

Continuing Legal Education A Year in Review: Analysis and Recommendations  
Shaun Jamison<sup>a</sup>

March 2014

---

<sup>a</sup> Shaun Jamison is assistant dean of information services and professor of law at Concord Law School of Kaplan University. He is an active member of the Minnesota State Bar Association (MSBA) and has both presented and attended continuing legal education courses in that state. He has chaired the Practice Management and Marketing Section of the MSBA, co-chaired a subcommittee of the Self-Audit for Gender Equity and Diversity committee and served as a member of the MSBA Challenges to the Practice of Law Task Force. He earned his Juris Doctorate from the University of North Dakota and a Ph.D. in education from Capella University. Thank you to Kristin M. Jamison, M.A. and Brian Craig, J.D. for their feedback on the paper.

### Abstract

Continuing legal education (CLE) is one way to help lawyers stay current with substantive law, skills, and prepare for potentially dramatic and fast moving changes to the practice of law. This paper examines one year of continuing legal education approved for credit in Minnesota. While Minnesota attorneys enjoy access to over 10,000 CLE courses in a variety of timely topics, there are opportunities to improve. In order to best address the rapid and dramatic change in the legal field, a more favorable regulation of law office management CLEs is required. More flexible regulation and partnerships between CLE providers, bar associations, law schools, and businesses will enable lawyers to better gain and maintain practical skills.

CONTENTS

I. INTRODUCTION ..... 4

II. METHODOLOGY ..... 6

III. RESULTS AND RECOMMENDATIONS ..... 10

    A. LAW OFFICE MANAGEMENT ..... 10

        1. *Treatment of Law Office Management (LOM) CLE Credits.* ..... 12

        2. *Analysis of Marketing and Networking CLEs.* ..... 14

        3. *Legal Research.* ..... 15

        4. *Client Relations, Project Management, and Time Management.* ..... 17

        5. *Technology.*..... 18

    B. ETHICS ..... 19

    C. ELIMINATION OF BIAS ..... 22

    D. SKILLS..... 24

    E. CATEGORIES..... 27

    F. CLEs BROKEN DOWN BY PRACTICE AREAS..... 29

VI. CONCLUSION..... 31

## I. INTRODUCTION

The purpose of this paper is to analyze one year's worth of continuing legal education (CLE) courses approved for credit in the State of Minnesota and to make observations and recommendations based on that analysis. CLEs are required in Minnesota and the majority of U.S. jurisdictions<sup>1</sup> so

that lawyers continue their legal education and professional development throughout the period of their active practice of law; to establish the minimum requirements for continuing legal education; to improve lawyers' knowledge of the law; and through continuing legal education courses, to address the special responsibilities that lawyers as officers of the court have to improve the quality of justice administered by the legal system and the quality of service rendered by the legal profession.<sup>2</sup>

Some jurisdictions have special categories of CLEs which may either be required or restricted. Minnesota lawyers are required to take two hours of elimination of bias and three hours of ethics out of the forty-five hours of CLEs they must take every three years.<sup>3</sup> Minnesota restricts law office management credits to six hours every three years<sup>4</sup>. They also have an optional category for professional development as well as allowing for "literature and the law" courses<sup>5</sup>.

Some explanation of the role of CLE providers and the Minnesota Board of Continuing Legal Education (hereinafter CLE Board) is needed in order to provide context. CLE providers offer CLEs based on their mission, market demand, and resources. The Board oversees a huge

---

<sup>1</sup> Jared Lamb, *The Path of the Law School: Three Implementable Law School Reforms*, 3 *Faulkner L. Rev.* 343, 387 (2012)

<sup>2</sup> MN ST CLE Rule 1.

<sup>3</sup> MN ST CLE Rule 9

<sup>4</sup> MN ST CLE Rule 6.

<sup>5</sup> MN ST CLE Rule 4(D).

number of CLE approvals with limited staff. They do not create programming, rather they make sure the proposed CLEs submitted by providers comport with the rules. Because they react to what CLE providers submit, the category of credit which is awarded is likely driven by the category requested by the provider and the Board's determination of whether that request is appropriate. What this creates is a kind of ecosystem where no one entity is in charge of programming and the same CLE might be approved for different types of credit. This report will note some discrepancies in categories of approval, but those critiques should be taken as critiques of the ecosystem as it is currently designed, rather than the failure of any particular entity. The Minnesota Board of Continuing Legal Education reports on its activities every year via its website for further background.<sup>6</sup>

There are two main drivers of change within the legal field: technology and market forces. Technological changes which currently impact the practice of law include e-discovery, cloud computing, virtual law offices, document assembly, artificial intelligence, mobile devices, and social media.<sup>7</sup> The Phase I Report from the California Task Force on Admission Regulation Reform noted the need to meet the demands of training lawyers for the modern practice of law.<sup>8</sup> Market forces include consumer expectations, declining numbers of traditional legal positions, the desire of corporations to get "more for less" from their legal providers, and competition from non-lawyers as outlined in Richard Susskind's latest book, *Tomorrow's Lawyers: An Introduction to Your Future*.<sup>9</sup> Susskind has written extensively on the need for the legal

---

<sup>6</sup> Minnesota State Board of Continuing Legal Education Annual Reports.  
[http://www.mbcle.state.mn.us/MBCLE/pages/annual\\_reports.asp](http://www.mbcle.state.mn.us/MBCLE/pages/annual_reports.asp).

