Chapter 5

Examining the Relationship Between Learning, Continuing Legal Education, and the Improvement of the Practice of the Law

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ABSTRACT

This is a case study about the Kansas Continuing Legal Education (CLE) Commission and its Education Initiative. As the regulator of CLE in the State of Kansas, the Commission ensures that quality course offerings are available for attorneys who are licensed within the state for use in meeting their annual mandatory continuing legal education (MCLE) requirements. The Commission’s Education Initiative was focused on discovering current best practices in program development, delivery, and evaluation with the goal of improving the MCLE experience for Kansas attorneys and thus improving the practice of law. Findings from this effort point to innovative efforts currently underway, or aspired to, by providers to evaluate how MCLE disseminates new legal knowledge, increases attorney-to-attorney connections, encourages ethical behavior, and, ultimately, improves the practice of law.

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Examining the Relationship Between Learning

INTRODUCTION AND ORGANIZATION BACKGROUND

This chapter presents a case study of the Education Initiative, a program initiated by the Kansas Continuing Legal Education (CLE) Commission to develop an understanding of the current best practices of mandatory CLE (MCLE) providers and to explore opportunities to improve these learning programs and their impact on the practice of the law within the state. Mandated, regulated requirements for minimum CLE hours to maintain a license to practice law have only been in existence in any state for the last forty years and in Kansas for the last thirty years. Before explaining the details of this case, a brief history of the evolution of mandatory continuing legal education in the United States is provided in this section. In addition, background on the role of the Kansas CLE Commission, other players in the MCLE space, and current MCLE practices within the state are described. These topics provide important context for understanding factors that influenced decisions in this case. Readers already familiar with this information may skip to the second section that details the case.

History of the Evolution to Mandatory Continuing Legal Education

Every day, individuals rely on the expertise of professionals to help them navigate complex problems in areas such as medicine, accounting, social work, teaching, and the law (Cervero, 1992; Houle, 1980; Schön, 1983; Van Loo & Rocco, 2006; Young, 1998). In fact, all professionals account for approximately 25% of the workforce (Cervero, 1988; United States Census Bureau, 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; Houle, 1980; Nowlen, 1988). Another unique quality of professionals is their preeminence over their client who does not have access to this same set of knowledge and experience, thus making the client 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 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 practices, information, tools, rules, or issues emerge (Houle, 1980; Isopahkala-Bouret, 2015; Pijanowski, 1998;
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