

ValpoScholar

Valparaiso University Law Review

Volume 40

Number 2 *Symposium: Celebrating Twenty Years of Continuing Legal Education: The Art and Science of Educating Attorneys*

pp.387-399

Symposium: Celebrating Twenty Years of Continuing Legal Education: The Art and Science of Educating Attorneys

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Dan Levering

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Recommended Citation

Dan Levering, *CLE in Pennsylvania: From Growing Pains to Growing Gains*, 40 Val. U. L. Rev. 387 (2006). Available at: <https://scholar.valpo.edu/vulr/vol40/iss2/5>

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CLE IN PENNSYLVANIA: FROM GROWING PAINS TO GROWING GAINS

Dan Levering*

In 1993, Pennsylvania became the twenty-seventh state to establish a formal continuing legal education (“CLE”) program for lawyers. Much has happened in the thirteen years since. From management philosophy to technology, the evolution of the CLE program in Pennsylvania is an interesting study in how a newly formed Supreme Court agency has grown from a fledgling administrative office to a reliable service provider and valuable resource for lawyers. As part of Indiana’s recognition of twenty years of mandatory CLE, I have been asked to share some reflections on the progression and lessons learned from our experience in Pennsylvania.

I. 1993: PUTTING THE “M” IN FRONT OF CLE

1993 was the first year that lawyers in Pennsylvania were *required* to continue their legal education in order to maintain an active license. Luckily, for many attorneys, mandatory CLE (“MCLE”) was a non-issue, as keeping up with changes in the law was second nature and continuing to refine sharp legal skills was an accepted part of the professional culture. For others, the mandated requirement simply meant that the standards to be a lawyer in Pennsylvania were changing and those who wanted to maintain active licenses would need to change with them. In order to develop the foundations for a successful program, other MCLE states became the focus of much research. Homework included a review of many factors:

- What is an appropriate number of credits to constitute compliance with CLE?
- How should those credits be calculated?
- What are the best ways to track lawyer compliance with the requirement?
- What are accreditation methodologies for courses and course providers?
- How should the regulatory agent be formed?
- What about Funding? Staff? Technology?

* Mr. Levering is the Executive Director for the Pennsylvania CLE Board.

While examining and evaluating different options, the Pennsylvania Supreme Court and its first CLE Board of Directors remained mindful that any deployment strategy should emphasize service while simultaneously acknowledging the high volume of lawyers and providers that would require that service. The rules and regulations for CLE in Pennsylvania were drafted by extracting what were determined to be the best strategies implemented by other MCLE jurisdictions. The court determined that the regulatory agent should be a self-funded, independent operation. Concurrently, an operations staff was assembled to administer the rules, regulations, and policies of the new requirement.

Thus, thirteen years ago lawyers began taking courses to earn credits to become compliant with the new CLE rules. Applications for course approval began to roll in, as did attendance certificates, roster reports, and a multitude of related correspondence and questions expected to come with the phasing in of the new CLE rule.

From the onset, a staff of approximately twenty employees, along with an accompaniment of up to fifteen temporary workers, had its hands full, literally and figuratively. Lawyers wanted to discuss their CLE records and know whether credits were posted to their transcripts. Providers had questions regarding how to file their courses and how to report credits. Lawyers needed to know where courses were held and how they could continue to find out about upcoming courses. Given that this was just slightly before email made its indelible stamp on the world, this added up to a lot of paper and even more phone calls. Pennsylvania's CLE staff worked through a considerable amount of paperwork and processed the array of correspondence as best as could be expected. Unfortunately, Pennsylvania's quick implementation of continuing legal education began to bear the brunt of much criticism. This was partially due to interpretation of some of the rules and partially due to the perception of a "police-like" mentality of the management and staff of the Board. The friction primarily stemmed from beliefs that Pennsylvania lawyers needed to sign out of a class to go to the bathroom and would not receive CLE credit for the missing time and unacceptable delays in response to correspondence. As these issues began to surface, the CLE Board began to re-examine the procedural methods in use and the thought process pertaining to the granting of credit. There was also scrutiny of inadequate service levels offered to the lawyer who faithfully attempted to meet CLE deadlines and achieved compliance. This examination led to a re-vamping of management, policies, and an extra step—as an ongoing reminder of the direction of the organization and its

future objectives, the Board created and documented goals and objectives for Pennsylvania CLE:

- Be lawyer-friendly
- Make it uncomplicated for lawyers to meet the requirement
- Minimize paperwork
- Use the most modern and efficient methods of communication and technology
- Automate as much as possible
- Have a credible and respected CLE program in Pennsylvania

While the early days of CLE in Pennsylvania provided many challenges, the goals established by the Board began to serve their purpose as guiding principles. As with any business, success would become a matter of assembling the right combination of technology, personnel, leadership, and ideas. A little luck never hurt either.

II. CHARTING AN APPROACH TO SERVICE

“Be Lawyer Friendly.” “Make it uncomplicated for lawyers to meet the requirement.” These objectives had to become more than just a courteous and helpful voice on the phone. The element of service had to be infused with the rules and procedures themselves. Developing an operation designed to reduce administrative burden on lawyers and help individuals achieve compliance was crucial. While these goals are broad in scope, it is within the Pennsylvania CLE Rules and Regulations where one can see how the philosophies of the Board emerged in the way Pennsylvania CLE operates and functions. The system of regulation was built around the ideology that the regulator would assume the responsibilities of keeping and tracking lawyer compliance with CLE. In other words, if attorneys attended the courses, the regulatory agency would carry out everything else possible to handle the administrative details of reporting attendance and tracking credits.

Additional support mechanisms were woven into the fabric of the rules in an effort to keep the bookkeeping burdens for lawyers as hands-off as possible. To help assure compliance, each lawyer was sent a Preliminary Compliance Report approximately forty-five days prior to his CLE deadline. The transcript indicated any deficiencies in the

current year and provided details for all courses and credits taken. Similar transcripts were sent as a Final Report after a deadline for CLE compliance notification.

The success of this transcript method was directly proportionate to the capability of maintaining prompt and accurate records. This goal was then contingent on developing and upholding reliable and uncomplicated reporting processes with CLE providers. Every CLE state that depends upon providers to meet certain procedural or reporting requirements completely appreciates the value of consistent and correct filing practices. Conversely and unfortunately, the consequences of receiving inaccurate or incomplete reports are also well known in that problems are quickly compounded, staff time is improperly monopolized, and productivity is constrained. Because of the importance of these dynamics, Pennsylvania CLE took measures to expand the umbrella of service and turned renewed attention to course providers. The more clearly expectations and requirements could be communicated, the better off all parties in the CLE equation could be. Resources were allocated for an initiative to meet this need, and provider orientation sessions were produced. CLE staff members engaged in educational workshops and professional “train the trainer” sessions to map out an open approach for meeting with and advising providers about the CLE program in Pennsylvania. No longer would an application for accredited provider status be responded to with only a form letter and a copy of the rules.

The training sessions, conducted by staff in a friendly and professional face-to-face environment, followed an agenda designed to explain more than *what* the obligations of Pennsylvania CLE providers are and *how* to meet them. They were also designed to deconstruct the regulations so that provider representatives understood *why* certain reporting requirements are in place. The proactive strategy of regulatory staff meeting with provider staff resulted in more than ever could have been expected. Benefits included the following:

- Course planners, CLE coordinators, registrars, and other CLE provider representatives received proper introduction, explanation, and rationalization of the process.
- Opportunities arose for both organizations to engage in a dialog about operations with a chance to ask, and answer, questions in a real time setting before any learning by trial and error had to happen.

