

IS MCLE A GOOD THING? AN INQUIRY INTO MCLE AND ATTORNEY DISCIPLINE

by

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Continuing legal education (CLE) began with the goal of improving attorney performance.¹ Mandatory continuing legal education (MCLE) took CLE a step further towards this goal by removing the decision of the timing and quantity of education from the attorney.² However, the mandating of education generates criticism from attorneys.³ The criticism centers on a debate that boils down to each state asking what is the perceived value of MCLE, and if the perceived value of the mandated education is worth the costs imposed both on an attorney and on the state.⁴ The debate so far has been argument driven with a lack of statistical support to the arguments.⁵ This inquiry looks into the attorney discipline system of states recently implementing MCLE requirements to see how MCLE implementation may affect attorney discipline.

This inquiry uses a quantitative approach to determining if MCLE relates to attorney behavior within a particular state's attorney disciplinary system. The inquiry does this by analyzing five states that adopted MCLE between 2000 and 2010. The findings are that after MCLE programs were adopted there was a decline in the averages of docketed cases and attorney sanctions. The reduction of docketed cases is found to be significant, which indicates that MCLE is a good thing.

¹ See Victor J. Rubino, *CLE and MCLE: Their History and Their Effect on Senior Lawyers*, 7 EXPERIENCE 15, 15 (1996) (describing the start of CLE as coming from two sources: the Practising Law Institute, which focused on "young lawyers entering the profession," and a coalition of the American Law Institute and the American Bar Association, which focused on "highly specialized fields.").

² "[T]he usual time requirement seems to be in the range of 12 to 15 hours per year . . ." *Id.*

³ See Rocio T. Aliaga, *Framing the Debate on Mandatory Continuing Legal Education (MCLE): The District of Columbia Bar's Consideration of MCLE*, 8 GEO. J. LEGAL ETHICS 1145, 1159 (1995); Lisa A. Grigg, Note, *The Mandatory Continuing Legal Education (MCLE) Debate: Is It Improving Lawyer Competence or Just Busy Work?*, 12 BYU. J. PUB. L. 417, 427 (1998); Cheri A. Harris, *MCLE: The Perils, Pitfalls, and Promise of Regulation*, 40 VAL. U. L. REV. 359, 369 (2006).

⁴ *Id.*

⁵ See Tom Gantert, *Should Michigan Mandate Continuing Legal Education?*, *Washtenaw County Legal News* (July 16, 2012), <http://www.legalnews.com/washtenaw/1364695>. Also, the authors were unable to find any statistical support for arguments for or against MCLE in articles, reports, or news articles.

This inquiry begins with a brief summary of the history and debate surrounding MCLE. Then it proceeds to discuss the issue that is looked into. Then the method of data gathering is discussed. The findings of the data gathering are presented. Finally, the conclusions that are reached from the findings are discussed.

I. THE HISTORY AND DEBATE SURROUNDING MCLE

Much has been written about whether attorney CLE should be mandatory. Whether criticizing or praising, the methodology of these critiques has been the same: qualitative (as opposed to quantitative) with both sides presenting theories of the effects of MCLE.⁶

A. History

CLE began as a voluntary scheme to assist attorneys returning from World War II in resuming practice after a lengthy military absence.⁷ In 1947, widespread acceptance of CLE began when the American Bar Association (ABA) entered into an agreement with the American Law Institute (ALI) in an effort to create a nationwide program comprised of correspondence courses and designed to encourage state and local bar associations to promote CLE.⁸ This joint cooperative, renamed the ALI-ABA Joint Committee on Continuing Education in 1958, worked with schools and state bar associations around the country and to create “a foundation upon which programs of [CLE] could be established in individual states.”⁹

However, CLE was a voluntary institution until decades later. It was in the mid-70s that states began making CLE mandatory.¹⁰ This decision to mandate CLE was in large part due to growing public distrust of the legal profession attributed to increasing perception of incompetency and corruption in the profession.¹¹ In a 1973 speech by Chief Justice Warren Burger, he referred to the deteriorating quality of

⁶ Qualitative arguments are those that describe ideas that are not, or cannot be, supported by numbers. Quantitative arguments are those that describe ideas supported with numbers.

⁷ Aliaga, *supra* note 3, at 1148.

⁸ *Id.* at 1148-49.

⁹ *Id.* at 1149.

¹⁰ *Id.* at 1150-51.

¹¹ John S. Roth, Note, *Is Mandatory Continuing Legal Education Valid Under the United States Constitution?: Verner Vision and the Rationally related Competence Connection – A Fortiori or a lot of Alliteration?*, 11 WHITTIER L. REV. 639, 641 (1989) (noting that public image of the attorneys was sullied following the Watergate scandal).

legal representation in our country as a “problem of large scope and profound importance”¹² Chief Justice Burger stated that a large portion of an attorney’s training happens after law school and suggested a system of education in which attorneys could receive post-graduation education by experts who were knowledgeable on recent developments of the law.¹³

In 1975, just two years after Burger’s speech, Iowa and Minnesota became the first two states to require mandatory continuing legal education.¹⁴ “By 1986, half of the states in the Union had adopted MCLE requirements.”¹⁵ Due to the increasing popularity, MCLE regulators began meeting around this time to share information and discuss best practices for administering MCLE.¹⁶ The legal education movement continued its rapid expansion into the 1990s and received a significant boost in support following the 1992 MacCrate Report.¹⁷ This report, issued by an ABA task force, identified several fundamental values every attorney should have and stressed the importance of accountability and standards for legal education both during and after law school in order to achieve these values.¹⁸ The report mentions two such essential values that require continuing education: the value of competent representation and the value of professional self-development.¹⁹ “Both [values] ‘call for a commitment to continuing study, although the former section conceives of such study as a means of maintaining competence while the latter treats it as a means of attaining excellence.’”²⁰ As of the second quarter of 2013, there were forty-five states with MCLE requirements.²¹

¹² Warren E. Burger, *The Special Skills of Advocacy: Are Specialized Training and Certification of Advocates Essential to Our System of Justice?*, 42 FORDHAM L. REV. 227, 227 (1973).

¹³ *Id.* at 232.

¹⁴ Grigg, *supra* note 3, at 418.

¹⁵ Harris, *supra* note 3, at 362.

¹⁶ *Id.*

¹⁷ *Id.* at 362-63.

¹⁸ A.B.A., SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE LEGAL PROFESSION: NARROWING THE GAP (1992) [hereinafter *The MacCrate Report*].

