE program planning, even if providers desire their input.

Lastly, the evidence is consistent that providers of CLE in Kansas frequently define specific course objectives as is suggested in adult and continuing education theory (Bichelmeyer, 2006; Knox, 2016; Queeney, 2000). The data showed that providers have specific objectives in place for approximately 78% of their CLE courses. The establishment of these expected course outcomes is for some providers a formal, explicit process, although other providers described specific objectives as a natural outcome of course and curriculum planning efforts with instructors, attorneys, and judges. The providers reported that these objectives are quite useful in focusing on and improving course delivery because they help CLE instructors (who rarely have had any formal teaching skills training) to direct their course delivery approach and materials towards the achievement of desired learning outcomes.

Yet, a limitation exists to how much the delineation of specific course objectives can achieve in the context of CLE. The providers reported significant challenges in writing objectives or course descriptions for more novice-leveled programs because egos and a competitive tendency within the profession make it unlikely that attorneys would admit their need for basic learning. A contextual challenge is that using specific learning objectives is still a relatively new practice in law schools. They can also be difficult to define in what some called the "amorphous" practice of law. Lastly, many providers recognize that even the most conscientiously and well-defined course objectives cannot have an impact on attorney learning if poor instruction, ineffectual materials, or learner resistance and lack of attention undermine CLE effectiveness.

Program Delivery

The importance of interactive delivery methods that engage learners, enable meaning making, and help professionals link new content to practice experience is a common theme in the literature on continuing professional education. For example, several authors suggested tools such as case studies, concept maps, group discussion, mentoring, reflective journals, or action planning (Bierema, 2016; Biggs, 1990; Daley & Cervero, 2016; Knox, 2016; Liu, Edwards, & Courtney, 2009). Daley and Cervero (2016) also discuss the value of an evidence-based practice approach, through which providers "create offerings that have professionals decide how to incorporate the latest research results into their practice and then evaluate the changes they see" (p. 27). However, in this study, the researcher found that CLE in Kansas is delivered primarily using more didactic methods such as instructor or speaker presentations, Q&A sessions, expert panels, and course materials or handouts. Yet, a portion of the providers who were surveyed reported using some of these best-practice methods such as networking; mock trials; discussions, bulletin boards, or chat rooms; and time for practice at least occasionally. In addition, statistical test results showed that larger providers, with more than 100 course offerings, are able to implement these practices more frequently than their smaller colleagues, perhaps because of the greater resources or reach that these organizations possess.

The grounded theory analysis revealed that real challenges restrict Kansas CLE providers from implementing more interactive methods, despite their recognition that such tools support learning transfer to practice. Providers contend with volunteer instructors who, although experts in the course content, have no formal teaching training and limited time for course preparation. Introducing interactive, meaning-making learning techniques into their classrooms is sometimes too far a reach for these instructors. Providers are also sometimes faced with resistant learners,

who might have a negative view of CLE overall, attend only to fulfill a requirement, do not pay attention in class, and are exhausted by heavy caseloads. Even the most interactive, reflective (Schön, 1983), performance-oriented course techniques (Houle, 1980; Nowlen, 1988), cannot affect practice change without a motivated, engaged practitioner. In addition, CLE providers deliver courses within a professional culture that tends to prefer the speaker–presenter model similar to the prevailing teaching methods used in law schools. Lastly, to implement teaching methods that link learning and practice change that are inherent in concepts such as evidence-based practice, constructivist, or transformative learning, there must be a link back to the workplace of the attorney. Again, in the multistakeholder structure of MCLE in Kansas, providers are not typically the employers of attorneys; therefore, they must rely on different players to execute some of these best practice approaches.

However, this researcher did uncover that about 50% of the providers of CLE for Kansas attorneys are attempting to adjust their course delivery to match the experience and expertise of those in attendance. As Bierema (2016) suggested in the T-shaped CPE framework and other authors (Knox, 2016; Queeney, 2000) recommended, CLE providers in Kansas seek to offer a mix of curricula to fulfill the needs of learners whose level of expertise ranges from novice to expert on a given topic. They also described adjusting their delivery method in class to be more interactive and collaborative with more experienced attorneys and covering more background material when teaching "baby lawyers." Yet, attorney learners sometimes exclude themselves from more basic level sessions because of their egos and an overly high assessment of their competency or because the competitive nature of this professions culture makes it unlikely that they would admit the need to for help.

In addition, although only about a quarter of providers reported refining course delivery according to the individual learner's style, several of the study participants described a keen awareness of the three different learner types who attend CLE events and what providers view as varied levels of motivation to take something of value from the class into practice. In fact, some focus group members spoke about altering class delivery techniques, depending on which types of learners they have in attendance. In Cervero et al.'s (1986) CPE program evaluation framework, characteristics of the individual student, including his or her motivation for learning or disposition for change, are identified as important drivers of practice change. Therefore, by recognizing that the lawyers who attend their CLE classes are motivated by different things, and by adjusting the course delivery accordingly, these providers are exhibiting best practice.

In addition, evidence exists that the Kansas CLE Commission and its provider partners are increasingly viewing the attorney learner in a more holistic way; thus, they approve and offer course content to support practice success beyond "black letter law" updates. For example, the increasingly important role of Kansas MCLE in supporting practice management, ethical practice, enhanced client service, and attorney wellbeing was uncovered in both the survey and focus group data. Therefore, MCLE in Kansas delivery is at least beginning to move beyond the update model of CPE (Houle, 1980), to a more performance-oriented (Nowlen, 1988) approach by seeking to develop the broad attorney competency recommended in the literature (Bierema, 2016; Daley & Cervero, 2016; Tisdell et al., 2016), such as interpersonal and organizational skills, cultural knowledge, contextual sensitivity, and self-awareness.

Finally, the data analyses within this study also revealed that a significant portion of CLE delivery in Kansas, over 80% across all provider types, is done using traditional, live formats, conducted via classroom sessions, speaker events, brown-bag lunches, and seminars. Although

some providers also report using other forms of live delivery such as webinars, less than 10% of CLE classes delivered are in blended or strictly on-demand formats. Similarly, even though larger, for-profit providers deliver a disproportionally higher percentage of live nontraditional, blended, or on-demand sessions, smaller, nonprofit providers are statistically more likely to deliver in traditional formats. This tendency to rely on traditional formats might occur because of the preference for such learning delivery modes among a majority of the attorneys in the profession. In addition, the high importance placed on connecting attorneys with their peers or subject matter experts at CLE class sessions reinforces the profession's preference for traditional formats. Therefore, although some of the literature on continuing professional education describes advantages such as interactivity and self-direction in online learning formats (Bichelmeyer, 2006; Biggs, 1990; Queeney, 2000; Wood, 2013), this inclination is unlikely to change quickly in the Kansas MCLE space. In fact, the Kansas CLE Commission (2016) executive director reported that, although requests for nontraditional programming increase each year, they yet represent a relatively small percentage of the total CLE hours delivered in the state. Nonetheless, online or blended course formats seem to provide an important alterative to attorney learners when niche content needs, low cost alternatives, or geographic dispersion present barriers to attending in-person events.

Program Evaluation

The predominant use of postcourse evaluations to measure learner reaction and satisfaction, combined with study participant comments, indicates that more sophisticated forms of CLE program evaluation such as Levels 3, 4, and 5 from the Phillips and Phillips (2007) model might be a challenge to execute, even if they are strongly desired. Certainly, the practical consideration of having access to a multiparty training and evaluation partnership—involving

state agencies, profit and nonprofit providers, professional groups, and law firms and organizations—plays a role. In most cases, those who evaluate CLE are distinct from the entities in which attorneys work from day to day. Thus, their opportunities to measure practice change depend on their relationships with and their access to those firms or companies in which attorneys actually practice. As some focus group participants explained, even with ideally designed and analyzed postcourse evaluation surveys, only law firms and employers can truly measure and encourage practice change.