<sup>7</sup> See Susskind, Richard. *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford 2013) and State Bar of California Task Force on Admissions Regulation Reform: Phase I Final Report, (2013), available at [http://www.calbar.ca.gov/Portals/0/documents/bog/bot\\_ExecDir/ADA%20Version\\_STATE\\_BAR\\_TASK\\_FORCE\\_REPORT\\_\(FINAL\\_AS\\_APPROVED\\_6\\_11\\_13\)\\_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_(FINAL_AS_APPROVED_6_11_13)_062413.pdf).

<sup>8</sup> State Bar of California Task Force on Admissions Regulation Reform: Phase I Final Report, (2013), Id.

<sup>9</sup> Susskind, Richard. *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford 2013)

profession to adapt to change. The current challenge of law school debt vs. employment opportunities prompted the American Bar Association (hereinafter ABA) to commission the Task Force on the Future of Legal Education which recently submitted its final report.<sup>10</sup> Much time has passed since 1992 when the widely cited MacCrate report studied the skills needed to be a successful lawyer and made recommendations to achieve helping lawyers acquire those skills.<sup>11</sup> The need to address the concerns of the MacCrate Report and subsequent reports has become urgent. It is against this backdrop that the analysis is made.

Because technology and market forces are dramatic disruptions in the norm of law practice, this paper will pay special attention to courses address these drivers of change. Categories of CLEs in Minnesota which are of special interests to this end are law office management, ethics, and professional development.

## II. METHODOLOGY

Attorneys in Minnesota report their CLE attendance every three years on a staggered schedule. Each year one third of Minnesota attorneys must complete their CLE requirements by the end of June. For example, Minnesota lawyers in CLE reporting Category 2 must have completed 45 hours of CLE credits during the three-year reporting period from July 1, 2010 - June 30, 2013, including three hours in ethics and two hours for elimination of bias. Because lawyers report CLEs ending in June, the most recent period of July to June was selected being July 1, 2012 to June 30, 2013.

---

<sup>10</sup> Report And Recommendations American Bar Association Task Force On The Future Of Legal Education, American Bar Association (January 2014).

<sup>11</sup> Task Force on Law Schools and the Profession, American Bar Association, Legal Education and Professional Development--An Educational Continuum (July 1992).

Because the public record of approved CLE credits only provides the titles of programs, the review of programming is primarily based on titles, dates, providers, and categories of credit. The course listings were downloaded from the public website provided by the State Board of Continuing Legal Education.<sup>12</sup>

Because the search engine only allows 1,000 or fewer results per search, the searches were separated by date ranges. The results were copied and pasted into an Excel workbook.

The searches resulted in a total of 10,486 approved courses. Courses for which approval was pending, which were canceled, or for which credit was denied were not analyzed. Courses were then labeled as to their primary subject, secondary subject if applicable, and category of course. The primary subject is what the researcher determined from the title of the course was the substance and perspective of the course. Examples might be bankruptcy, family, and security. Sometimes titles were ambiguous so a course might be assigned “general” if the topic was unknown or might be assigned based on the type of lawyer which may be interested in the course such as a government or corporate counsel. If no subject or category could be determined, then the CLE was not included in the analysis.

If the researcher was not familiar with an acronym or case name, an internet search was conducted to identify the subject matter. Ideally, the course description would be located, but this was not always possible in every case where there was ambiguity as to the subject of the CLE.

Secondary subjects were often either the specific skill or subcategory the course would address or another subject which intersected with the primary subject. Examples of skills might include trial or negotiation, subcategories might be commercial for real estate or patent for intellectual property. Subjects which intersect might be criminal and family or bankruptcy and family.

---

<sup>12</sup> [https://www.mbcle.state.mn.us/OASIS/aspx\\_mainattorney/CLE\\_Attendance\\_Attorney\\_Search.aspx?SO=1](https://www.mbcle.state.mn.us/OASIS/aspx_mainattorney/CLE_Attendance_Attorney_Search.aspx?SO=1)

Categories address the nature of the seminar. Examples would include the level of the CLE as a 101 vs. advanced, skills based, conference, literature and the law, update, or cross professional. Once all of the classes were coded, the researcher went back through to double check the coding and update for any changes made as a result of patterns which emerged. One such change was the inclusion of a subject for lawyers representing corporations and another was to move categories into their own column as opposed to being a secondary subject.

A number of categories were identified during the process of reviewing the course titles. Because Minnesota has some categories defined under their rules and indicates approval under those categories in its public data, it was only necessary to code courses for those categories if they were approved under other categories.

The following are categories which were ascertained:

101: These CLEs are aimed as supplying baseline knowledge to attorneys. They may be identified as: bridge the gap, new attorney, what every lawyer should know about \_\_\_\_, essentials of \_\_\_\_\_, \_\_\_\_\_ from A to Z, your first \_\_\_\_\_, the basics of \_\_\_\_\_, and orientation.

Advanced: CLEs identified by the provider as being advanced or addressing complex matters.

Bias (Elimination of): CLEs designed to educate lawyers to overcome their bias and the bias within the legal system.

Conference: This category is for courses taught as part of a conference or convention. The conference may be legally related or may be focused on another discipline, but include legal education.