¹⁹ *Id.*; Aliaga, *supra* note 3.

²⁰ Harris, *supra* note 3, at 368 (quoting *The MacCrate Report*, *supra* note 18, at 136-37).

²¹ In addition to the states requiring MCLE there are jurisdictions not in the US that require MCLE: most of Canada, including Ontario and Québec, and Puerto Rico. States not having MCLE requirements are: Connecticut, Maryland, Massachusetts, Michigan, and South Dakota. *Continuing Legal Regulators Association*, CLEREG.ORG, www.clerereg.org (last visited Jun. 3, 2013) (listing the states in a dropdown box on the website’s homepage).

While the number of states requiring MCLE is growing there are still a few states that choose not to adopt. An illustrative example of why not to adopt is provided by Michigan, which used an MCLE system for seven years before choosing to rescind the MCLE rule in 1994.²² Michigan is the only jurisdiction known to the authors that has rescinded MCLE after having had a MCLE requirement.²³ In making its determination to rescind, the Michigan Bar conducted a small empirical study to determine the effectiveness of MCLE on enhancing the knowledge of substantive law.²⁴ The study, conducted in 1989-90, “used an experimental and control group solely composed of new bar admittees, confirmed that there existed a long and short-term gain in knowledge” from participating in the MCLEs.²⁵ Still, the task force chose “not to rely on the results of the study due to several flaws in the methodology.”²⁶

B. The Debate

A 2011 Michigan “state bar member survey found that Michigan lawyers participate in and highly value continuing legal education but are divided on the issue of whether it should be mandatory.”²⁷ The debate has not evolved much over the years and was put well by Julie Fershtman, president of the State Bar of Michigan, in her response to a question about the Michigan survey:

A majority favors the status quo. I should also note that despite the consensus that good lawyering requires regular updating of knowledge, no evidence exists that setting up a mandatory system of continuing legal education improves the overall quality of lawyering in a state. Notably, no state requires that lawyers receive a passing score on a test to satisfy their CLE requirements; attendance alone is what is measured. Given the cost of setting up and administering a mandatory CLE system, the State Bar's thinking to date is that we need more evidence of the pay-off of a mandatory requirement than we've seen thus far.²⁸

Fershtman’s comments highlight the main argument of those opposed to MCLE: lack of empirical evidence showing benefits of a mandatory CLE system to help determine if the cost is justified.

1. Effect on Attorney Competence: Substantive Knowledge and Professional Conduct

²² Aliaga, *supra* note 3, at 1145 n.1.

²³ Harris, *supra* note 3, at 372.

²⁴ Aliaga, *supra* note 3, at 1156 n.83.

²⁵ *Id.* (discussing an unnamed study commissioned by the Michigan Bar Standing Committee on Continuing Legal Education).

²⁶ *Id.* The flaws in the methodology are not provided or explained.

²⁷ Gantert, *supra* note 5.

²⁸ *Id.*

To argue that MCLE improves attorney competence is a broad proposition because of the lack of consensus on what “competence” actually means.²⁹ Definitions include substantive legal knowledge, practical efficiency, or ability to identify issues outside of the attorney’s competency.³⁰ However competence is defined, there are some CLE courses which are aimed at providing appealing ways to gain credit but provide questionable benefit in terms of knowledge.³¹ Many attorneys cite poor quality CLE’s as a factor against MCLE regulations.³² CLE regulators have limited resources to attend and monitor every course for quality and must make a decision upon the information submitted by a CLE provider.³³ Also, those that oppose MCLE point out that despite nearly three decades of MCLE in most states that, public perception of attorneys is still very poor.³⁴

Supporters of MCLE contend that mandatory requirements encourage an “educational habit” among attorneys and that the requirements simply make mandatory something which every attorney should be doing anyway.³⁵ Additionally, MCLE has increased the market for CLE courses substantially, creating an educational environment that is widely accessible. There are considerably more course options available to because of MCLE, which allows attorneys to get exposure to the education they choose.³⁶

2. Is MCLE any more Effective than Voluntary CLE to Justify Costs?

²⁹ Barry R. Vickrey, *Professionalism and Competence: Some Issues and Possible Solutions*, 36 CLE J. & REG., 14, 14-15 (1990) (describing three acceptable definitions of competence).

³⁰ *Id.* at 15 (citing ALI-ABA Committee on Continuing Professional Education, A Model Peer Review System 11 (Discussion Draft 1980))

³¹ Anna Persky, *Clapping for Credit: State CLE Courses Use Unusual Pairings to Stimulate Interest*, ABA J. (June 1, 2012, 3:50 AM),

http://www.abajournal.com/magazine/article/clapping_for_credit_state_cle_courses_use_unusual_pairings/ (discussing recent trend of non-traditional CLE courses such as a spin class where attorneys hear litigation strategies while cycling, mediation lessons while doing yoga, and other combinations of legal education with alternative activities, including golf, skiing, and skeet shooting).

³² Matthew Hickey, *How to Find Good Continuing Legal Education Courses*, ROCKETLAWYER BLOG (Aug. 27, 2012), <http://blog.rocketlawyer.com/how-to-find-good-continuing-legal-education-courses-98777> (reporting attending CLE courses that encourage poor professional behavior and had “extremely questionable” education benefits).

³³ *See, e.g.*, Ill. Sup. Ct. R 795(a), (c) (2012) (indicating that a course provider submit required materials and wait to hear if the course is approved).

³⁴ Stuart M. Israel, *On Mandatory CLE: Tongue Piercing and Other Related Subjects*, LAB. & EMP. LAWNOTES, Spring 1999, at 2, available at <http://www.academyanalyticarts.org/israel.htm> (indicating that the public does not follow lawyer CLE activities, the public “is appalled by” high profile case lawyers, there is still a large amount of lawyer jokes, and the public “love[s] to hate all lawyers except their own.”).

³⁵ Harris, *supra* note 3, at 367 (citing Alan W. Ogden, *Mandatory Continuing Legal Education: A Study of Its Effects*, COLO. LAW., Oct. 1984, at 1789).

³⁶ *Id.* at 369.

Is education only as effective as the willingness of individuals to learn? Because MCLE hours are determined only by attendance, there is no guarantee that those who attend courses are also learning.³⁷ A common criticism is that MCLE is unnecessary because a successful attorney must, as a necessary cost of doing business, continually educate him or herself in order to maintain up to date knowledge of changes in the law.³⁸ Making such education mandatory only increases the cost to attorneys who would otherwise obtain the necessary knowledge through research or other independent means as required to competently represent clients.