Nevertheless, some providers are stretching the use of the end-of course evaluation forms to capture practice-change data such as attorney expectations that their learning will influence practice, how much support they expect back at their firms for implementing the changes, and whether course objectives are being met. Doing so, these providers are looking more holistically at program evaluation, as suggested in the theories and model of Cervero (1986; 1984). However, Kansas providers described that the usefulness of data collected from any Level 1 tool is often limited by completion rates or quality, thus methods that predicate credit on evaluation completion or reward and encourage more detailed responses are important. Some providers from the focus groups reported higher evaluation completion rates and quality from live sessions with paper forms, although others had greater success with online feedback forms. Either way, the creative use of Level 1 survey tools, with questions on future practice use, might be an opportunity for all Kansas CLE providers to drive program evaluation into higher levels of assessment.

It is also clear, that many providers seek to collect feedback on practice impact early in the program planning process. Again, the majority of Kansas providers reported involving groups such as attorneys, section leaders, and law firm partners or company executives in

program review and planning sessions, leading to at least an anecdotal assessment of past program effectiveness and usefulness in practice. In this way, the providers demonstrated best-practice, program evaluation not only by reaching to higher levels of assessment (Phillips & Phillips, 2007), but also in demonstrating a consideration of the social system (Cervero et al., 1986; Cervero & Rottet, 1984; Tisdell et al., 2016) or workplace culture (Bierema, 2016; Daley & Cervero, 2016; Knox, 2016; Nowlen, 1988) in which the professional practices and the impact that these factors have on program effectiveness. Only those on the "front lines" of law practice will have knowledge of which CLE course, instructors, or methods drove improved practice— and the reasons why or why not. This demonstrated coordination with the other stakeholders in the MCLE is "critical to attaining the goal of demonstrating relationships between CPE participation and professional practice" (Queeney, 2000, pp. 388-389).

Another fairly low-effort method to collect practice change data is using delayed, postcourse surveys or interviews with attorneys or their supervisors to capture transfer-of-learning information. Presently, only a few providers are experimenting with these kinds of program evaluation practices with varied results. In the case of MCLE, it is important that these tools and interviews be short and quick to complete. It is unlikely that an attorney or his or her partners will be willing to take long breaks from billable client time to complete diagnostics with dozens of questions. Thus, existing tools such as the Educational Participation Scale-Modified or the APF and action planning methods that have been successfully used in several other CPE studies (Cervero et al., 1986; Cervero & Rottet, 1984; Farrah & Graham, 2001; Phillips & Phillips, 2007; Ryan, Campbell, & Brigham, 1999) might have limited use in a CLE setting. Similarly, it will likely be difficult to make completion of these postcourse surveys and interviews a requirement, even with supervisory support, and lower response rates or results

(biased by the high participation of the very happy or very unhappy) must be expected. Nevertheless, such delayed evaluation approaches at least reach towards Level 3 best-practice program evaluation (Phillips & Phillips, 2007) and would expand the evidence base for MCLE content that is being applied in practice.

This case study indicates that many of the metrics and much of the ROI analysis that is done by Kansas CLE providers focuses more on the "business" of delivering the training, rather than on quantifiable change in the practice of law. However, the vast majority of those participating in this research clearly believe in the import of advancing the knowledge of attorneys, connecting them to their peers, ensuring ethical practice, and improving the profession's reputation with the public. Likewise, law firms, sole practitioners, or other employing organizations demand (when attorneys are being taken away from billable client time) that their absence deliver some other form of value. It is important then to replicate and expand on current best practices and to bring new ideas for increasing metrics-based MCLE evaluation.

The Education Initiative captured ideas from Commission members and providers on metrics that might be useful in best practice Levels 4 or 5 assessments. For instance, the commission has evidence that a positive relationship exists between individual disciplinary cases and attorneys who regularly do not complete their MCLE hours as required. Focus group members also discussed the possibility of collecting metrics around the number of malpractice suits over time, and evaluating any correlation between these and an attorney's or a firm's CLE compliance history. In addition, although CLE organizations might be focused more on course profitability and ROI, insights gathered by the Education Initiative into the metrics captured by providers today, might allow for some extrapolation of information that could be applied to the impact on business results. After all, if a particular CLE course or event might gather the highest

number of attendees year after year, it would seem unlikely that it would be a complete waste of attorney time. No hotel, destination spot, or food could be good enough to take so many attorneys away from their practice without some other value being delivered—whether it be connecting with their peers, getting information on new law or rulings, or even acquiring useful knowledge for their practice. As one national provider explained, "The market factor alone, for us national providers, pushes us to create better legal education and ultimately retain customers, because if we can't, we can't stay in business."

Finally, an important insight related to CLE measurement is that, any implementation of a Level 2, learning-and-confidence, measurement effort within the context of continued legal education would likely be limited by a strong cultural bias against "testing" of attorneys. Testing, quizzes or other learning assessment in CLE courses was found to be used by only 5% of the respondents in this research with several comments from open-ended survey questions and focus group discussions stressing that the individuals and organizations involved would not accept these forms of program measurement. Commission members and providers alike spoke of the pride that attorneys hold in completing law school and passing the bar, suggesting that this group of professionals are highly resistant to "testing" or "judging" of their skills and knowledge. They reported that the mindset is, "I passed the bar already! Why are you talking about testing me again"! Lawyers are not alone in this view. Queeney (2000) claimed that, "subjecting themselves to testing throughout their careers is abhorrent to most professionals" (p. 378). Focus group members also spoke about the challenges of learning assessments within CLE classes, for there is often "no one right answer" for a given scenario and substantial subjectivity within the law.

Of course, online CLE courses are often designed to include knowledge checks and posttopic quizzes or tests. These seemed to be an acceptable application of Level 2 evaluation

within CLE with providers indicating little resistance to experiencing these tools. However, a majority of CLE courses are yet delivered via traditional, in-person formats (79.66%), especially by smaller provider organizations; therefore, the addition of a testing process at the completion of such sessions is not probable. However, some providers reported using other methods for assessing learning in their programs such as exercises, activities, small group discussions, and mock trials. Finally, a few focus group members described displaying a test question on the screen and then asking the attorneys to share their thoughts on the right answer via class discussion or within small group dialog, but without being graded. Expanding the use of these types of Level 2 assessments would be a reasonable action in some CLE course formats or settings to increase best practices in Kansas MCLE program evaluation.

Implications for Practice and Research

In this section, the researcher discusses implications of this research to MCLE practice in Kansas, challenges to practice-based application, and suggestions for other similar research efforts.

Suggestions for Improvement to Kansas Continuing Legal Educational Practices

Throughout the focus group sessions, the participants generated ideas on how to expand using those innovative practices that some providers employ, and how to implement new, best practices for CLE program improvement. In addition, during member checking sessions with the Kansas CLE Commission's executive director and Education Initiative participants, these and other ideas for improving practices were discussed. These suggestions are listed here by program phase, with longer-term, stretch ideas shown in italics.

- Program Planning and Design

- Encourage involvement by all stakeholders, especially attorneys and employers, in curriculum and attorney needs assessment and program planning.

- Program Delivery

  - Provide lists of attendees to instructors before class delivery to support the adjustment of course content, sequence, or structure based on learner profiles.

  - Balance online versus paper versions of course materials or handouts to maximize usefulness to attendees.

  - Incorporate structured networking and mentoring into CLE courses.

  - Use modules in courses of approximately 20 minutes in length to increase interactivity and engagement.

  - Apply the panels best practices, including using moderators, doing a practice run through, using them to break up the lecture, and balancing the power of members.

  - *Use more interactive learning methods such as dialog, breakouts on topics, mock trials, trial reenactments, and case studies.*

- Program Evaluation

  - Experiment with online and paper surveys to identify the best method to collect more quality responses for a given program.