- By “teaching” Pennsylvania CLE to others, the Board’s administrative staff became acutely conscious of the organizational methodologies. The value of motivated personnel who understand *and buy into* what the organization is doing cannot be overstated.
- Discussing the approaches of how different organizations educate and regulate legal professionals proved to be a constructive way to begin to work with one another. It also became deeply satisfying to have conversations arrive at a common and equally sought after principle: service to the attorney.

While the provider orientation programs and their content have changed over the years, the spirit of the sessions remains true and dependable.

As provider orientations entered the scene, other service efforts and communication devices were being added to the changing CLE landscape. Pennsylvania’s CLENews made its debut as a recurring newsletter that included articles and reports by both board members and staff. As a bulletin board of announcements and reminders, editions of the CLENews continue to be published and made available to both lawyers and providers.

Quality Assurance Policies were adopted into day-to-day operations. Notable additions included the “Two Week Rule” in which all correspondence to the organization received a response within ten working days of receipt. Automatic call forwarding and time limits were enacted to ensure no caller waited on hold for more than thirty seconds.

Law Firm Services were launched. This option allowed law firms to receive a detailed report of its lawyers with a complete listing of their CLE status. Generated at the same time as Preliminary and Final Compliance Reports, these reports have become a valuable tool for CLE coordinators and law firms seeking an itemized summary for tracking their members.

Provider Conferences were established as annual events that could easily command an entire page of this Article to fully convey their value and significance. Produced and conducted by CLE staff, these meetings provided a constructive forum for regulator and provider to discuss the direction of CLE in Pennsylvania and exchange ideas. The sessions included guest speakers, roundtable and panel discussions, quality

assurance workshops, technology demonstrations, and a tremendous opportunity to assemble with other CLE professionals who share a common goal to provide quality continuing legal education. With each step, project, policy, and plan, the identity of the organization became more defined. Yet it is interesting to note that as job duties were expanding, more projects required management, and new lawyers and new providers were regularly added to the mix, the staff size at Pennsylvania CLE staff was decreasing.

III. THE TECHNOLOGY FACTOR

Anyone in business in the 1990s operated during a technical eruption unlike anything that had taken place before. The sudden increase in computerization options and ability to track and transfer information offered astonishing possibilities. Along with the mind-blowing selection of technical solutions came the need to choose from them wisely. The decisions made by Pennsylvania CLE have always been based on a desire to accomplish goals rather than “technology for technology’s sake.” While the operations of the Board endured in the years after the CLE requirement became mandatory, there were still customer service goals and quality assurance initiatives that needed to become a reality. Without question, the use of technology would play an essential role. If Pennsylvania’s desire to become a true service-oriented regulator was a mountain, then computer programs, automated systems, and online resources were the harnesses, ropes, and riggings needed to climb it.

Through the collected efforts of a dedicated staff, talented programmers, and a supportive board and court, plans were made to develop highly capable computer programs and automation systems in a dependable and adaptable network setting. The mission was to produce solutions that would firmly enforce the rules for CLE while remaining flexible and accommodating for future changes and expansion. The events that followed were neither easy nor cheap. There was a great amount of programming, code writing, testing, and more testing. After considerable programming and testing, it can be said that the technology boom of the 1990s and Pennsylvania CLE’s service renaissance overlapped with splendid results.

A significant decision was made in 1995 that would have considerable impact on the organization’s future. A company called Informix, which was later acquired by IBM, owned the database and related software in use at the time. Pennsylvania CLE decided to purchase the rights to the programs and assume full ownership along

with complete direction over all future research and development. The program ultimately became known as the Continuing Legal Education Compliance Tracking System (“CLECTS,” pronounced “selects”).

This shift in approach to technical development eventually led to the creation of in-house positions for the purposes of maintenance and custom development of programs. Having “hands on” technical staff with an understanding of day-to-day operations proved more beneficial than the use of consultants, who could not draw from the same pool of knowledge. The results were a financial and developmental success. The software programs, created for the unique and custom purpose to administer the rules for CLE, were unlike anything that the Board and court could have hoped to find on the open market.