Proponents respond that MCLE is necessary not for the model attorney who follows legal news daily, but for the attorney who fails to adequately educate himself on current legal issues.³⁹ As one MCLE supporter states, “[t]hose that argue against MCLE sometimes quote the old saying ‘You can lead a horse to water, but you can’t make it drink.’ Maybe not, but if you take the whole herd, most of them are going to have a drink.”⁴⁰ Surveys in Ohio and Colorado found “less than half of the attorneys in those states were attending CLE regularly before MCLE was implemented” and, in Colorado, after CLE was mandated “attorneys who would not attend courses absent a CLE requirement have found the programs to be beneficial.”⁴¹ Part of mandatory education’s effectiveness is that it reaches those who would not take courses unless required.

Additionally, MCLE can provide an early sign of more serious problems with an attorney and as a result MCLE has been referred to as the canary in the coalmine.⁴² In some cases, an attorney failing to meet their MCLE requirements may indicate an underlying issue, such as a substance abuse problem, a workload that is too large, or a mental illness, such as depression or Alzheimer’s. Putting an attorney on

³⁷ See, e.g., Ill. Sup. Ct. R 795(a)(8) (2012).

³⁸ See Harris, *supra* note 3, at 367.

³⁹ Gantert, *supra* note 5 (quoting Karen Valvo, former chair of attorney discipline board in Michigan, who said “most Michigan attorneys are conscientiousness about staying up to date with the changes in the law. But . . . her experiences [with attorney discipline] led her to think a mandate would help those attorneys ‘who really need to stay attuned and are required to do so in order to keep their licenses.’”).

⁴⁰ Charlotte Morrison Greer, *MCLE Serves Not Only the Profession, But the Public*, 30 ARK. LAW. 8, 8 (1996)

⁴¹ Harris, *supra* note 3, at 370.

⁴² McGeorge Law Review Symposium Examines Future of Legal Education, McGeorge School of Law (Apr. 11, 2013), http://www.mcgeorge.edu/News/McGeorge_Law_Review_Symposium_Examines_Future_of_Legal_Education.htm (presenting Richard Matasar’s panel referring a “canary in a coal mine”).

inactive status for failure to meet MCLE requirements may prevent legal malpractice in such cases, which illustrates an example of how MCLE can provide the profession with some level of accountability.

C. Evidence of Benefit of MCLE

MCLE has received consistent support from the ABA but many attorneys remain unconvinced of the supposed benefits and complain that MCLEs are merely expensive busy work.⁴³ In California's discussion of enacting MCLE, the California state legislature acknowledged a lack of statistical evidence between attorney competence and MCLE.⁴⁴ In D.C.'s discussion of enacting MCLE, "[a] District of Columbia task force spent two years examining MCLE issues and published a nearly 200-page report that concluded there is no empirical data to demonstrate that MCLE courses improve competence."⁴⁵ Although the D.C. task force and the California legislature lacked empirical evidence, both ultimately supported adopting an MCLE program.⁴⁶ Opponents of MCLE in Florida "argued that there was no evidence that mandatory CLE had accomplished its purposes where adopted, or that it would accomplish its stated purposes in Florida."⁴⁷ This lack of empirical evidence does not bother many MCLE proponents, with some commentators arguing that favorable malpractice rates applied to attorneys in MCLE states indicate that insurance companies agree with this presumption.⁴⁸

II. The Issue Explored: Competence

This inquiry explores the issue of evidence that MCLE improves the competence of attorneys. The question of the "relationship between [MCLE] and the quality of legal service" is a reoccurring question in the MCLE debate.⁴⁹ To describe the minimum quality of legal service that a lawyer needs to provide

⁴³ See, e.g., Victor J. Rubino, *MCLE: The Downside*, 38 CLE J. & REG. 14 (1992) (theorizing about the possible expense of attorney time spent on CLE courses and generally discussing a lack of evidence that CLE is effective at educating all attorneys).

⁴⁴ See Grigg, *supra* note 3, at 425.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Florida Bar Department of Public Information, Division of Programs, *Board Issue Paper – Continuing Legal Education Requirement*, FLORIDA BAR (May 26, 2005), <http://www.floridabar.org/DIVCOM/PI/BIPS2001.nsf/1119bd38ae090a748525676f0053b606/8182932fc055e6f78525669e004f74f2!OpenDocument>.

⁴⁸ "There is also a benefit in that some malpractice insurance companies offer reduced rates for attorneys in MCLE states." Harris, *supra* note 3, at 367.

⁴⁹ *National Conference on Continuing Legal Education Issues Final Statement with Recommendations*, 62 A.B.A.J.

the American Bar Association has chosen the word “competent” in the Model Rules of Professional Conduct.⁵⁰

Though the word “competent” is chosen to describe a level of quality, there are multiple interpretations of what it can mean to be competent. Instead of defining competence, this inquiry studies when attorneys fail to act competently. Three different standards of competence are available, though more could be proposed, and each different standard is measured differently.⁵¹ These standards relate to malpractice, breach of fiduciary duty, and attorney discipline.⁵² A failure of competence in malpractice is “a cause of action for simple negligence.”⁵³ A breach of fiduciary duty is when “the goal is to provide a remedy to those who are injured by acts or omissions that go beyond simple negligence,” such as with a “violation of the duty of undivided loyalty to the client.”⁵⁴ The standard of competence for attorney discipline is fit to practice.⁵⁵

Inquiring into the measures of competence related to malpractice and to fiduciary duty is not easily done. Malpractice information is not commonly available and can be kept confidential because of arbitration clauses included in client engagement letters.⁵⁶ For the same reason, fiduciary duty violations can be difficult to find, which is in part because of difficulty in distinguishing between a malpractice claim and a fiduciary claim.⁵⁷ A source of insight into malpractice is the American Bar Association’s

210 (1976); Florida Bar Department of Public Information, Division of Programs, *supra* note 47.

⁵⁰ “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” American Bar Association Center for Professional Responsibility, *Rule 1.1: Competence*, American Bar Association, http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence.html (last visited Sept. 9, 2013).

⁵¹ See generally Robert Kehr, *Lawyer Error: Malpractice, Fiduciary Breach, or Disciplinable Offense*, 29 Wash. St. U. L. Rev. 235 (2002).