  - Consistently share past program evaluations with instructors to support development.

  - Stretch current course evaluations, asking deeper questions toward Level 3 assessment such as expected use in practice or expected support from employer to implement changes.

- Use delayed course evaluation surveys or interviews that are focused on practice impact (e.g., 30 days after).

- Assess and test learning with nonthreatening methods such as group discussion of questions on a slides or online module quizzes.

- *Add a link to evaluations on Kansas CLE website to make the credit for a course dependent on the completion of the evaluation form.*

- *Expand the collection and sharing of MCLE course and program metrics.*

- *Pilot action planning for attorneys in some courses.*

- *Collect and share law practice costs and benefits data towards ROI analysis such as statewide statistics on disbarments, malpractice, disciplinary, or data from attorney or employer impact surveys and interviews.*

- All Phases

  - Create a resource library as a collection of samples, tools, aids, or guidelines to help instructors, providers, and employers with

    - Program design (course objectives, modulation),

    - Program delivery (instructor training, sample course Power Point presentations, knowing the audience, and ideas on how to increase interactivity), and

    - Program evaluation (samples and what to do by level).

  - Encourage connecting attorneys within and outside of CLE with Listserv, section discussion boards, and local bar associations.

Challenges to Practice-Based Application

This section highlights some critical challenges that exist in the application of best practices or continuing education theory, including those listed in the Suggestions for Improvement section for the planning and design, delivery, or evaluation of CLE programs for the State of Kansas. These might be equally applicable to other legal or professional continuing education settings.

First, as exposed in Category 1 of the study findings that describes the context and realities of the legal professional and Kansas MCLE space, the stakeholders involved in these processes are highly diverse. The Kansas CLE Commission partners with an enormously diverse group of providers who vary dramatically in size, as measured by number of CLE-focused employees and number of courses delivered or by their organization structure, reach, and level of sophistication. Similarly, the 16,000 licensed attorneys in the state, and where they practice, are highly diverse. The Kansas CLE Commission (2016) has data that a majority of the attorneys in Kansas (70%+) are in private practice with their own special needs regarding MCLE. Kansas lawyers vary not only in years of practice ranging from the newly graduated to the highly seasoned, but also in their practice locale (rural vs. urban) and practice focus area (e.g., tax, criminal, or real estate law). Lastly, the experience of any given attorney at any specific learning event is highly variable as is reflected in the course content, delivery medium, or skills sets of those in attendance. Any group attempting to design, deliver, and measure training in this environment cannot hope to have one solution that fits all. The tools, techniques, or practices that might be employed to influence practice change must be vetted against their practicality, usefulness, and customization for such a diverse target profession.

Another challenge that those who have a stake in Kansas CLE face is balancing the role of formal, mandatory CLE with that of informal, self-directed learning, which might account for a substantial part of ongoing attorney development. The literature on practicing attorney knowledge-building efforts, has indicated that they rely on self-study when reviewing case history, reading law journals, and using online sources such as LexisNexis to prepare for cases and fill gaps in their own experience or knowledge base (Armytage, 1995; Confessore & Confessore, 1994; Hara, 2001; Huffman, 2015). The findings from this study and other literature show that other nonformal forms of continuing attorney education (e.g., in-house education programs or brown-bag sessions provided by professional organizations such as local bar associations or law firms) are an important method of enhancing attorney skills and knowledge (Hara, 2001), only some of which can receive MCLE credit. This is an important truth for the Kansas CLE Commission and its partner–providers to consider should they seek to implement program planning, delivery, or evaluation changes in mandatory CLE, doing so with a broader view of total attorney development in which self-directed, informal, learning events make up a signification portion of the complete model.

Finally, part of the motivation behind MCLE has been (and will remain) to improve public trust in the law profession. Providing factual evidence to the public that their efforts around mandatory CLE ensure ethical behavior in attorneys will continue to be a public relations challenge for the Kansas CLE Commission, CLE providers, and other law profession organizations. Something of an assumption or "leap of faith" exists that mandating some hours of ethics CLE will lead to practice that is more ethical, and that advertising that mandate will increase the public's confidence in the legal profession. However, if continuing education practitioners can provide the public with more reliable proof in the form metrics that are related

to disbarments, disciplinary actions, or malpractice suits versus simply MCLE compliance, they might have greater success in achieving this aim.

Implications for Research

Outcomes from this study, in the methodology employed and the findings from the data analysis, exposed implications for other similar research efforts on three topics: (a) providers as study participants, (b) the realistic evaluation of CPE practices against best practice, and (c) the advantages of mixed-methods research.

First, using providers as study participants and the source of information on the context, purpose, or effectiveness of and common practices within the Kansas MCLE space had advantages and disadvantages. As the primarily deliverers of CLE courses, this group was well-informed and acutely aware not only of common practices, but the challenges or limitations faced within this particular professional context. Providers are deeply involved in the day-to-day delivery CLE for Kansas attorneys and function at the intersection between regulators, attorneys, and their employers. However, using providers as study participants leads to possible response bias for two reasons. First, if the industry under study is a source the providers' business and livelihood, they might view in the most positive light their practices and the impact on practice that their courses deliver. Second, when providers are dependent upon the sponsor of the research in some way, as was the case in this study with the Kansas CLE Commission, the resulting power imbalance might incent participants to rate programs better than they actually believe them to be.

Second, this study reinforced, as many others have (Bierema, 2016; Clark et al., 2015; Daley, 2001; Farrah & Graham, 2001; Knox, 2016; Nowlen, 1988; Queeney, 2000; Tisdell et al., 2016), the critical role that context plays in understanding and evaluating continuing professional

education systems. Although one might argue that Kansas CLE providers are not following many of the theoretical frameworks or recommended best practice espoused in the CPE literature, doing so without an awareness and acceptance of the real limitations that this professional, structural, and cultural context inflict on common practice could lead to unjustified critique. Instead, similar research studies should seek to develop a "rich data" (Charmaz, 2014) analysis of the context in which CPE takes place, and work with participants to understand how that context influences the choices they make and the priorities they set.

Finally, this study reinforced some of the advantages of mixed-methods research designs. As Charmaz (2014) suggested, the this research benefited by following quantitative data analyses with qualitative data coding to develop a more complex, context-specific understanding of provider practices, preferences, and limitations. In addition, this iterative data analysis approach, in which the researcher moved back and forth between the two methods, made it possible to identify the most reliable, verifiable study findings on which both methods coalesced.

Recommendations for Future Research

The Kansas CLE Commission's Education Initiative is an ongoing project focused on continuous program improvement. Clearly, much work would be required in refining, gaining support for, and determining implementation time frames for the best practice recommendations that were the output of this research. Nonetheless, the researcher hoped that sharing the details of this case would provide fodder for similar efforts in other states, CLE efforts, and other CPE environments.

Ideally, future researchers on the topic of CLE would be able to access attorneys directly to gain a deeper understanding of the impact on their practices and might be able to expand the reach of this study beyond the state of Kansas. For example, it would be useful to compare

results by sending a similar survey directly to licensed Kansas attorneys to determine where they

agree or differ with the providers. The opportunity to query attorneys directly also exists if future

researchers were to use different survey tools such as the Educational Participation Scale-

Modified or APF that have been used in several other CPE studies, although certainly in

modified, much shorter versions. Lastly, it would be valuable for future researchers to conduct a

similar study with CLE regulators and providers in other states to gain an insight into the best

practices and challenges that CLE efforts face elsewhere so that they might determine the

sameness or difference from this researcher's case study findings.

Beyond the law profession, researchers who apply a similar method of CPE provider

inquiry in their studies could vet the survey tool that the Education Initiative employed and

compare this study's findings against other continued professional education settings.