Cross Professional: This category addresses topics which are not legal in nature, but knowledge of which will enhance the lawyer's ability to practice law. Some examples include in depth training in types of medical injuries, accounting concepts, and MBA concepts.

Empirical: CLEs which have titles implicating the use of empirical research.

Ethics: Designed to improve attorney compliance with ethics rules.

Future of Law: Addresses emerging issues in the practice of law or in the law itself.

Historical: These CLEs utilize historical events or personalities to teach concepts, often professionalism or elimination of bias.

Intermediate: Identified by the CLE provider as intermediate in level.

Literature and the Law: A special category of CLE where attorneys read literature prior to attending the seminar and the literature is used to promote the learning objectives of the CLE.

Law Office Management: “[I]ncludes the topics of mentoring, staff development, and technology related to law office management.”<sup>13</sup>

Professional Development: A “course designed to enhance the development and performance of lawyers by addressing issues such as career satisfaction and renewal, stress management, mental or emotional health, substance abuse, and gambling addiction.”<sup>14</sup>

Skills: CLEs which address skills development such as trial, negotiation, drafting, and public speaking.

Update: These courses address changes in the law. They may address specific cases or legislation.

The courses were then sorted by category and subject to identify trends and analyze their content. Because courses are sometimes offered more than once during the year, they had

---

<sup>13</sup> MN ST CLE Rule 6(C).

<sup>14</sup> MN ST CLE Rule 2(U).

multiple entries. Given that created more opportunities for attorneys to participate in CLEs with that topic, the multiple entries are included in the analysis. It is possible the Board processed some duplicate entries which are included in the data. However, because a conference could submit more than one CLE per day and the number of potential duplicates is relatively low, it was better to not attempt to remove them.

### III. RESULTS AND RECOMMENDATIONS

It is important to note that many of the seminars which were approved took place outside of Minnesota or were broadcast either from Minnesota or elsewhere. Therefore, the report is not limited to CLEs given in Minnesota. This makes it somewhat less specific to Minnesota, but the advantage is it makes the research more generalizable outside of Minnesota, especially as to topics with a national appeal such as federal practice areas like intellectual property, bankruptcy, and securities. The public information does not supply attendance at the various events. When interpreting the numbers, one must keep in mind they are based on the number of opportunities for approved credit for Minnesota lawyers. CLE providers from other states may submit their credits for approval either hoping to attract Minnesota lawyers or because they know Minnesota lawyers will be in attendance. Participants in CLEs may also submit their classes for approval.

Due to the diversity and volume of CLEs, it is necessary to focus the analysis on topics most likely to be considered emerging issues. Because market forces and technology are major drivers in changes in the legal industry, we will start with law office management.

#### A. LAW OFFICE MANAGEMENT

Law practice management is uniquely tied to ethics requirements such as confidentiality, client communication, conflict checking, and trust accounting. California recognized this in its

Task Force on Admissions Regulation Reform report where they indicated that “[b]ecause law practice management problems do tend to be closely associated with discipline patterns, we are convinced that any new competency training requirement should include a significant law practice management component.”<sup>15</sup> The State Bar of California Task Force on Admissions Regulation Reform went on further to say that “[r]unning a law practice competently requires business skill, and as a result, we believe that the nuts-and-bolts of operating a business should be part and parcel of good competency training for young lawyers. The fiduciary responsibilities of lawyers provide a special overlay to the kind of business training that lawyers need, but at bottom law practice management is about understanding the financial aspects -- and risks -- of operating an enterprise. That subject can and should be taught, and taught early.”<sup>16</sup> While California’s examination was in the context of a broader look at preparing attorneys with proper skills for the practice of law, including during and after law school, that does not dilute the currency of their thinking. If attorneys are to adapt and thrive in the new economy, they need to be competent in the business of law.

Recent events certainly have bolstered this point of view, however, concern over the treatment of law practice management CLE credits is not new. In 2003, the practice management section of the Minnesota State Bar Association in its comments to proposed CLE rules changes asked that Law Office Management credits be treated on par with other credits.<sup>17</sup> The comments cited the MacCrate Report which set forth the skills needed to successfully practice law.

---

<sup>15</sup> State Bar of California Task Force on Admissions Regulation Reform: Phase I Final Report, (2013), available at [http://www.calbar.ca.gov/Portals/0/documents/bog/bot\\_ExecDir/ADA%20Version\\_STATE\\_BAR\\_TASK\\_FORCE\\_REPORT\\_\(FINAL\\_AS\\_APPROVED\\_6\\_11\\_13\)\\_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_(FINAL_AS_APPROVED_6_11_13)_062413.pdf)

<sup>16</sup> Id. at.20.

<sup>17</sup> Comments and Suggestions of the Minnesota State Bar Association Practice Management & Marketing Section In re: Proposed Amendments to the Rules of the Minnesota Supreme Court and State Board for Continuing Legal Education of Members of the Bar (September 12, 2003) available at <http://www.lawmoose.com/Documents/CLERulesMSBAPMMComments91203.rtf>.

The Report sets out ten major skills, among them Problem Solving, Legal Analysis and Reasoning, Legal Research, Factual Investigation, Communication, Counseling, Negotiation, Organization and Management of Legal Work, and Recognizing and Resolving Ethical Dilemmas.