These technical decisions had a positive effect on future growth and flexibility. In regards to benchmarks in shaping the organization’s destiny, the choices made relative to technology rank among the most important. As service through technology began to develop, Pennsylvania CLE needed a solution to handle what was considered an uncomfortable flow of incoming phone calls. Early on, it took four to five full time staff members to handle telephones. The top two questions fielded by customer service staff were: “How many credits do I currently have?” and “Where can I find CLE programs to take?” Because the Internet was still on deck taking its practice swings, one early initiative was the use of a telephone conversant system. By dialing a toll-free number, attorneys could use their touch-tone phones to retrieve CLE status and listings of upcoming courses. It was possible to fax the information to an office on demand or repeat the information over the phone using a text-to-voice system. This was one of the first steps taken in the larger direction of automation. Perhaps a little old-fashioned by today’s standards, the conversant system is still in use, but more importantly, it set the tone for future initiatives.

Keeping with the baseball analogy, if the conversant system was a single lined solidly to center, the Internet was a grand slam that cleared the stadium. Development of a searchable course database and a website where lawyers could check their CLE status were the cornerstones of Pennsylvania CLE’s first website, www.pacle.org. The capacity to manage and answer incoming phone calls was an accomplishment, but the ability to eliminate the need for questions to even be asked was a much greater ambition. Many of the early questions from lawyers focused on the accuracy and timeliness of credits recorded on their transcripts. At the time, credits were posted to lawyer records

only after a provider notified Pennsylvania CLE of the activity via course application and filed a subsequent attendance report to Pennsylvania CLE. This roster information was then added into the CLETS system by data entry staff and temporary personnel. The reality of the process included keying errors, missed lawyer ID numbers, and unavoidable human error mix-ups. Correcting these errors became obvious sources of uneasy telephone calls and research. In a situation where missteps can have an adverse effect on a license to practice law, error prevention is serious business. The entire procedure became targeted for enhancement with a systems initiative to overhaul the way in which information was transferred from providers to regulator.

Through the combined efforts of Pennsylvania CLE and CLE providers, the issues involved in the filing of CLE reports were studied and addressed. The aim to automate as much as possible led to the coordinated development of a web-based paperless reporting software program: the Automated System for Accredited Providers, also referred to as the Automated System for Accrediting Programs ("ASAP"). The ASAP website allowed for the electronic reporting of CLE courses, course attendance, and course evaluation data. Although the core functionality of ASAP was to move information from point A to point B, additional features were built in at the request of providers to assist in the management and administration of courses. Attendee registration programs and capabilities to generate forms and reports are a few examples of the additional modules that helped make ASAP an expanded tool for CLE providers.

IV. TECHNOLOGY EFFECT

Pennsylvania CLE's investment in technology lessened dependence on the need for human resources and altered its workforce in different ways. One of the returns on this investment has been the ability to move forward in times of attrition without a need to refill the positions of exiting staff. However, while automation remains a focus, it does not mean that robots are replacing employees.

Job descriptions have changed with the times at Pennsylvania CLE. A classic example of this progress can be illustrated by taking a closer look at a file management position. Ten years ago, the amount of paper needed to process CLE tracking required extensive attention to the proper filing and organization of correspondence. Additionally, the processing and data entry methods used at the time created a continuous need to research filed information to confirm the accuracy of records and

proper allocation of CLE credits. This full-time position was subject to backlog due to the accumulation of paper and a constant need to review it. The job often required assistance from other staff and/or temporary workers. The personnel involved in maintaining the organization of files carried out the equivalent of treading water. More importantly, Pennsylvania CLE was missing an opportunity to benefit from the valuable communication skills and analytical proficiency of an employee. Today the same individual holds a position with Pennsylvania CLE but with a much different job description. Paper files have been replaced with databases and electronic records. With the management of records becoming less dependent on manual labor, the employee is able to fill the remaining hours of the work day with productive activities, such as beta testing website services, providing technical support, training providers, and communicating changes and updates to the appropriate people. While this example is specific, everyone within the organization has shared a comparable experience.