Conclusion

In this study, the researcher established an evidence-based understanding of the current

program planning, delivery, and evaluation practices for MCLE by providers in Kansas. The

researcher also evaluated these common practices within the frame of best practices or proven

theories for any learning effort, as established by adult and continuing educational research and

theory. What was discovered is that, for most of the providers who participated in the study,

MCLE in Kansas is often planned, delivered, and evaluated using more traditional, didactic,

update-oriented approaches. Certainly, most providers reported a focus on keeping attorneys up-

to-date through CLE curricula, delivering classes in traditional formats with a heavy emphasis on

instructor presentation, and evaluating programs using mostly Level 1 reaction methods. In

addition, only some evidence existed of providers determining attorney needs by using

competency models or performance evaluations, refining course delivery according to learning

styles, or assessing a program's impact on practice, business results, and ROI. As such, some might surmise that MCLE programs in Kansas are generally not demonstrating best practices as the authors of the CPE literature recommended.

Nevertheless, clear evidence existed of providers finding creative ways to begin incorporating some best practices into their programs. For instance, many study participants are partnering with the other stakeholders in the Kansas MCLE space (e.g., attendees, employers, and regulators) to plan programs according to the critical, timely needs that are emerging from the field or to evaluate programs according to what these groups have found useful in practice. Similarly, a few providers are creatively incorporating more interactive learning methods into their classrooms; thus, they help to connect attorneys with their peers, construct new knowledge, or make links back to client work through discussion groups, Q&A sessions, take-home materials, panels, mock trials, and "speed networking."

Likewise, in this study, the researcher provided important insights into the contextual realities and limitations that influence provider capabilities, priorities, or choices in their MCLE program design, delivery, and assessment. Cultural norms of the legal profession, like a preference for traditional educational experiences, fierce opposition to any form of testing, and a focus on billable client hours absolutely affect which best practices CLE providers are able to implement. Likewise, the vast diversity that exists in the Kansas MCLE space, because of the significant variation in learning events; attorney practice models; or provider structures, sizes, and resources, creates real challenges to implementing new practices consistently across all CLE programs. Finally, the fragmented, multistakeholder ownership of all Kansas MCLE processes means that providers alone could never be expected to implement fully many of the recommended best practices, without the help of partnerships with employers, attorneys, or

regulators. Therefore, it would be inappropriate to criticize Kansas CLE providers without

acknowledging the context barriers to ideal best practice implementation. Nevertheless, the

recommendations resulting from the Education Initiative and this research, and which the Kansas

CLE Commission and its provider partners hope to implement, have the ultimate goal of

improving of the CLE experience for all attorneys.

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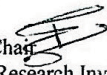Patton, A. P. (2005). Large law frims and their role in the educational continuum of laywers. *Fordham Urban Law Journal, 33*, 233-243.

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Appendix A - IRB Exemption Approval Letter

TO: W. Franklin Spikes   Proposal Number: 8380
        Educational Leadership
        363 Bluemont

FROM: Rick Scheidt, Chair
        Committee on Research Involving Human Subjects

DATE: 08/18/2016

RE: Proposal Entitled, "Exploring Programmatic Issues Which Effort Continuing Legal Education
        Practice in Kansas"

The Committee on Research Involving Human Subjects / Institutional Review Board (IRB) for Kansas State
University has reviewed the proposal identified above and has determined that it is EXEMPT from further
IRB review. This exemption applies only to the proposal - as written – and currently on file with the IRB.
Any change potentially affecting human subjects must be approved by the IRB prior to implementation and
may disqualify the proposal from exemption.

Based upon information provided to the IRB, this activity is exempt under the criteria set forth in the
Federal Policy for the Protection of Human Subjects, **45 CFR §46.101, paragraph b, category: 4, 2,
subsection: ii.**

Certain research is exempt from the requirements of HHS/OHRP regulations. A determination that
research is exempt does not imply that investigators have no ethical responsibilities to subjects in such
research; it means only that the regulatory requirements related to IRB review, informed consent, and
assurance of compliance do not apply to the research.

Any unanticipated problems involving risk to subjects or to others must be reported immediately to the
Chair of the Committee on Research Involving Human Subjects, the University Research Compliance
Office, and if the subjects are KSU students, to the Director of the Student Health Center.

203 Fairchild Hall, Lower Mezzanine, 1601 Vattier St., Manhattan, KS 66506-1103 | 785-532-3224 | fax: 785-532-3278 | k-state.edu/research/comply | comply@ksu.edu

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Appendix B - Informed Consent Approach

If theoretical sampling and interviews are required, the informed consent form in this appendix will be provided to the participants before the session begins. The researcher will save the signed forms in a secure location for 3 years. In addition, as explained in the Ethical Considerations sections of Chapter 3, participants in the Education Initiative survey and focus group sessions were advised of their right to not participate in the research and of the protections that would be in place to ensure that their confidentiality would be maintained.

KANSAS STATE UNIVERSITY

INFORMED CONSENT TEMPLATE

PROJECT TITLE:	EXPLORING PROGRAMMATIC ISSUES WHICH EFFECT CONTINUING LEGAL EDUCATON PRACTICE IN KANSAS

APPROVAL DATE OF PROJECT: TBD   **EXPIRATION DATE OF PROJECT: TBD**

PRINCIPAL INVESTIGATOR: CO-INVESTIGATOR(S):   W. Franklin Spikes, Ed. D.: Holly B. Fisher

CONTACT AND PHONE FOR ANY PROBLEMS/QUESTIONS: (785) 532-5873

IRB CHAIR CONTACT/PHONE INFORMATION:	Rick Scheidt, Chair on Research Involving Human Subjects, (785) 532-3225: Chery Doerr, Associate Vice President for Research Compliance, (785) 532-3224

SPONSOR OF PROJECT: Internal dissertation research/Dept. of Educational Leadership

PURPOSE OF THE RESEARCH:	The purpose of this research will be to provide an evidence-based understanding of the current practices of Kansas MCLE providers and to identify opportunities to apply adult and continuing education theory in order to improve MCLE practice in the state of Kansas.
PROCEDURES OR METHODS TO BE USED:	Mixed-methods (quantitative and qualitative) analysis of an existing data set collected via the Kansas CLE Commission's Education Initative. Interviews with survey and focus group participant may be done if additional information is needed.

ALTERNATIVE PROCEDURES OR TREATMENTS, IF ANY, THAT MIGHT BE ADVANTAGEOUS TO SUBJECT:

N/A

LENGTH OF STUDY:	Interviews (if needed) will be approximately 1 hour in length. The analysis of the existing data set is expected to take 2 -3 months.
RISKS ANTICIPATED:	Participant selection, verification, and ethical consideration approaches elimate any serious risk.
BENEFITS ANTICIPATED:	There is limited empirical research on the long-term learning or job performance impact of continuing legal education in Kansas or any other state. This study will add to the general body of knowledge concerning MCLE's impact on practice with contemporary research, a new focus on providers as the source of data, and the specific assessment of adult and continuing education best practices application in current practices
EXTENT OF CONFIDENTIALITY:	Participant confidentiality will be maintained as verbatim comments and personal descriptions that would expose the identity of an interviewee will not be included in any outputs of this research without the express consent of the individual. Instead, results will be summarized and any identifying descriptors removed before publishing. In addition, the researcher will ensure that all notes and memos from

Last revised on May 20, 2016

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the research will be stored on in a secure location with controlled access.

IS COMPENSATION OR MEDICAL TREATMENT AVAILABLE IF INJURY OCCURS: N/A

PARENTAL APPROVAL FOR MINORS: N/A

TERMS OF PARTICIPATION: I understand this project is research, and that my participation is completely voluntary. I also understand that if I decide to participate in this study, I may withdraw my consent at any time, and stop participating at any time without explanation, penalty, or loss of benefits, or academic standing to which I may otherwise be entitled.

I verify that my signature below indicates that I have read and understand this consent form, and willingly agree to participate in this study under the terms described, and that my signature acknowledges that I have received a signed and dated copy of this consent form.