⁵² *Id.*

⁵³ *Id.* at 253.

⁵⁴ *Id.* at 253, 263.

⁵⁵ *Id.* at 264.

⁵⁶ Louis A. Russo, Note, *The Consequences of Arbitrating A Legal Malpractice Claim: Rebuilding Faith in the Legal Profession*, 35 Hofstra L. Rev. 327, 336 n. 47 (citing Paul E. Kovacs & Craig G. Moore, *Legal Malpractice Claims Avoidance and Defense: If an Attorney Who Represents Himself Has a Fool for a Client, Who Are You Representing?*, 61 J. Mo. B. 142, 149 (2005)).

⁵⁷ Kehr, *supra* note 51, at 253 (“Although there is a common feature between a claim for breach of the standard of care and a claim for breach of fiduciary duty in that they are both civil actions intended to provide a remedy . . . , confusion on the distinction between the two still exists. And the confusion is exacerbated by academic uncertainty about the origins of fiduciary duties and whether they best are analyzed as contractual in nature or as imposed by

survey of multiple malpractice insurance carriers that aggregates survey responses to find trends in malpractice that the profession is facing.⁵⁸ The most recent version of this study lists that 45.07% of malpractice claim alleged an error related to “substantive errors,” which include allegations such as failure to know the law, planning error, inadequate discovery, and failure to know a deadline.⁵⁹

The third standard of competence relating to attorney discipline has a greater degree of transparency. Attorney discipline is handled by each state through an entity generally referred to in this inquiry as a disciplinary commission.⁶⁰ The increased transparency is because many of the disciplinary commissions publish reports and because public disciplinary cases are available through court reporters or websites of disciplinary commissions.⁶¹ Due to this transparency, this inquiry looks at this third standard of attorney competence to find a “relationship between [MCLE] and the quality of legal service” being offered by attorneys.⁶²

III. The Method of Inquiry

States were chosen that had implemented MCLE programs between the years of 2000 and 2010. The reports correspond to the three years before and after implementation of MCLE. Specific milestones from the attorney disciplinary process were recorded. Then the disciplinary milestones are compared to determine if a relationship exists between MCLE and attorney discipline.

A. States Reviewed

To determine if MCLE implementation affects attorney discipline the states that had recently implemented MCLE requirements between the years 2000 and 2010 were investigated. The recent implementation allows for availability of information, with states implementing before 2000 not having public information readily available for the years surrounding implementation. In these years six states

law for moral or social purposes.”)

⁵⁸ *E.g.*, A.B.A. STANDING COMMITTEE ON LAWYER’S PROFESSIONAL LIABILITY, PROFILE OF LEGAL MALPRACTICE CLAIMS: 2008-2011 (2012).

⁵⁹ Todd C. Scott, *Recent ABA Study Suggests Emerging New Trends in Legal Malpractice*, 28 *The View* 2 (2012) (interpreting the A.B.A. STANDING COMMITTEE ON LAWYER’S PROFESSIONAL LIABILITY, *supra* note 55).

⁶⁰ *E.g.*, Indiana Judicial Branch Disciplinary Commission, *About the Commission*, JUDICIAL BRANCH OF INDIANA, <http://www.in.gov/judiciary/discipline/2336.htm> (last visited Sept. 15, 2013).

⁶¹ *Id.*

⁶² *National Conference on Continuing Legal Education Issues Final Statement with Recommendations*, *supra* note 49.

implemented MCLE: Maine (2001), Illinois (2006), Alaska (2008), Hawaii (2010), Nebraska (2010), and New Jersey (2010).⁶³ Of these states only Nebraska does not, to the best of the authors' knowledge, publicly publish attorney discipline statistics and was therefore not investigated.

B. Disciplinary Milestones

This inquiry looks at three milestones in the disciplinary process: complaints, docketed cases, and sanctions. The terminology each state uses to describe the steps in the disciplinary process differs. The following definitions are created for use in this inquiry. The complaint is defined as the initial grievance intake or filing alleging misconduct, and at this time no investigation has been performed. A docketed case is defined as when a disciplinary commission investigator cannot summarily dismiss the complaint and begins a full investigation. A sanction is defined as when an authority holding that a violation of the rules of professional conduct has occurred and issues a penalty.

The types of sanctions issued are divided into two categories: private and public.⁶⁴ Private sanctions are issued for lesser offenses or as a settlement of the allegation and do not include the name of the attorney, which makes tracking private discipline difficult.⁶⁵ Public sanctions provide the name of the attorney along with the reasons for discipline and consist of one of the following types of sanction: disbarment, resignation in lieu of disbarment, suspension, probation, censure, public reprimand, private reprimand, admonition, and dismissal of complaint with a warning or caution.⁶⁶

⁶³ Me. Bar R. 12(a)(2012); *When was the MCLE Program Effective?*, MINIMUM CONTINUING LEGAL EDUC. BD. OF THE SUPREME CT. OF ILL., https://mcle.custhelp.com/app/answers/detail/a_id/390/kw/2005/related/1 (last visited Sept. 15, 2013); Alaska Bar R. 65(i)(1) (2012); HRSC 22(l) (2012); Neb. Ct. Rule §§ 3-401.2(A) (2012); *Supreme Court of New Jersey Board on Continuing Legal Education*, NEW JERSEY COURTS, <http://www.judiciary.state.nj.us/cle/> (last visited Sept. 15, 2013).

⁶⁴ STANDARDS FOR IMPOSING LAWYER SANCTIONS, AMERICAN BAR ASS'N § III(A)(1.2) (1992), *available at* http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/corrected_standards_sanctions_may2012_wfootnotes.authcheckdam.pdf (differentiating between public and private discipline based upon level of misconduct).

⁶⁵ *Id.*

⁶⁶ *See* ME. BD. OF OVERSEERS OF THE BAR, 2005 ANNUAL REPORT at 2 (n.d.), *available at* http://www.mebaroverseers.org/board/annual_reports/pdf/2005%20Annual%20Report.pdf; *Office of Attorney Ethics Releases 2010 Annual Report*, NEW JERSEY COURTS (July 21, 2011), <http://www.judiciary.state.nj.us/pressrel/pr110721a.htm>.