The increased efficiency alleviates the staff from labor intensive tasks and opens doors for broader and more challenging CLE responsibilities, including lawyer services, provider relations, technical support, and more. Because of the ability to keep non-issues from intensifying into issues on the operational level, the advantages become evident at the directors' level. While an occasional accreditation or compliance problem will crop up that commands attention, the Board, for the most part, is afforded the opportunity to concentrate on quality initiatives, provider collaboration, educational delivery options, policy, and other endeavors.

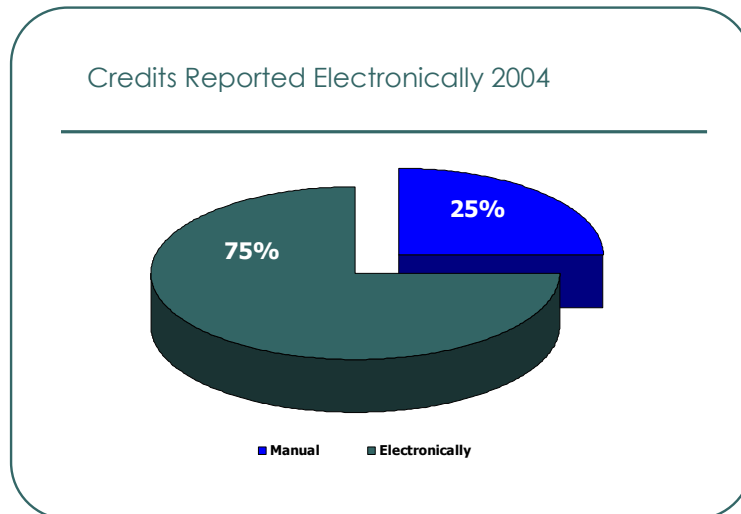
V. RESULTS OF A RENEWED APPROACH

The Supreme Court of Pennsylvania's Continuing Legal Education Board is an organization that began with goals and rules designed to provide sound regulation and administration of CLE requirements while simultaneously offering high levels of service. Although some results have required time to take root and grow to fruition, none would have been achievable without three key elements. First, the initial CLE Directors were a crucial factor, especially due to their foresight in firmly establishing the direction of the Pennsylvania CLE and leaving a well-defined imprint for future boards to follow. Another important factor in the initial organization was the decision to require self-funding. This has allowed the Board to charge fees necessary to fund the technology that has proved to be a keystone for the services provided to lawyers. A second factor for success was the subsequent boards and organizational

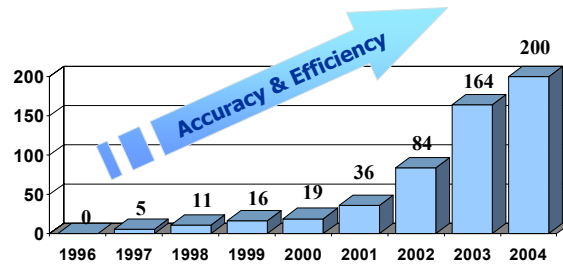
leaders. Without their commitment to follow the charted course, adapt when necessary, and respect the significance of service, a credible and respected regulatory agency would only have been partially realized. Unsurprisingly, the final ingredient was the administrative staff. By accepting the responsibilities and meeting the challenges to cultivate a service-oriented environment, the employees of the Board were truly the momentum for progress.

The first thirteen years of CLE in Pennsylvania have truly been a remarkable experience. This experience could only be topped by what the next thirteen years bring.