(Remember that it is a requirement for the P.I. to maintain a signed and dated copy of the same consent form signed and kept by the participant

Participant Name: _____

Participant Signature: _____   **Date:** _____

Witness to Signature: (project staff) _____   **Date:** _____

Last revised on May 20, 2016

Appendix C - CLE Provider Survey

The Kansas Continuing Legal Education Commission

Introduction

Thank you for participating in the Kansas CLE Commission's education initiative survey!

We have created this questionnaire to learn about the practices, tools, and methods that your organization is finding effective in the continuing legal education of Kansas attorneys. Our goal is to identify, explore, and share those best-practices in ways that will help providers create the best possible learning experience for our attorneys.

Please be assured that all individual responses and information will be kept strictly confidential. Any reporting of survey results will be summarized.

This survey will only take about 15 minutes of your time to complete. You are able to save your responses and return to complete the survey as needed. But, **please complete the survey no later than 1/19/2015**.

While we have sent this survey to one contact, you are welcome to gather input from others involved in the CLE process within your organization. Also, if you feel there is someone better positioned in your organization to respond, you will have the chance to opt out and provide their name in the first couple of questions.

Opt Out

Before we begin, are you the right person to complete this survey?

Are you still the best contact person to answer questions about your organization and specifically, their CLE offerings targeting Kansas attorneys?

○ Yes

○ No

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As you are no longer the best contact person for your organization's CLE efforts, could you please provide us with the name and email address of your replacement or the person you recommend instead?

Contact Name   [   ]

Contact Phone   [   ]

Contact Email   [   ]

PROVIDER DEMOGRAPHICS

CLE PROVIDER DEMOGRAPHICS:

First, please answer a few questions about your organization, so that we can analyze and sort our survey results by key provider characteristics.

Which best describes your organization?

○ For Profit

○ Not for Profit

What is the number of CLE offerings per compliance period provided by your organization?

○ Less than 20

○ 20-49

○ 50-99

○ 100 +

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What is the number of employees within your organization with CLE responsibilities?

○ 1-5

○ 6-10

○ 11-20

○ 21+

CLE PROGRAM PLANNING AND NEEDS ANALYSIS

CLE Program Planning and Needs Analysis:

Please answer the following questions about the process your organization uses to identify attorney learning needs and course/session content.

Which of the following sources do you use to identify CLE course topics and attorney learning needs? (Select all that apply)

☐ Law, code, or regulatory changes   ☐ Suggestions from previous course evaluations

☐ Mandated topics set by CLE organizations (i.e. ethics)   ☐ Attorney developmental benchmarks or competency models

☐ Hot topics, recent court cases, and developments   ☐ Attorney performance evaluations with identified gaps in skills or knowledge

☐ Planning committee/focus group recommendations   ☐ Other sources

Who is part of the CLE planning process and how important is their vote in the final decision of which courses/topics are offered?

	Part of the CLE planning process?	Importance of Input/Vote in CLE planning process			
	Yes No	Not at all Important	Somewhat Unimportant	Somewhat Important	Extremely Important

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Attendees	○	○	○	○	○	○
Section officers or members	○	○	○	○	○	○
Law firm/company partners or executives	○	○	○	○	○	○
CLE director	○	○	○	○	○	○
Program planning committee	○	○	○	○	○	○
Focus Groups	○	○	○	○	○	○
Others	○	○	○	○	○	○

CLE Course Design and Development

CLE Course Design and Development:

Please tell us about your process for designing and developing CLE courses.

What percentage of your CLE courses or topics have specific learning objectives identified? (Please slide the tab to the appropriate percentage).

	0	10	20	30	40	50	60	70	80	90	100
Percentage of CLE offerings with specific course objectives											

What percentage of your courses are delivered in the following formats?

Traditional (classroom, speaker events, seminars, brown-bag lunches, etc.)   % 0

Live Non-Traditional (via phone, video streaming, web conferences, etc.)   % 0

On-Demand Non-Traditional (via websites, DVDs, etc.)   % 0

Blended (with both traditional and non traditional components)

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Other		%	0
		%	0
Total		%	0

What percentage of your traditional format courses (classroom, speaker events, etc.) are delivered within the state of Kansas?

Within Kansas	%	0
Out of State	%	0
Total	%	0

How often does your organization utilize the following learning methods in course/session design?

	Not At All	Occasionally	Frequently	Don't Know/Not Applicable
Instructor/Speaker presentations	○	○	○	○
Question and Answer sessions	○	○	○	○
Discussion/bulletin boards/chat rooms	○	○	○	○
Mock trials, discussions or negotiations	○	○	○	○
Networking (e.g. peer attorney discussion)	○	○	○	○
Quizzes/tests/understanding checks	○	○	○	○
Time for practice	○	○	○	○
Expert panels	○	○	○	○
Hand-outs (i.e. materials binders, PPT slide copies)	○	○	○	○
Take-home job aids (e.g. checklists)	○	○	○	○
Other	○	○	○	○

Which of the following do instructors or your organization use to refine course topics, sequencing, pace, or learning methods? (Select all that apply)

☐ Pre-tests/assessment of attorney mastery of topic   ☐ Feedback/suggestions from attendees

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☐ Individual learning styles and preferences   ☐ Degree of difficulty (e.g. beginner vs advanced attendees)

☐ Feedback/suggestions from previous courses   ☐ Other [   ]

Evaluation and Measurement

CLE Evaluation and Measurement:

Now please tell us about the tools, techniques and methods you use to evaluate CLE programs and attorney learning/performance improvement

Which of the following do you use to evaluate CLE programs or sessions? (Select all that apply)

☐ Post-program participant reaction/satisfaction evaluations (required by KS CLE rule)

☐ Attendance rates/trends

☐ Presenter/Instructor Feedback

☐ ROI, cost/benefit ratios, or other business results measures

☐ Test scores, grades, or other learning evaluation tools

☐ Other ways you evaluate CLE [   ]

☐ Anecdotal discussion with attendees and/or supervisors

Which of the following do your post-program evaluations typically measure? (Select all that apply)

☐ Overall learner satisfaction   ☐ Audio visuals and materials usefulness

☐ Instructor effectiveness, knowledge, preparation, etc.   ☐ Attorney's expectation of course use or influence in his/her practice

☐ Topic/content usefulness/relevance/import to the attendee ☐ Attorney's expectation that their organization will encourage application of new learning

☐ Fulfillment of course objectives   ☐ Learner professional attributes and demographic information

☐ Schedule, session length, timing   ☐ Other [   ]

☐ Facilities (room, setup, food, temperature, etc)

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What percent of your attendees typically complete the post-program evaluations? (Please slide the tab to the appropriate percentage).

	0	10	20	30	40	50	60	70	80	90	100
Percent of attendees completing surveys											
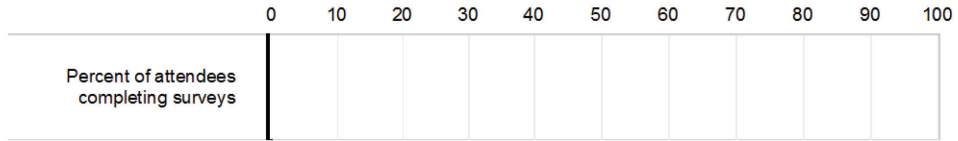
Overall, how useful is the feedback your receive on the post-program evaluations for...

	Very Useless	Useless	Useful	Very Useful	Don't Know/Not Applicable
Future program/course planning	○	○	○	○	○
Instructor feedback/development	○	○	○	○	○
Venue selection	○	○	○	○	○
Assessing attorney learning	○	○	○	○	○
Anticipating future improvement in attorney practice	○	○	○	○	○

Could you please tell us a little about the testing/learning evaluation process you use?