The Report identifies several specific aspects of Organization and Management of Legal Work as fundamental, including:

- formulating goals and principles for effective practice management,
- developing systems and procedures to ensure that time, effort, and resources are allocated efficiently,
- developing systems and procedures to ensure that work is performed and completed at the appropriate time,
- developing systems and procedures for effectively working with other people, and
- developing systems and procedures for efficiently administering a law office.

See *id.* at 199-202.”<sup>18</sup>

A discussion of the approaches to Law Office Management credits will help inform the discussion.

#### 1. *Treatment of Law Office Management (LOM) CLE Credits.*

Law office management (LOM) credits are limited to six hour per every three years in Minnesota.<sup>19</sup> However, credits can be given under other, less restrictive categories if the CLE qualifies under those other categories. A typical category used to avoid the six hour limit is ethics. States handle LOM credits in a variety of ways. The following is a sampling of states’ approaches:

Florida: Florida limits Law Office Management and Economics and computer training under Rule 5.04. Law office economics is limited to ten hours per course and reporting period. Computer training is limited to three hours.<sup>20</sup>

---

<sup>18</sup> *Id.* at 9-10.

<sup>19</sup> MN CLE Rule 6(C).

<sup>20</sup> FL CLER Rule 5.08.

(b) Courses on Nonlaw Subjects. A course devoted to a non-legal subject may be approved if the applicant can demonstrate that the course will enhance the proficiency of a lawyer in the performance of legal services.

Virginia has adopted a rule outlining what types of law practice management activities may or may not be approved. It seems somewhat more restrictive than Minnesota, but does not limit the amount of credits available for law practice management.<sup>21</sup>

Delaware specifically enumerates law office management and use of computers as CLEs which would qualify for approval.<sup>22</sup>

Hawaii does not restrict and specifically allows credit for law office management as well as case and client management.<sup>23</sup>

---

(c) Demonstrations and Moot Court. Trial and appeal demonstrations and moot court participation may receive up to 3 credit hours for each 50 minutes of participation. A member cannot claim more than 9 credit hours for these activities during a 3-year CLER reporting cycle.

(d) Law Office Management and Economics. A law office management and economics seminar may be awarded up to 10 credit hours per course. The course must include management principles such as trust accounting rules, docket control, prevention of client conflict, or integrating high-tech equipment into a law practice. A member cannot claim more than 10 credit hours for this activity during a 3-year CLER reporting cycle.

A course is ineligible to receive credit if the content includes only:

(1) the marketing of legal services (except for the discussion of the ethical restrictions on marketing and advertising);

(2) increasing profitability;

(3) networking with a prospective client;

(4) training non-legal presentation skills, writing, financial management, or organization skills.

(e) Computer Training. Computer training courses designed to enhance a member's ability to practice law may be awarded up to 3 credit hours per course. A member cannot claim more than 3 credit hours for this activity during a 3-year CLER reporting cycle. Topics on how to use social media or networking sites will be not eligible for credit.

(f) Self-Improvement Courses. Self-improvement courses designed to enhance human relations skills; offer practical assistance on how better to relate to clients, witnesses, and adversaries; or promote courtesy and thoughtfulness in the legal profession may be awarded up to 5 credit hours per course for computer training courses. No more than 5 credit hours may be awarded for any 1 course, regardless of length.

Available at:

<https://www.floridabar.org/tfb/TFBMember.nsf/ed6e4bc92a8fe1b852567090069f3c2/637a14a2b3231a6885256b2f006c6d14?OpenDocument>

<sup>21</sup> VI MCLE Op. 17. Available at <http://www.vsb.org/site/members/mcle-opinion-17> .

<sup>22</sup> DE CLE Rule 6. Available at <http://www.courts.state.de.us/cle/rules.stm#6>.

<sup>23</sup> HI CLE Reg. 3(b):

(B) Professionalism Standards. "To be approved for MCPE credits, the course or activity shall be devoted to matters involving an attorney's ethical obligations, professional responsibility, bias awareness and prevention, client trust account administration, access to justice, case management, malpractice prevention and law office management."

Indiana may allow LOM under Non-Legal Subject CLEs (NLS) for twelve hours each reporting period.<sup>24</sup>

Kansas – Law Practice Management is limited to two hours per year. However, this is actually a recent development in allowing LOM, rather than a step toward restricting it.<sup>25</sup>

Texas – limits non-legal classes including non-legal management to three hours per year.<sup>26</sup>

Virginia limits vendor related programs.<sup>27</sup> This may address concerns about the substance of LOM CLEs by adding requirements for vendor sponsored CLEs.

## *2. Analysis of Marketing and Networking CLEs.*

Of the twenty-two CLEs with the subject of marketing a law practice, thirteen were given ethics credit, four were categorized as law office management, two were approved for professional development, and two were approved for standard credit. One CLE received partial credit for both ethics and law office management.

A related topic to marketing is networking. Of eleven CLEs in this category, one was LOM, one was split between LOM and professional development, five were ethics, one was split between ethics and professional development, two were professional development, and one was standard. There is not enough data to tell if there is a preference to approve career networking over networking intended to increase business, but if that was the case, it may be harmful to the growing population of graduates who are not finding employment, but rather opening their own

---

<sup>24</sup> IN Admission to the Bar and the Discipline of Attorneys Rule 29(3)(a) available at <http://www.in.gov/judiciary/cle/2442.htm#q2>.