The annual disciplinary reports of the states of Alaska, Hawaii, Illinois, Maine, and New Jersey are reviewed to investigate the milestones of complaints, docketed cases, and sanctions.⁶⁷ These reports are prepared by the respective disciplinary commissions and contain varying levels of disclosure about the disciplinary process and statistics for a state in a given year.⁶⁸ Some states have large disciplinary commissions specific reports that provide a significant level of detail about the disciplinary process⁶⁹ and other states provide less detail by including the disciplinary commission's yearly activities as part of a larger report covering multiple agencies.⁷⁰

C. Comparing Findings

The disciplinary process milestone statistics are used to create an average of amount of complaints, docketed cases, and sanctions per attorney. First the number of recorded complaints, docketed cases, or sanctions is divided by the number of attorneys reported as practicing in a jurisdiction. By dividing by attorneys there is a control to compare values from year to year. Then the arithmetic average for a period of three years before and a period of three years after MCLE implementation is determined.

A three year period for an average is used because of two aspects of MCLE and attorney discipline. The first aspect is that the longest time frame given for completing necessary MCLE courses is three years.⁷¹ Second, while the majority of complaints, docketed cases, and sanctions can be resolved in one year there are a minority that take multiple years to resolve.⁷² From aspects one and two there is an

⁶⁷ See the appendix for citation to individual reports.

⁶⁸ See, e.g., OFFICE OF ATTORNEY ETHICS, 2011 STATE OF THE ATTORNEY DISCIPLINARY SYSTEM 11 (2012) (providing the number of docketed cases, referred to in New Jersey as docketed grievances, and sanctions but not the number of new grievances filed with the commission but not docketed for investigation).

⁶⁹ E.g., ATTORNEY REGISTRATION & DISCIPLINARY COMM'N OF THE SUP. CT. ILL., ANNUAL REPORT FOR 2010 (2011), available at <http://www.iardc.org/annualreport2010.pdf>.

⁷⁰ For example, Alaska includes publicly available disciplinary statistics in the Alaska Bar Association Annual Report along with information on other bar activities such as bar examination, continuing legal education programs, pro bono services, and committee activities. ALASKA BAR ASS'N, ALASKA BAR ASSOCIATION 2010 ANNUAL REPORT (2011), available at <http://www.alaskabar.org/servlet/download?id=1255>. One reason for not publishing these reports may be that while a confidential report is available to the respective state Supreme Court, or other authority, there is not a public document providing equivalent information available because of cost and resources associated with publishing such a report while complying with applicable confidentiality requirements.

⁷¹ E.g., Ind. R. Admins. B. & Disc. Att'y Rule 29 Sr. 2(h) (2012).

⁷² See e.g., ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N., *supra* note 69, at 20.

implication that a person may not fully complete MCLE until year three and then a complaint may take a couple of years to move through the system.

The goal of the inquiry is to determine if there is a relationship between MCLE implementation and attorney discipline. This goal is accomplished by finding a consistent increase or a decrease in attorney discipline after MCLE implementation. Then a one-tailed, paired samples t-test is used to determine if the increase or decrease is significant.

To answer the title question of if MCLE is “good” it is necessary to define “good.” This inquiry uses the ordinary and plain meaning of the word. The Merriam-Webster dictionary lists a relevant definition for good being “of a favorable character or tendency.”⁷³ This definition is only partially helpful as it does not provide what MCLE might be favorable towards. To complete the definition of “good” as applied to the standard of competence relating to attorney discipline: MCLE will be “good” if it is of a favorable tendency to show increasing attorney competence as seen through a reduction in the disciplinary process. Also, this method of defining “good” falls in line with what Chief Justice Warren Burger’s 1973 speech described as a response to deteriorating quality of legal representation because a reduction in disciplinary complaints, docketed cases, and sanctions implies an improvement in the number of attorneys being fit for practice.⁷⁴

IV. Findings

For a details supporting the following findings for the averages, as well as citations, see the appendix.

A. Complaints per Active Attorney

The average percentage of complaints per active attorney from before implementation to after implementation decreased in three of four states.

Table 1: Average Complaints per Active Attorney Before and After MCLE

State	Average Before	Average After
Alaska	8.00%	8.75%

⁷³ *Good – Definition*, MERRIAM-WEBSTER.COM, <http://www.merriam-webster.com/dictionary/good> (last visited Sept. 15, 2013).

⁷⁴ *See generally* Burger, *supra* note 12.

Hawaii	10.04%	7.44% ⁷⁵
Illinois	8.76%	8.04%
Maine	7.40%	7.65%
New Jersey ⁷⁶	N/A	N/A

B. Docketed Cases per Active Attorney

The average percentage of docketed cases per active attorney from before implementation to after implementation decreased in five of five states.

Table 3: Average Docketed Cases per Active Attorney Before and After MCLE

State	Average Before	Average After
Alaska	1.60%	1.51%
Hawaii	2.65%	1.68%
Illinois	6.79%	6.10%
Maine	4.39%	4.30%
New Jersey	2.21%	1.97%

C. Public Disciplinary Sanctions to Active Attorney

The average percentage of public disciplinary sanctions per active attorney from before implementation to after implementation decreased in three of five states.

Table 5: Average Public Disciplinary Sanctions per Active Attorney Before and After MCLE

State	Average Before	Average After
Alaska	0.34%	0.80%
Hawaii	0.18%	0.27%
Illinois	0.22%	0.19%
Maine	0.33%	0.29%
New Jersey	0.22%	0.19%

D. Indication of a Relationship

The findings indicate a relationship between implementing MCLE and reducing disciplinary matters. Two of four states experienced a reduction in complaints, five of five states experienced a reduction in docketed cases, and three of five states experienced a reduction in public disciplinary sanctions. The reduction in the docketed cases is found statistically significant by applying a one-tailed, paired samples t-test.⁷⁷ The change in complaints and sanctions are not statistically significant. Applying

⁷⁵ Only one year of the three years period had information reported for Hawaii's complaints.

⁷⁶ New Jersey does not provide information about the number of grievances filed with the commission each year that do not become investigations.