Would you please tell us more about the CLE results metrics and measures you use?

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[text box]

VIEWS ON CLE OVERALL

CLE Overall Impact:

Finally, please share with us some of your views on CLE overall.

Overall, how effective is CLE in Kansas for...

	Very Ineffective	Ineffective	Neither Effective nor Ineffective	Effective	Very Effective	Don't know/Not Applicable
Improving practice of the law	○	○	○	○	○	○
Sharing new developments/cases/ideas	○	○	○	○	○	○
Connecting attorneys with their peers	○	○	○	○	○	○
Ensuring ethical practice	○	○	○	○	○	○
Supporting law practice management	○	○	○	○	○	○
Enhancing public image and opinion of the profession	○	○	○	○	○	○
Increasing attorney job satisfaction	○	○	○	○	○	○

What should the purpose of CLE be?

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What is effective about CLE in Kansas? Why?

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What is not effective about CLE in Kansas? Why?

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Invitation to Panel

Invitation to our Focus Group:

We will be conducting focus groups to gain greater understanding of these survey results and to identify best-practices that can be leveraged across the state. Would you like to participate in this group?

○ Yes

○ No

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Thank you!

For agreeing to participate in our focus group. Please provide your contact information below.

Contact Name   [   ]

Contact Phone   [   ]

Contact Email   [   ]

If there is different contact from your organization or an individual from another provider/group that you think should receive this survey or who would be a helpful member of our focus group, please provide their contact information below.

Contact Name   [   ]

Contact Phone   [   ]

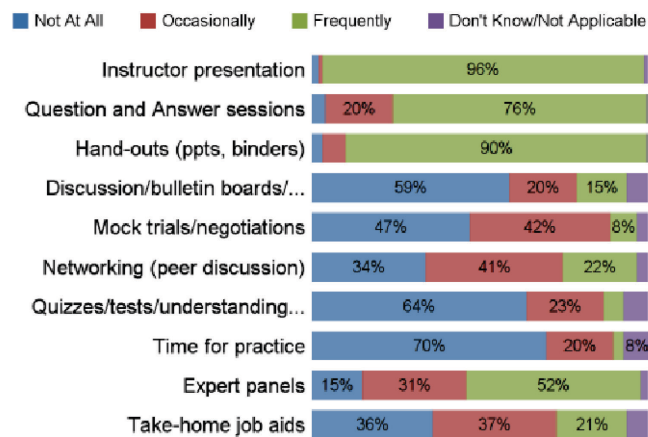Contact Email   [   ]

Appendix D - Focus Group Discussion Document

Education Initiative Focus Group Sessions

Kansas CLE Commission Offices

Topeka, Kansas

December 8, 2015
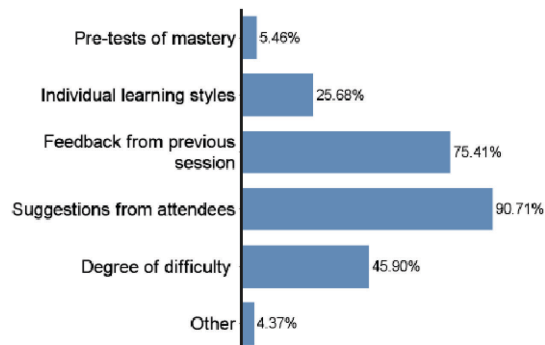
1

Content Delivery Methods

- Survey Question = How often does your organization use the following learning methods in course design?
  - Most providers in our survey said they rely on speaker presentations, Q&A sessions, hands-outs and expert panels to deliver content
  - Other "best-practice" teaching methods (networking, time to practice, take-home job aids, checks for understanding) are rarely used
- Discussion Questions:
  - Which of these other best practices, used in other CPE industries or as recommended by learning theory, would be particularly helpful to attorneys' learning?
  - How might some of these be incorporated in traditional or non-traditional CLE delivery? Which, while useful in concept, would never work for CLE?

Legend: ■ Not At All ■ Occasionally ■ Frequently ■ Don't Know/Not Applicable

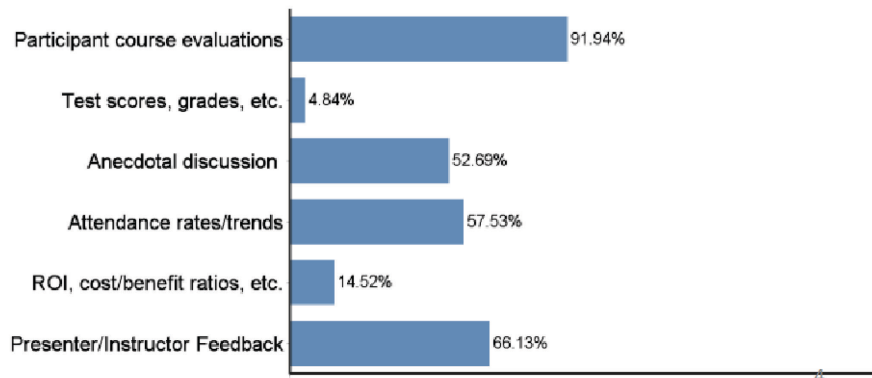| Method	
Instructor presentation	96%
Question and Answer sessions	20% / 76%
Hand-outs (ppts, binders)	90%
Discussion/bulletin boards/...	59% / 20% / 15%
Mock trials/negotiations	47% / 42% / 8%
Networking (peer discussion)	34% / 41% / 22%
Quizzes/tests/understanding...	64% / 23%
Time for practice	70% / 20% / 8%
Expert panels	15% / 31% / 52%
Take-home job aids	36% / 37% / 21%

2

Course/Program Delivery

- Survey Question = Which of the following do instructors or your organization use to refine course topics, pace, or learning methods?
  - More providers consider the expertise level of their students (e.g. beginner vs advanced) when refining course designs than originally understood (46%)
- Survey Question = What percentage of your CLE courses or topics have specific learning objectives identified?
  - The average number of CLE courses offerings with specific objectives is higher than expected (78%)
- Discussion Topics/Questions:
  - How do your organizations use student expertise level in course design? What about individual learning styles? Are there best practices here to share?
  - When are these refinement made – in design, during course delivery, after sessions?
  - How do you use course objectives in the design, delivery or evaluation of courses? Is there a case in which there are none and why?

| Category	Percentage
Pre-tests of mastery	5.46%
Individual learning styles	25.68%
Feedback from previous session	75.41%
Suggestions from attendees	90.71%
Degree of difficulty	45.90%
Other	4.37%

3

Course/Program Evaluation

- Survey Question = Which of the following do you use to evaluate CLE programs or sessions?
    - Most providers use post-program evaluation to measure the success of their CLE offerings (91%).
    - Many use instructor feedback and attendance rates (52%+).
    - Few use test scores/grade or ROI/cost benefit analysis (<4%)
        - Types of metrics described by respondent include enrollment figures, financials, and room counts.
- Discussion Topics/Questions:
    - Is there a way to use metrics beyond satisfaction ratings (e.g. aptitude testing, ROI, cost/benefit) for CLE?

| Category	Percentage
Participant course evaluations	91.94%
Test scores, grades, etc.	4.84%
Anecdotal discussion	52.69%
Attendance rates/trends	57.53%
ROI, cost/benefit ratios, etc.	14.52%
Presenter/Instructor Feedback	66.13%

Course/Program Evaluation

- Survey Question = Which of the following do your post-program evaluations typically measure?
    - Most course evaluations look at attendee satisfaction (97%), instructor effectiveness(95%), topic/content usefulness (95%) quality of materials (77%), and facilities (70%)
    - 60% of respondents say their evacuations measure the attorney's expectations of the use of the course in his/her practice
- Discussion Topics/Questions:
    - What are some of the "best of the best" for post-program evaluations in use and can they be leveraged across all providers?
    - What are your practices related to the 2nd finding above. Do these help you measure impact on practice?
    - Measurement "best practice" stresses the importance of capturing change in job performance , learners views on its value, and support structures back on the job. Do you see a place for such evaluation for CLE?