<sup>25</sup> “New Kansas continuing legal education guidelines went into effect on July 1, 2011, which provide welcome opportunities for attorneys to receive credit for their training in law practice management issues.”

Larry N. Zimmerman, New Cle Guidelines for Lpm Programming, J. Kan. B. Ass'n, September 2011, at 17

<sup>26</sup> <http://www.texasbar.com/Content/NavigationMenu/ForLawyers/MCLE/MCLERules/MCLERegulations.pdf>

<sup>27</sup> VI MCLE Op. 15 available at <http://www.vsb.org/site/members/mcle-opinion-15>.

law offices and will need support in building their practices. Over half of recent graduates who work in law offices will do so in firms of five or fewer attorneys.<sup>28</sup>

Based on a review of marketing and networking CLEs, it is recommended that:

If LOM is to remain a limited category, marketing and networking should qualify for standard credit as long as includes relevant ethics under the rules. The ability to serve clients is predicated on the ability to acquire clients in this increasingly challenging environment and thus marketing and networking are essential to the continued delivery of legal services to the public. Without paying clients, there is no capacity to work in the public interest in such activities as pro bono. Further, marketing training can assist attorneys in learning to effectively educate the public in the unique value of lawyers and the legal system which would benefit all lawyers.

### 3. *Legal Research.*

One of the main skills a lawyer must have is legal research.<sup>29</sup> Without the ability to research and analyze the law, a lawyer has little to recommend their knowledge of the law beyond what they remember from law school and the bar review course. A lawyer must be able to analyze the law with regards to the specific jurisdiction and facts of a particular case. While Minnesota lawyers have many opportunities to learn about legal research through CLEs, unfortunately these opportunities are often categorized in the limited category of law office management and lack diversity and depth.

Of the approximately 245 research CLEs offered, only twenty-two did not have an obvious connection to a vendor. Only two appeared to be focused on statutes. One of the two was focused on statutory research and the other on statutory interpretation. Of the specialized

---

<sup>28</sup> State Bar of California Task Force on Admissions Regulation Reform: Phase I Final Report, (2013), available at [http://www.calbar.ca.gov/Portals/0/documents/bog/bot\\_ExecDir/ADA%20Version\\_STATE\\_BAR\\_TASK\\_FORCE\\_REPORT\\_FINAL\\_AS\\_APPROVED\\_6\\_11\\_13\\_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/ADA%20Version_STATE_BAR_TASK_FORCE_REPORT_FINAL_AS_APPROVED_6_11_13_062413.pdf)

<sup>29</sup> Task Force on Law Schools and the Profession, American Bar Association, Legal Education and Professional Development--An Educational Continuum (July 1992).

research CLEs, one addressed bankruptcy, two employment law, five intellectual property, one ethics (counted as an ethics credit) and three tax courses.

Thirty-two CLEs were on Fastcase of which ten were advertised as advanced. Twenty-one CLEs were concerning Lexis (three advanced), and one hundred sixty-four concerning Westlaw (seven intermediate and ten advanced). With few exceptions, legal research CLEs identified with a specific vendor were categorized as law office management whereas most legal research CLEs not clearly identified with a vendor were approved with the less restricted standard category. Eleven addressed free research and only two addressed cost effective research.

Three Westlaw and two Lexis trainings were approved as standard, rather than law office management credits. Books Unbound was approved for standard credit, but Orbitax was not. Four CLEs about free legal research on the Internet were considered law office management and six were given standard credit.

It appears the board is more likely to give LOM credit to vendors training on a specific product than general trainings on legal research. There appears to be inconsistency as to the assignment of a category of credit for non-vendor CLEs. Possibly the board considers the use of specific software or websites to be technology for law office management. The term law office management itself is not defined in the rules, but it would suggest a separation between the administrative functions of the law office and client services delivery. Because legal research is a core competence of a lawyer needed to deliver services, it is not part of the administrative function. It should be noted that a review of the public record does not show actions taken by the board other than the final outcome. So it may well be that most of these courses were submitted by providers as LOM and the board approved them as submitted.



Based on a review of the legal research CLEs, it is recommended that:

- a. If LOM remains a restricted category, that legal research be excluded from the LOM category and instead given standard, unrestricted credit.
- b. Legal research vendors providing legal research classes be awarded standard credit as long as they are designed to improve lawyer competence in legal research and not mere sales pitches.
- c. CLE providers should consider expanding offerings to include areas not covered or not strongly covered such as regulatory research, statutory interpretation, evaluating search engines and sources, practice area oriented research such as family, criminal, and environmental law.

#### 4. *Client Relations, Project Management, and Time Management.*

Client relations, project management, and time management skills are key to lawyer success, but not often taught in law school. Of thirty-nine client relations oriented CLEs, only three were considered LOM. Each of the three had elements in the title which implicated the LOM topic. Legal project management has been identified as an important skill for lawyers and a potential career path for lawyers as well<sup>30</sup>. Of seven project management courses, four were considered LOM, one had both LOM and ethics, one was standard and ethics, and one standard. There were ten time management CLEs. Five were approved as LOM, one as part LOM and part ethics, one as ethics, one as ethics and professional development, one as professional development, and one standard. Client relations appear to be getting positive treatment in the approval process. Time and project management are activities which could directly improve client service and help lawyers meet demands of the twenty-first century. As they are uncommon CLEs, they appear to

---

<sup>30</sup> Susskind, Richard. *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford 2013).

have inconsistent categorization perhaps due to provider confusion about how to submit them.