⁷⁷ An alpha level, also called p value, of 0.05 is used for significance, which produces a t critical value of 2.35 and a t statistical of 2.45. See *Novo Nordisk A/S v. Caraco Pharmaceutical Laboratories, Ltd.*, 719 F.3d 1346, 1350 n. 3

the definition of “good” described in this inquiry, the significance regarding docketed cases indicates that MCLE implementation is good because of increasing attorney competence through a reduction of the docketed cases.⁷⁸

Conclusion

The inquiry indicates that MCLE is a good thing. “Good” meaning that MCLE implementation has a relationship to a reduction in disciplinary statistics. While using attorney discipline is one of the many ways to measure attorney competence, the reduction of docketed cases is indicative that the number of attorneys being found to need investigation into being fit to practice law decreased after MCLE implementation. No such indication can be established by this inquiry regarding complaints or sanctions. While a correlation can be established the information relating MCLE to attorney discipline is limited. The relationship between MCLE and attorney discipline suffers from a lack of publicly available information. This lack of details comes, in large part, from states preserving confidentiality surrounding the attorney disciplinary process, which varies by state. While there will always be room to argue that the cost of MCLE is not worth the benefit, this inquiry finds that the information that is available indicates that MCLE is helping to achieve CLE’s initial goal: to improve lawyer performance.

(Fed. Cir. 2013).

⁷⁸See *supra* text accompanying notes 73-74 .

Appendix

Table A1: Alaska (2008)

Year	2005	2006	2007	2008	2009	2010
Attorneys	2781 ⁷⁹	2879 ⁸⁰	2913 ⁸¹	2876 ⁸²	3015 ⁸³	2990 ⁸⁴
Complaints	232 ⁸⁵	190 ⁸⁶	264 ⁸⁷	253 ⁸⁸	266 ⁸⁹	258 ⁹⁰
Complaints (% Att)	8.34	6.60	9.06	8.80	8.82	8.63
Cases	36 ⁹¹	43 ⁹²	59 ⁹³	65 ⁹⁴	39 ⁹⁵	29 ⁹⁶
Cases (% Att.)	1.29	1.49	2.03	2.26	1.29	0.97
Sanctions	11 ⁹⁷	9 ⁹⁸	9 ⁹⁹	10 ¹⁰⁰	28 ¹⁰¹	34 ¹⁰²
Sanctions (% Att.)	0.40	0.31	0.31	0.35	0.93	1.14

	AK's Average Before MCLE ('05-'07)	AK's Average After MCLE ('08-'10)
Complaints (% Att.)	8.00	8.75
Cases (% Att.)	1.60	1.51
Sanctions (% Att.)	0.34	0.80

⁷⁹ Debra Moss Curtis, *Attorney Discipline Nationwide: A Comparative Analysis of Process and Statistics*, 35 J. LEGAL PROF. 209, 220 (2011).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² ALASKA BAR ASS'N., 2008 ANNUAL REPORT 1 (n.d.), available at <http://www.alaskabar.org/servlet/download?id=1585>.

⁸³ ALASKA BAR ASS'N., 2009 ANNUAL REPORT 1 (n.d.), available at <http://www.alaskabar.org/servlet/download?id=1584>.

⁸⁴ ALASKA BAR ASS'N., *supra* note 70.

⁸⁵ Curtis, *supra* note 79, at 220.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ ALASKA BAR ASS'N., 2008 ANNUAL REPORT, *supra* note 82, at 2.

⁸⁹ ALASKA BAR ASS'N., 2009 ANNUAL REPORT, *supra* note 83, at 2.

⁹⁰ ALASKA BAR ASS'N., 2010 ANNUAL REPORT, *supra* note 70, at 2.

⁹¹ ALASKA BAR ASS'N., 2008 ANNUAL REPORT, *supra* note 82, at 1.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ ALASKA BAR ASS'N., 2009 ANNUAL REPORT, *supra* note 83 at 2.

⁹⁶ ALASKA BAR ASS'N., 2010 ANNUAL REPORT, *supra* note 70, at 2.

⁹⁷ ALASKA BAR ASS'N., 2008 ANNUAL REPORT, *supra* note 82, at 2.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ ALASKA BAR ASS'N., 2009 ANNUAL REPORT, *supra* note 83, at 2.

¹⁰² ALASKA BAR ASS'N., 2010 ANNUAL REPORT, *supra* note 70, at 2.

Table A2: Hawaii (2010)

Year	2007	2008	2009	2010	2011	2012
Attorneys	4700 ¹⁰³	4726 ¹⁰⁴	4714 ¹⁰⁵	4667 ¹⁰⁶	4632 ¹⁰⁷	4670 ¹⁰⁸
Complaints	549 ¹⁰⁹	466 ¹¹⁰	405 ¹¹¹	347 ¹¹²	N/A	N/A
Complaints (% Att)	11.68	9.86	8.59	7.44	N/A	N/A
Cases	183 ¹¹³	80 ¹¹⁴	111 ¹¹⁵	89 ¹¹⁶	92 ¹¹⁷	54 ¹¹⁸
Cases (% Att.)	3.89	1.69	2.35	1.91	1.99	1.16
Sanctions	14 ¹¹⁹	9 ¹²⁰	3 ¹²¹	3 ¹²²	18 ¹²³	17 ¹²⁴
Sanctions (% Att.)	0.30	0.19	0.06	0.06	0.39	0.36

	HI's Average Before MCLE ('07-'09)	HI's Average After MCLE ('10-'12)
Complaints (% Att.)	10.04	7.44 ¹²⁵
Cases (% Att.)	2.65	1.68
Sanctions (% Att.)	0.18	0.27

¹⁰³ Curtis, *supra* note 79, at 239.

¹⁰⁴ *Id.*

¹⁰⁵ Evan R. Shirley, *Raising the Bar in Ethics: Are Hawaii Women Lawyers More Ethical*, 13 HAWAII B.J. 22 (2009).

¹⁰⁶ HAW. STATE BAR ASS'N, MEMBERSHIP CLASSIFICATION REPORT (2010), available at <http://www.hsba.org/resources/1/About%20HSBA/2010%20Statistics.pdf>.

¹⁰⁷ HAW. STATE BAR ASS'N, 2011 BAR STATISTICS & SUMMARIES 1 (n.d.), available at <http://www.hsba.org/resources/1/About%20HSBA/2011%20statistics.pdf>.

¹⁰⁸ HAW. STATE BAR ASS'N, 2012 BAR STATISTICS & SUMMARIES 1 (n.d.), available at <http://hsba.org/resources/1/About%20HSBA/2012%20statistics.pdf>.

¹⁰⁹ Charles H. Hite, *Ethics & Issues*, 12 HAWAII B.J. 26 (2008) (presenting Hawaii's Office of Disciplinary Counsel's Annual Statistical Summary for 2007).

¹¹⁰ Janet S. Hunt, *Raising the Bar in Ethics: Disciplinary Counsel's Report*, 13 HAWAII B.J. 22 (2009) (presenting Hawaii's Office of Disciplinary Counsel's Annual Statistical Summary for 2008).