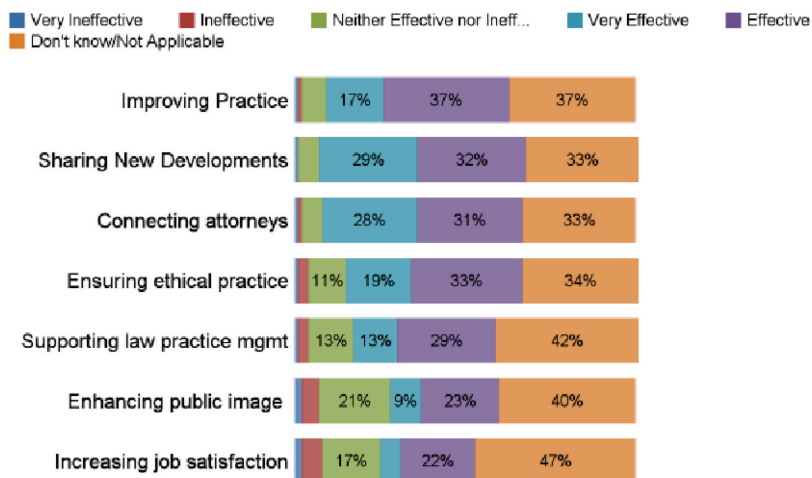
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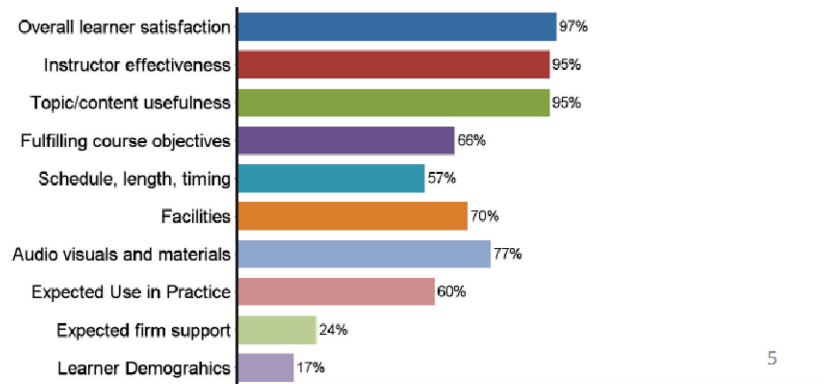
Course/Program Evaluation

- Survey Question = What percent of your attendees typically complete the post-program evaluations?
  - Providers report that, on average, 58% of attendees complete their post-course surveys, significantly higher than understood from previous provider dialog
- Survey Question = Overall, how useful is the feedback you receive on the post-program evaluations for…
  - Most find them useful for planning (93%) and for instructor feedback (90%), but fewer for predicting practice improvement (60%)
- Discussion Topics/Questions:
  - Antidotal evidence suggestions few surveys are completed. What is your experience?
  - What other evaluation tools do you think would allow better assessment of practice improvement?

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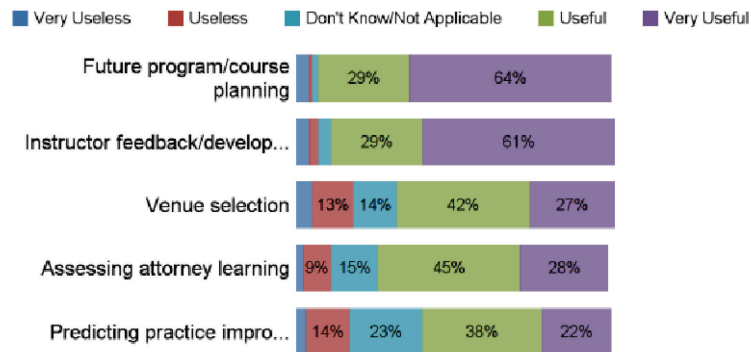
Effectiveness of CLE in Kansas

- Survey Question = Overall, how effective is CLE in Kansas for…
  - The vast majority of providers say that CLE in Kansas is effective at improving the practice of law, sharing new developments, ensuring ethical practice, and connecting attorneys with their peers.
- Discussion Topics/Questions:
  - Despite these results, many of the open-ended question answers speak to the difficulty of measuring change in practice. What is the gap? What can be done?

Legend: ■ Very Ineffective ■ Ineffective ■ Neither Effective nor Ineff… ■ Very Effective ■ Effective ■ Don't know/Not Applicable

Category	Very Effective	Effective	Don't know/NA
Improving Practice	17%	37%	37%
Sharing New Developments	29%	32%	33%
Connecting attorneys	28%	31%	33%
Ensuring ethical practice	11% / 19%	33%	34%
Supporting law practice mgmt	13% / 13%	29%	42%
Enhancing public image	21% / 9%	23%	40%
Increasing job satisfaction	17%	22%	47%

7

Additional Topics if Time Allows

Course/Program Design

- Survey Question = Which of the following sources do you use to identify CLE course topics and attorney learning needs?
  - Most providers (60% +) use law/code changes, hot topics/ recent court cases, suggestions from previous course evaluations, and mandates set by CLE organizations as sources for CLE course topics
  - While few providers use attorney development/competency models or performance evaluations as sources of CLE course topics, the percentage who do is higher than expected (13-23%)
- Discussion Topic/Questions:
  - Are any of you using attorney development/competency models to set curricula and if so how?
  - Are any of you using attorney performance evaluations to set curricula and if so how?
  - Could/should either of these be used for more CLE design efforts?


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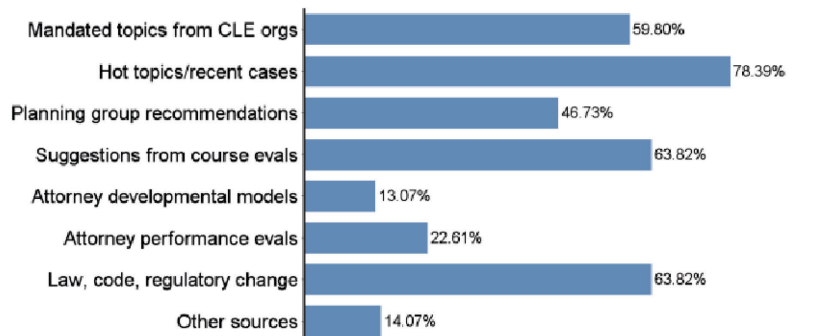
Course/Program Design

- Survey Question = Who is part of the CLE planning process and how important is their vote in the final decision of which course/topics are offered?
    - Most providers say they use attendees as part of the CLE planning process (65%) and 93% view them as important to the process.
    - Few use focus groups in planning (20%), but nearly 50% view them as important to the process
- Discussion Topic/Questions:
    - What is the importance of attendees in the planning process and how are/should/could they be involved?
    - If half of respondents view focus groups as very important in the planning process, why do you think only of 20% use them? Is this an area to pursue?
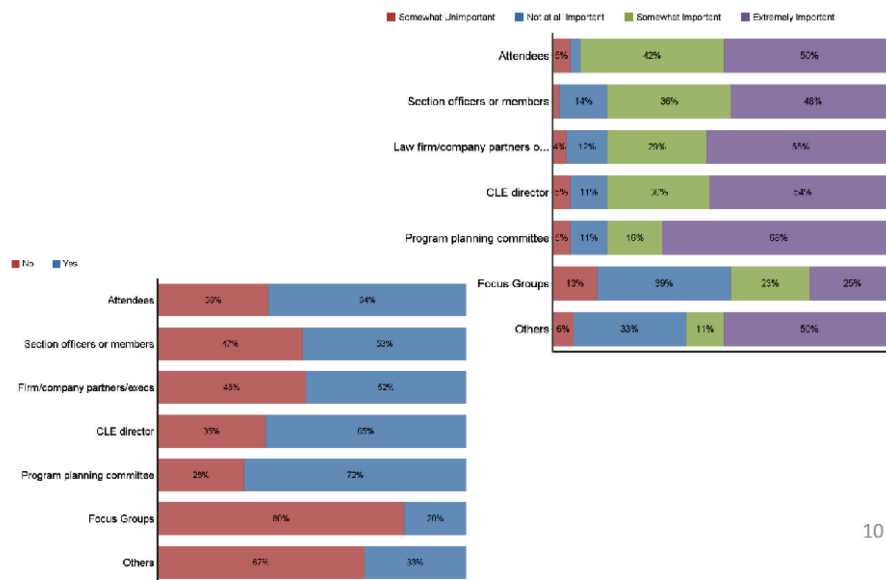
Content Delivery Methods