Based on the review of the above CLEs, it is recommended that:

The professional development category should be expanded to include key skills which are portable to other professions but have a profound impact on lawyer service to the public and lawyer's ability to meet the demands of a dynamic field such as: time management, public speaking, customer service, personal relations, emotional intelligence, mentoring, leadership, and project management.

#### *5. Technology.*

As technology plays a greater and greater role in the practice of law, lawyers will need to update their skills. There were fifteen presentations on eCourt or e-filing which were afforded standard credit. However, a course on electronic case management was classified LOM. Sixty-five e-discovery courses were either classified as standard or ethics if appropriate. Three e-discovery CLEs were designated at LOM presumably due to references to management. The iPad has become enormously popular and it is likely to be fairly considered a LOM technology under current rules. Fourteen CLEs on iPads were LOM and three were given standard credit. Based on the partial review of technology CLEs, it is recommended that:

Technology related courses designed to improve the practice of law should be designated as standard credits. Thus, e-discovery, e-filing, calendaring, docketing, case management, conflicts checking CLEs as well as training on CLEs on devices and how they can be used to accomplish the same should be designated as standard. If LOM is to continue as a limited category, then technology aimed at profitability or non-legal aspects of LOM rather than client service which does not qualify for another category would be designated as LOM. An example would be billing software, accounts receivable, and accounting software.

## B. ETHICS

There were 2256 CLEs where at least some of the credits granted for ethics. Of those where the topic could be identified with a specific ethics topic, type of practitioner, or type of client, they are broken down in Table 1. Where ethics CLEs were associated with a specific practice area, they are charted in Table 2. Minnesota attorneys have many opportunities to take ethics courses in a variety of topics. Some areas seem to need bolstering, in particular trust accounts, which only appeared to have three courses.

Table 1 Ethics Courses

Subject	Number of Events Offered
Alternative Dispute Resolution	65
Age Discrimination and Aging	3
Business Organizations (Corp Counsel)	109
Civility	8
Client Relations	28
Complaint (defending)	1
Confidentiality	8
Conflicts of Interest	28
Disability (Client or Attorney)	28
e-discovery/document coding	19
Fees, Retainer Agreements & Billing	10
Gender	2
Judicial (Concerning Courts, Judges or Judge's Point of View)	47
Law Office Management	35
Legal Research	1

Marketing (Law Practice)	14
Negotiation	12
Networking	6
Privilege	26
Pro Bono & Poverty	17
Professional Development (as defined by researcher, rather than Board): Integrity, Leadership, Time Management, Project Management, Stress Management	13
Professional Negligence (Legal Malpractice)	22
Race	2
Social Media	34
Speaking & Persuading	6
Supervision (under PR Rules)	5
Technology	44
Trial (Appeals, Litigation, Motions, Appeals, Witness, Jury)	132
Trust Account	3
Unauthorized Practice of Law (UPL)	6
Writing	2

Table 2 Ethics Courses Offered within Seminars for Particular Practice Areas

Subject	Number of Events
Administrative Law	1
Advertising	5
Animal Law	2
Bankruptcy	41

Banking	9
Children	6
Commercial Law	18
Construction Law	12
Consumer Law	7
Criminal	91
Debtor/Creditor	7
Drafting Contracts	5
Education Law	15
Elder Law	15
Employment Law	79
Energy	22
Entertainment	15
Environmental	19
Estate/Probate/Trust	64
Family	41
FCC (Communications)	7
Food & Agriculture	8
Government (Attorneys, Contracts, Operations, Programs)	58
Health	31
Immigration	12
Indian	1
Insurance	36
International	17
Intellectual Property	105

Mergers & Acquisitions	8
Military	50
Non Profit	7
Personal Injury, Medical Malpractice & Worker's Comp.	58
Privacy & Security	11
Real Estate (including Foreclosure)	50
Religion	1
Securities	39
Taxation	51
Transportation	41

### C. ELIMINATION OF BIAS

There were 465 CLEs for which at least a portion of the credits were categorized as elimination of bias. Of those where the topic could be identified with a specific elimination of bias topic, type of practitioner, or type of client, they are broken down in Table 3. Where elimination of bias CLEs were associated with a specific practice area, they are charted in Table 4. It is noted that a number of CLEs (sixteen) were about attorneys facing mental health, chemical dependency, and gambling challenges. It seems from reviewing the definition for professional development credits that this category was intended to address those concerns, but providers were incented to categorize their offerings as Elimination of Bias in order to more easily attract participants as they are required to take Elimination of Bias credits. This is not to suggest they were improperly granted Elimination of Bias credit, but rather the unintended effect of requiring a category of credit.