¹¹¹ Janet S. Hunt, *Raising the Bar in Ethics*, 14 HAWAII B.J. 20 (2010) (presenting Hawaii's Office of Disciplinary Counsel's Annual Statistical Summary for 2009).

¹¹² Janet S. Hunt, *Raising the Bar in Ethics*, 15 HAWAII B.J. 18 (2011) (presenting Hawaii's Office of Disciplinary Counsel's Annual Statistical Summary for 2010).

¹¹³ Hite, *supra* note 109.

¹¹⁴ Hunt, *supra* note 110.

¹¹⁵ Hunt, *supra* note 111.

¹¹⁶ Hunt, *supra* note 112.

¹¹⁷ Janet S. Hunt, *Disciplinary Counsel's Report (2011 and 2012)*, 17 HAWAII B.J. 17 (2013) (presenting Hawaii's Office of Disciplinary Counsel's Annual Statistical Summary for 2011 and 2012).

¹¹⁸ *Id.*

¹¹⁹ Hite, *supra* note 109.

¹²⁰ Hunt, *supra* note 110.

¹²¹ Hunt, *supra* note 111.

¹²² Hunt, *supra* note 112.

¹²³ Hunt, *supra* note 117.

¹²⁴ *Id.*

¹²⁵ Complaints only available for the year of 2010 and not for 2011 or 2012.

Table A3: Illinois (2006)

Year	2003	2004	2005	2006	2007	2008
Attorneys	69136 ¹²⁶	70098 ¹²⁷	71677 ¹²⁸	72514 ¹²⁹	73361 ¹³⁰	74148 ¹³¹
Complaints	6325 ¹³²	6070 ¹³³	6082 ¹³⁴	5801 ¹³⁵	5988 ¹³⁶	5897 ¹³⁷
Complaints (% Att)	9.15	8.66	8.49	8.00	8.16	7.95
Cases	4929 ¹³⁸	4767 ¹³⁹	4622 ¹⁴⁰	4482 ¹⁴¹	4480 ¹⁴²	4456 ¹⁴³
Cases (% Att.)	7.13	6.80	6.45	6.18	6.11	6.01
Sanctions	141 ¹⁴⁴	156 ¹⁴⁵	168 ¹⁴⁶	150 ¹⁴⁷	125 ¹⁴⁸	141 ¹⁴⁹
Sanctions (% Att.)	0.20	0.22	0.23	0.21	0.17	0.19

¹²⁶ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, 2003 ANNUAL REPORT TO THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION (2004), *available at* http://www.iardc.org/AnnualReport03/2003annual_report.html (showing active attorneys in Chart B by subtracting inactive from total).

¹²⁷ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, 2004 ANNUAL REPORT TO THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION (2005), *available at* http://www.iardc.org/AnnualReport04/2004annual_report.html (showing active attorneys in Chart C by subtracting inactive from total).

¹²⁸ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, 2005 ANNUAL REPORT TO THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION (2006), *available at* <http://www.iardc.org/AnnualReport2005.pdf> (showing active attorneys in Chart B by subtracting inactive from total).

¹²⁹ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, 2006 ANNUAL REPORT TO THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION 3 (2007), *available at* <http://www.iardc.org/AnnualReport2006.pdf> (showing active attorneys in Chart C by subtracting inactive from total).

¹³⁰ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, 2007 ANNUAL REPORT TO THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION 6 (2008), *available at* <http://www.iardc.org/AnnualReport2007.pdf> (showing active attorneys in Chart 2 by subtractive inactive from total).

¹³¹ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, 2008 ANNUAL REPORT TO THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION 4 (2009), *available at* <http://www.iardc.org/AnnualReport2008.pdf> (showing active attorneys in Chart 2A by subtracting inactive from total).

¹³² ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 126, at § II(A).

¹³³ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 127, at § II(A).

¹³⁴ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 128, at 5.

¹³⁵ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 129, at 6.

¹³⁶ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 130, at 10.

¹³⁷ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 131, at 8.

¹³⁸ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 126, at Chart 5 (showing docketed cases by subtracting new investigations minus closed after initial review).

¹³⁹ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 127, at Chart 5 (showing docketed cases by subtracting new investigations minus closed after initial review).

¹⁴⁰ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 128, at 7 (showing docketed cases by subtracting new investigations minus closed after initial review).

¹⁴¹ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 129, at 8 (showing docketed cases by subtracting new investigations minus closed after initial review).

¹⁴² ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 130, at 12 (showing docketed cases by subtracting new investigations minus closed after initial review).

¹⁴³ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 131, at 10 (showing docketed cases by subtracting new investigations minus closed after initial review).

¹⁴⁴ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 126, at Chart 12.

¹⁴⁵ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 127, at Chart 12.

¹⁴⁶ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 128, at 11.

¹⁴⁷ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 129, at 12.

¹⁴⁸ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 130, at 18.

¹⁴⁹ ILL. ATT'Y REGISTRATION AND DISCIPLINARY COMM'N, *supra* note 131, at 16.

	IL's Average Before MCLE ('03-'05)	IL's Average After MCLE ('06-'08)
Complaints (% Att.)	8.76	8.04
Cases (% Att.)	6.79	6.10
Sanctions (% Att.)	0.22	0.19

Table A4: Maine (2001)

Year	1998	1999	2000	2001	2002	2003
Attorneys	3875 ¹⁵⁰	3875 ¹⁵¹	4868 ¹⁵²	4454 ¹⁵³	4352 ¹⁵⁴	4300 ¹⁵⁵
Complaints	336 ¹⁵⁶	286 ¹⁵⁷	299 ¹⁵⁸	319 ¹⁵⁹	368 ¹⁶⁰	315 ¹⁶¹
Complaints (% Att.)	8.67	7.38	6.14	7.16	8.46	7.33
Cases	194 ¹⁶²	164 ¹⁶³	191 ¹⁶⁴	183 ¹⁶⁵	235 ¹⁶⁶	146 ¹⁶⁷
Cases (% Att.)	5.01	4.23	3.92	4.11	5.40	3.40
Sanctions	16 ¹⁶⁸	14 ¹⁶⁹	11 ¹⁷⁰	8 ¹⁷¹	16 ¹⁷²	14 ¹⁷³
Sanctions (% Att.)	N/A	N/A	0.41	0.36	0.23	0.18

¹⁵⁰ Curtis, *supra* note 79, at 257.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ ME. BD. OF OVERSEERS OF THE BAR, BAR COUNSEL'S ANNUAL REPORT 1998 at 4, 9 (n.d.), available at http://www.mebaroverseers.org/board/annual_reports/pdf/1998%20Annual%20Report.pdf (adding together grievance complaints and bar counsel files).