- Survey Question = What percentage of your courses are delivered in the following formats?
  - Fewer courses than expected (18%) are delivered in live or on-demand non-traditional formats (via phone, websites, DVD's)
- Discussion Topics/Questions:
  - What are your predications for the future use of and the pro/cons of new delivery formats like online, phone, websites, etc?

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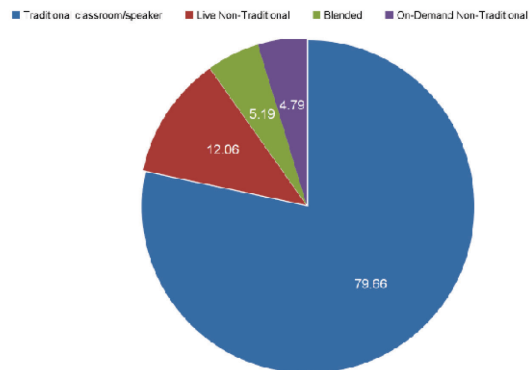
Appendix E - Detailed Statement of Fundamental Lawyering Skills and Values from the MacCrate Report

<u>Fundamental Lawyering Skills</u>

Skill § 1: Problem Solving

In order to develop and evaluate strategies for solving a problem or accomplishing an objective, a lawyer should be familiar with the skills and concepts involved in:

1.1 Identifying and Diagnosing the Problem;

1.2 Generating Alternative Solutions and Strategies;

1.3 Developing a Plan of Action;

1.4 Implementing the Plan;

1.5 Keeping the Planning Process Open to New Information and New Ideas.

Skill§ 2: Legal Analysis and Reasoning

In order to analyze and apply legal rules and principles, a lawyer should be familiar with the skills and concepts involved in:

2.1 Identifying and Formulating Legal Issues;

2.2 Formulating Relevant Legal Theories;

2.3 Elaborating Legal Theory;

2.4 Evaluating Legal Theory;

2.5 Criticizing and Synthesizing Legal Argumentation.

Skill§ 3: Legal Research

In order to identify legal issues and to research them thoroughly and efficiently, a lawyer should have:

3.1 Knowledge of the Nature of Legal Rules and Institutions;

3.2 Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research;

3.3 Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design.

Skill§ 4: Factual Investigation

In order to plan, direct, and (where applicable) participate in factual investigation, a lawyer should be familiar with the skills and concepts involved in:

4.1 Determining the Need for Factual Investigation;

4.2 Planning a Factual Investigation;

4.3 Implementing the Investigative Strategy;

4.4 Memorializing and Organizing Information in an Accessible Form;

4.5 Deciding Whether to Conclude the Process of Fact-Gathering;

4.6 Evaluating the Information That Has Been Gathered.

Skill § 5: Communication

In order to communicate effectively, whether orally or in writing, a lawyer should be familiar with the skills and concepts involved in:

5.1 Assessing the Perspective of the Recipient of the Communication;

5.2 Using Effective Methods of Communication.

Skill § 6: Counseling

In order to counsel clients about decisions or courses of action, a lawyer should be familiar with the skills and concepts involved in:

6.1 Establishing a Counseling Relationship That Respects the Nature and Bounds of a Lawyer's Role;

6.2 Gathering Information Relevant to the Decision to Be Made;

6.3 Analyzing the Decision to Be Made;

6.4 Counseling the Client About the Decision to Be Made;

6.5 Ascertaining and Implementing the Client's Decision.

Skill§ 7: Negotiation

In order to negotiate in either a dispute-resolution or transactional
context, a lawyer should be familiar with the skills and
concepts involved in:

7.1 Preparing for Negotiation;

7.2 Conducting a Negotiation Session;

7.3 Counseling the Client About the Terms Obtained From the
Other Side in the Negotiation and Implementing the Client's
Decision.

Skill § 8: Litigation and Alternative Dispute-Resolution
Procedures

In order to employ-or to advise a client about-the options of
litigation and alternative dispute resolution, a lawyer should understand
the potential functions and consequences of these processes
and should have a working knowledge of the fundamentals of:

8.1 Litigation at the Trial-Court Level;

8.2 Litigation at the Appellate Level;

8.3 Advocacy in Administrative and Executive Forums;

8.4 Proceedings in Other Dispute-Resolution Forums.

Skill § 9: Organization and Management of Legal Work

In order to practice effectively, a lawyer should be familiar with
the skills and concepts required for efficient management, including:

9.1 Formulating Goals and Principles for Effective Practice
Management;

9.2 Developing Systems and Procedures to Ensure that Time,
Effort, and Resources Are Allocated Efficiently;

9.3 Developing Systems and Procedures to Ensure that Work is
Performed and Completed at the Appropriate Time;

9.4 Developing Systems and Procedures for Effectively Working
with Other People;

9.5 Developing Systems and Procedures for Efficiently Administering
a Law Office.

Skill § 10: Recognizing and Resolving Ethical Dilemmas

In order to represent a client consistently with applicable ethical
standards, a lawyer should be familiar with:

10.1 The Nature and Sources of Ethical Standards;

10.2 The Means by Which Ethical Standards are Enforced;

10.3 The Processes for Recognizing and Resolving Ethical Dilemmas.

<u>**Fundamental Values of the Profession**</u>

Value § 1: Provision of Competent Representation

As a member of a profession dedicated to the service of clients,
a lawyer should be committed to the values of:

1.1 Attaining a Level of Competence in One's Own Field of Practice;

1.2 Maintaining a Level of Competence in One's Own Field of Practice;

1.3 Representing Clients in a Competent Manner.

Value§ 2: Striving to Promote Justice, Fairness, and Morality

As a member of a profession that bears special responsibilities
for the quality of justice, a lawyer should be committed to the values
of:

2.1 Promoting Justice, Fairness, and Morality in One's Own Daily Practice;

2.2 Contributing to the Profession's Fulfillment of its Responsibility
to Ensure that Adequate Legal Services Are Provided
to Those Who Cannot Afford to Pay for Them;

Contributing to the Profession's Fulfillment of its Responsibility

to Enhance the Capacity of Law and Legal Institutions
to Do Justice.

Value § 3: Striving to Improve the Profession

As a member of a self-governing profession, a lawyer should be committed to the values of:

3.1 Participating in Activities Designed to Improve the Profession;

3.2 Assisting in the Training and Preparation of New Lawyers;

3.3 Striving to Rid the Profession of Bias Based on Race, Religion, Ethnic Origin, Gender, Sexual Orientation, or Disability, and to Rectify the Effects of These Biases.

Value§ 4: Professional Self-Development

As a member of a learned profession, a lawyer should be committed to the values of:

4.1 Seeking Out and Taking Advantage of Opportunities to Increase His or Her Knowledge and Improve His or Her Skills;

4.2 Selecting and Maintaining Employment That Will Allow the Lawyer to Develop As a Professional and to Pursue His or Her Professional and Personal Goals.