Table 3 Elimination of Bias Courses

Subject	Number of Events Offered
Alternative Dispute Resolution	20
Age (there were 4 additional CLEs not under the bias category on the topic of age)	8
Business Organizations (Corp Counsel)	2
Career	1
Child	3
Culture	20
Disability (physical, mental, addiction)	44
Gender	18
GLBT	16
Indian	4
Judicial	6
Military	8
Pro Bono	16
Professional Development (Stress & Leadership)	11
Race	22
Religion	27
Trial (Litigation)	7

Table 4 Elimination of Bias Courses Offered within Seminars for Particular Practice Areas

Subject	Number of Events Offered
Communication	1
Criminal	24
Education	2
Elder	1
Employment	7
Environmental	1
Estate	1
Family	3
Immigration	4
International	2
Personal Injury, Workers Comp	2
Taxation	2

#### D. SKILLS

There were 659 CLEs which addressed skills oriented topics. Trial, including any litigation skills, was the most popular topic other than legal research which was discussed earlier in the report. ADR, negotiation, drafting, skills for military lawyers, writing, judicial skills, and public speaking were other popular categories. Further detail may be found in Table 5.

There has been much discussion of the need for lawyers to have practical skills. A challenging aspect of skills training within CLE is the cost of implementation and the willingness



of lawyers to pay the premium necessary to provide quality skills training. The MacCrate Report noted that cost was a barrier to providing skills training in “bridge the gap” style programs for new attorneys.<sup>31</sup> Lecture format CLEs presented by volunteers is a more common approach.

Due to the challenges of time and cost, it is recommended that stakeholders consider cooperative methods to provide more skills training while spreading the cost, effort, and risk. Further, the MacCrate report posited the need for practical skills training courses to be taught by “instructors trained in teaching skills and values.”<sup>32</sup> One commentator argues “[l]aw schools and professors would be best positioned to increase the rigor and standards of CLE courses.”<sup>33</sup> Certain skills can be more effectively and efficiently taught electronically such as drafting and writing. Tips on drafting and writing can be very helpful, but are not nearly as effective as actually practicing the skill. An electronic practice session may involve a timed exercise and a model answer. Ideally, it would also involve feedback. The CLE rules should be modified to allow such creative methods. To Minnesota’s credit, its CLE Board has often updated the rules to improve the effectiveness of CLEs. Most recently, the rules were changed to allow for fifteen hours of on-demand CLE credit per three year period starting July 1, 2014.<sup>34</sup> The focus of CLE regulation should be the results of the CLE, not the method used.

---

<sup>31</sup> Task Force on Law Schools and the Profession, American Bar Association, Legal Education and Professional Development--An Educational Continuum (July 1992) more commonly referred to as the MacCrate Report after the chair of the task force.

<sup>32</sup> Jared Lamb, *The Path of the Law School: Three Implementable Law School Reforms*, 3 *Faulkner L. Rev.* 343, 389 (2012)

<sup>33</sup> *Id.*

<sup>34</sup> 2013 MINNESOTA COURT ORDER 0017 (C.O. 0017)

Table 5 Skills Oriented CLEs

Skill	Number of Events
ADR	44
Banking (Document Review)	1
Career (Job Skills)	1
Client (Intake, Counseling & Interviewing)	2
Commercial (Letters of Credit & Credit Agreements)	2
Construction Counseling	1
Consumer (FDCPA Boot Camp)	1
Criminal	7
Drafting	26
e-Discovery	4
Employment (Drafting)	3
Estate (Drafting and Skills)	4
Family (Litigation & Drafting)	3
Insurance (Drafting, Litigation, Interpretation & Negotiation)	4
Intellectual Property (Drafting, Litigation & Searching)	5
Judicial (Trial, Settlement Conference)	23
Legal Research	245
M&A (Mock Negotiation)	1
Military	35
Negotiation	38
Privacy (Drafting)	1
Pro bono (Trial & Written Advocacy)	2

Project Management	5
Public Speaking (Oral Advocacy, Persuasion & Story Telling)	24
Technical Skills (Microsoft Word)	2
Transportation	2
Trial (Appeal, Motion, Witness, Jury)	147
Writing	26

#### E. CATEGORIES

Many of the CLEs were susceptible to the assignment of a broader category as described earlier in the report. This breakdown is available in Table 6. Some of the categories are well-represented. The 101 styles courses for either new lawyers or lawyers new to an area of law were offered 485 times. The opportunity to learn about other disciplines as they applied to law came up 177 times in what is described in this report as cross-professional training.

Areas where greater opportunities exist for CLEs are empirical and career. CLEs which either explicitly referred to or encouraged the use of empirical research numbered only eight. Because empirical research is generally not taught in law school and impacts on many areas of the law, it needs more attention to assist lawyers as effective advocates. The other area of concern is career-related CLEs which numbered six. With the downturn in traditional career opportunities for lawyers, both recent graduates and experienced lawyers will need assistance finding and keeping jobs.

One change to the naming conventions of CLEs would be a guidance for providers on the level of experience of the lawyer for which the CLE is intended. Many CLEs accomplish this through the title or description, but a uniform approach would assist both the attorneys selecting

the courses as well as to help the course designers focus on their intended audience. Florida has provided such guidance:

Levels of CLES: (b) Level of activity.

(1) Advanced. An advanced CLE course is designed for the attorney who practices primarily in the subject matter of the course.

(2) Intermediate. An intermediate CLE course is designed for the attorney experienced in the subject matter, but not necessarily at an advanced level. A survey course in which there have been recent, substantial changes will be deemed intermediate. In an intermediate course, some segment may be low intermediate or basic, and others high intermediate or advanced. In those instances, the course taken as a whole will be considered intermediate.