¹⁵⁷ ME. BD. OF OVERSEERS OF THE BAR, BAR COUNSEL'S ANNUAL REPORT 1999 at 4, 8 (n.d.), available at http://www.mebaroverseers.org/board/annual_reports/pdf/1999%20%20Annual%20Report.pdf (adding together grievance complaints and bar counsel files).

¹⁵⁸ ME. BD. OF OVERSEERS OF THE BAR, BAR COUNSEL'S ANNUAL REPORT 2000 at 4, 8 (n.d.), available at http://www.mebaroverseers.org/board/annual_reports/pdf/2000%20ANNUAL%20REPORT.pdf (adding together grievance complaints and bar counsel files).

¹⁵⁹ ME. BD. OF OVERSEERS OF THE BAR, BAR COUNSEL'S ANNUAL REPORT 2001 at 4, 7 (n.d.), available at http://www.mebaroverseers.org/board/annual_reports/pdf/2001%20ANNUAL%20REPORT.pdf (adding together grievance complaints and bar counsel files).

¹⁶⁰ ME. BD. OF OVERSEERS OF THE BAR, BAR COUNSEL'S ANNUAL REPORT 2002 at 4, 7 (n.d.), available at http://www.mebaroverseers.org/board/annual_reports/pdf/2002%20ANNUAL%20REPORT.pdf (adding together grievance complaints and bar counsel files).

¹⁶¹ ME. BD. OF OVERSEERS OF THE BAR, BAR COUNSEL'S ANNUAL REPORT 2003 at 4, 8 (n.d.), available at http://www.mebaroverseers.org/board/annual_reports/pdf/2003%20Annual%20Report.pdf (adding together grievance complaints and bar counsel files).

¹⁶² ME. BD. OF OVERSEERS OF THE BAR, *supra* note 156, at 4.

¹⁶³ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 157, at 4.

¹⁶⁴ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 158, at 4.

¹⁶⁵ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 159, at 4.

¹⁶⁶ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 160, at 4.

¹⁶⁷ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 161, at 4.

¹⁶⁸ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 156, at 25-26.

¹⁶⁹ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 157, at 27-28.

¹⁷⁰ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 158, at 25-26.

¹⁷¹ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 159, at 27-28.

¹⁷² ME. BD. OF OVERSEERS OF THE BAR, *supra* note 160, at 26-27.

¹⁷³ ME. BD. OF OVERSEERS OF THE BAR, *supra* note 161, at 25-26.

	ME's Average Before MCLE ('98-'00)	ME's Average After MCLE ('01-'03)
Complaints (% Att.)	7.40	7.65
Cases (% Att.)	4.39	4.30
Sanctions (% Att.)	0.33	0.29

Table A5: New Jersey (2010)

Year	2007	2008	2009	2010	2011	2012
Attorneys	65134 ¹⁷⁴	67181 ¹⁷⁵	68431 ¹⁷⁶	69905 ¹⁷⁷	70804 ¹⁷⁸	71578 ¹⁷⁹
Complaints	N/A	N/A	N/A	N/A	N/A	N/A
Complaints (% Att.)	N/A	N/A	N/A	N/A	N/A	N/A
Cases	1553 ¹⁸⁰	1394 ¹⁸¹	1476 ¹⁸²	1431 ¹⁸³	1392 ¹⁸⁴	1349 ¹⁸⁵
Cases (% Att.)	2.38	2.07	2.16	2.05	1.97	1.88
Sanctions	121 ¹⁸⁶	167 ¹⁸⁷	148 ¹⁸⁸	136 ¹⁸⁹	136 ¹⁹⁰	139 ¹⁹¹
Sanctions (% Att.)	0.19	0.25	0.22	0.19	0.19	0.19

	NJ's Average Before MCLE ('07-'09)	NJ's Average After MCLE ('10-'12)
Complaints (% Att.)	N/A	N/A
Cases (% Att.)	2.21	1.97
Sanctions (% Att.)	0.22	0.19

¹⁷⁴ OFFICE OF ATTORNEY ETHICS, 2007 STATE OF THE ATTORNEY DISCIPLINARY SYSTEM 18 (2008).

¹⁷⁵ OFFICE OF ATTORNEY ETHICS, 2009 STATE OF THE ATTORNEY DISCIPLINARY SYSTEM 61 (2010) (providing that the attorneys in 2009 were an increase of 2.21% from 2008).

¹⁷⁶ *Id.*

¹⁷⁷ OFFICE OF ATTORNEY ETHICS, *supra* note 68, at 61 (providing that the attorneys in 2011 were an increase of 2.32% from 2010).

¹⁷⁸ *Id.*

¹⁷⁹ OFFICE OF ATTORNEY ETHICS, 2012 STATE OF THE ATTORNEY DISCIPLINARY SYSTEM 12 (2013).

¹⁸⁰ OFFICE OF ATTORNEY ETHICS, *supra* note 174, at 14.

¹⁸¹ *Office of Attorney Ethics Releases Annual Report*, NEW JERSEY COURTS (May 13, 2009), <http://www.judiciary.state.nj.us/pressrel/2009/pr090513.htm>.

¹⁸² OFFICE OF ATTORNEY ETHICS, *supra* note 175, at 10.

¹⁸³ *Office of Attorney Ethics Releases 2010 Annual Report*, *supra* note 66.

¹⁸⁴ OFFICE OF ATTORNEY ETHICS, *supra* note 177, at 11.

¹⁸⁵ OFFICE OF ATTORNEY ETHICS, *supra* note 179, at 11.

¹⁸⁶ OFFICE OF ATTORNEY ETHICS, *supra* note 174, at 55-57.

¹⁸⁷ *Office of Attorney Ethics Releases Annual Report*, *supra* note 181.

¹⁸⁸ OFFICE OF ATTORNEY ETHICS, *supra* note 175, at 18-20.

¹⁸⁹ *Office of Attorney Ethics Releases 2010 Annual Report*, *supra* note 66.

¹⁹⁰ OFFICE OF ATTORNEY ETHICS, *supra* note 177, at 18-20.

¹⁹¹ OFFICE OF ATTORNEY ETHICS, *supra* note 179, at 18-20.