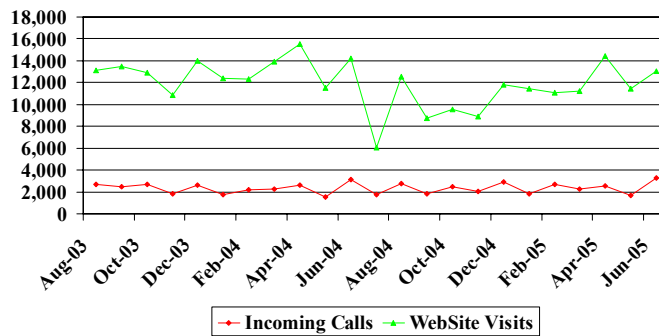
Pennsylvania CLE strives to be a leader in continuing legal education and to foster relationships with lawyers through continued service and quality education that meets their needs. The charts and graphs that follow are an indication of the overall volume, activities, and achievements of Pennsylvania CLE.



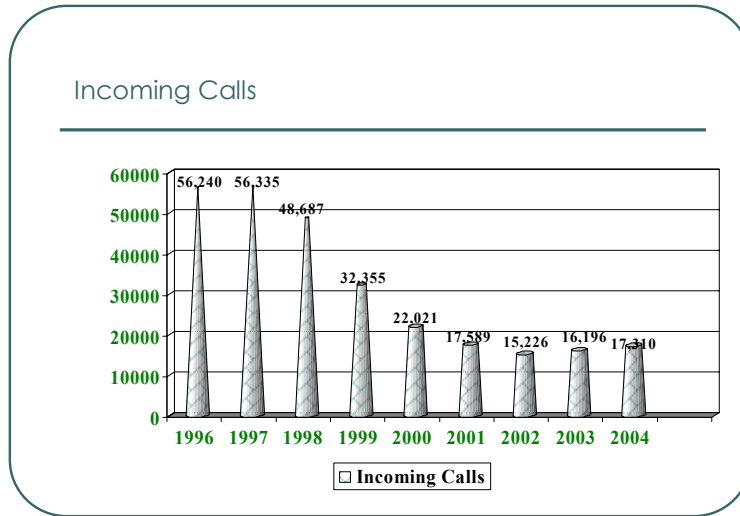
Providers Reporting Electronically



Where lawyers go for information
Incoming Calls* vs. Internet Visits

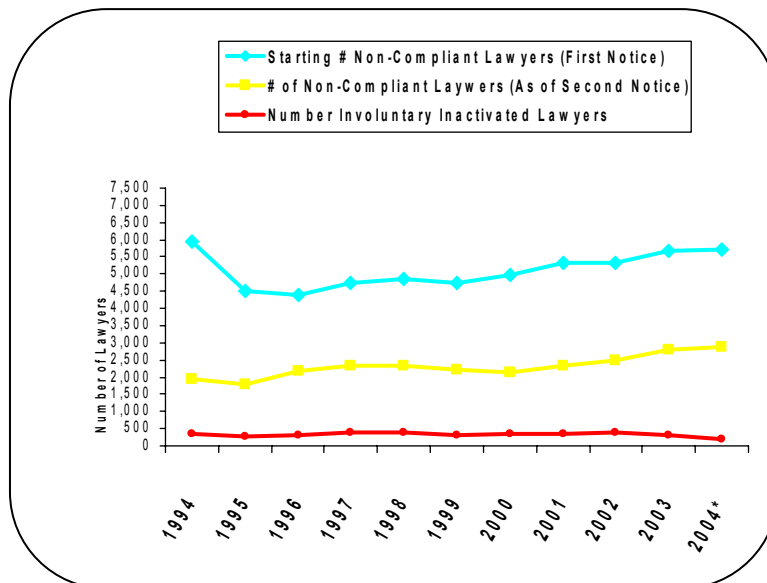


* Conversant + Customer Group



PA CLE Compliance Rates

The ultimate goal is to complete a compliance cycle in which zero lawyers are placed on involuntary inactive status for failure to comply with CLE. While this has not yet been achieved, it is noted that on average 99.5% of Pennsylvania’s lawyer population meet the requirements of the rules.



PA CLE Staff

1994

22 Operations Staff
15 Temps
3 Technical Consultants

2004

9 Operations Staff (1 part time)
4 Technical staff
1 Technical consultant