(3) Basic. A basic CLE course is designed for the attorney with no experience or limited experience in the area of law with which the course deals. A survey course will be considered basic unless there are recent, significant changes in the law.<sup>35</sup>

Table 6 Category Breakdown

Topic	Number of Events
101	485
Advanced	140
Career	6
Conference	244
Cross Professional Training	177
Empirical	8
Future of Law	101
Historical	66
Intermediate	12
Literature and the Law	26

<sup>35</sup> FL Standing Policies of the Board of Legal Specialization and Education Rule 5.01(c) available at <http://www.floridabar.org/tfb/TFBMember.nsf/ed6e4bcb92a8fe1b852567090069f3c2/637a14a2b3231a6885256b2f006c6d14?OpenDocument>

Skills	659
Update	529

#### F. CLEs BROKEN DOWN BY PRACTICE AREAS

Minnesota enjoys an excellent variety of CLEs on many topics. Some areas may be surprising until one considers that webinars and telephonic CLEs were already permitted at the time of this research. Thus, the topic second most often identified during this time period was intellectual property at 607 courses. While Minnesota has an active need for intellectual property lawyers, it is unlikely there are more intellectual property lawyers in the state than criminal defense and prosecution lawyers who had 465 seminars. Employment and labor CLEs were the most frequent topics with 645. It is recommended that CLE providers monitor topics to see what areas may be under-represented in part because they are unique to a state and thus not attractive to national providers operating via distance education technology.

Table 7 Breakdown of CLEs by Practice Area

Topic	Number of Events
Administrative Law (not reported under more specific area of practice)	5
Alternative Dispute Resolution (ADR)	187
Advertising Law	39
Age/Generational	14
Animal Law	10
Banking	124
Bankruptcy	168
Business Organizations	467

Children	98
Commercial	88
Compliance (not included elsewhere)	2
Construction	73
Consumer	60
Criminal	465
Debtor/Creditor	42
Disability	134
Drafting	55
e-Discovery	84
Education	69
Elder	52
Employment /Labor	645
Energy	135
Entertainment	80
Environment	91
Estate (Probate & Trust)	459
Family	274
FCC (Communications/Media)	18
Food/Agriculture	48
FTC (not covered elsewhere)	5
GLBT	42
Government (Contracting, programs)	377
Health (ACA, Fraud, Privacy)	432
Immigration	140

Indian (Native American)	38
Insurance	190
International	302
Intellectual Property	607
Judiciary	186
M&A	80
Manufacturing	15
Military (including Veterans)	106
Non Profits	49
Personal Injury (Prod Liab, Med Mal, Workers Comp)	263
Privacy	45
Professional Negligence	32
Real Property	353
Religion (overlaps with Elimination of Bias)	60
Securities	177
Security	47
Social Media	100
Taxation	244
Technology (some overlaps with LOM)	161
Transportation (Aviation, Railroad, Space, Trucking)	90

## VI. CONCLUSION

With over 10,000 approved programs for a state with only 23,774 active and resident lawyers as of 2012,<sup>36</sup> Minnesota attorneys do not lack for opportunities to fulfill their mandatory CLE requirements and there is a great diversity of practice areas represented and many ethics courses available.

However, there are certain areas of opportunity for improvement:

1. Given the serious need for practitioners to acquire and maintain law practice management skills in order to continually deliver high quality legal services in an economically viable manner must be addressed. One step in this process would be to eliminate restrictions on the law office management designation of CLEs in states which have such restrictions.
2. Over the past thirty years, practical skills have been identified as an area of concern for law school graduates. The CLE community can help close this gap by partnering with other stakeholders to spread the cost and risk of offering a greater quantity and quality of skills based CLEs. Legal research skills training is one area needing more attention as to substantive, rather than vendor focused training. Particularly, a focus on statutory and regulatory research is needed, as well as, evaluating search engines and sources, and practice area oriented research topics.
  1. More career-related CLEs are needed given the challenging and changing job market for attorneys. Further, the professional development category should be expanded to include key skills which are portable to other professions but have a profound impact on lawyer service to the public and lawyer's ability to meet the demands of a dynamic field such as: time management, public speaking, customer service, personal relations, emotional intelligence, mentoring, leadership, and project management.

---

<sup>36</sup> ABA, National Lawyer Population by State.  
[http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/2011\\_national\\_lawyer\\_by\\_state.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/2011_national_lawyer_by_state.authcheckdam.pdf) (Retrieved 1/28/2014).



3. More CLEs on empirical research or utilizing empirical research would enhance lawyers' effectiveness in both traditional and non-traditional lawyer roles.
4. A standardized approach to identifying the practitioner level (beginner, intermediate, advanced) a CLE is aimed for would help practitioners pick appropriate CLEs and would help CLE providers identify and program appropriately for their audience.
5. CLE regulation should be flexibly applied for the maximum learning opportunities for lawyers. For instance, writing skills could be more effectively taught using electronic means to practice skills and get feedback, but participants would likely only get credit for the lecture portion of the CLE.
6. Ethics training is very strong in Minnesota, but more attention needs to be paid to the practical skill of maintaining trust accounts.

It is hoped this report will add to the ongoing discussion of how best to support the continuing education of attorneys in order to best serve the public's legal needs. Many challenges lay ahead for lawyers and continuing legal education can play an important role in equipping lawyers to meet those challenges.