

A Look Inside the Estate Planning Industry

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*Section 1 includes narrative
and commentary
on the major findings.*

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The 3rd Annual Industry Trends Survey

The Complete Findings from a
Nationwide Survey of Estate Planning Attorneys

Release Date: January 25, 2010

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Trusts & Estates

Survey Methodology: WealthCounsel and *Trusts & Estates* magazine conducted an online nationwide survey of estate planning attorneys beginning on 9/23/09 and ending on 11/02/09. The survey drew a total of 712 respondents. Participants included the following: 217 members of WealthCounsel; subscribers to *Trusts & Estates* magazine; and other estate planning attorneys from nearly all 50 states who were neither WealthCounsel members nor *Trusts & Estates* subscribers. (Note: Margin of error is +/- 3.7%)

The 2009 Industry Trends Survey provided unique insight into the challenges facing today's estate planning attorneys – including the impact of the recent economic downturn on their practices.

WealthCounsel initially launched the annual survey in 2007 to monitor the challenges facing practitioners and to maintain a pulse on the estate planning needs of consumers.

712 estate planning attorneys from nearly all 50 states participated in the 2009 survey. Profiles of the respondents indicate they have been practicing for an average of 20 years. 51% are engaged in general estate planning for families, while 34%

stated they have a more sophisticated practice requiring multiple planning strategies for higher net worth clients. 15% stated they are engaged in business entity planning involving, FLPs, LLCs, charitable planning, etc.

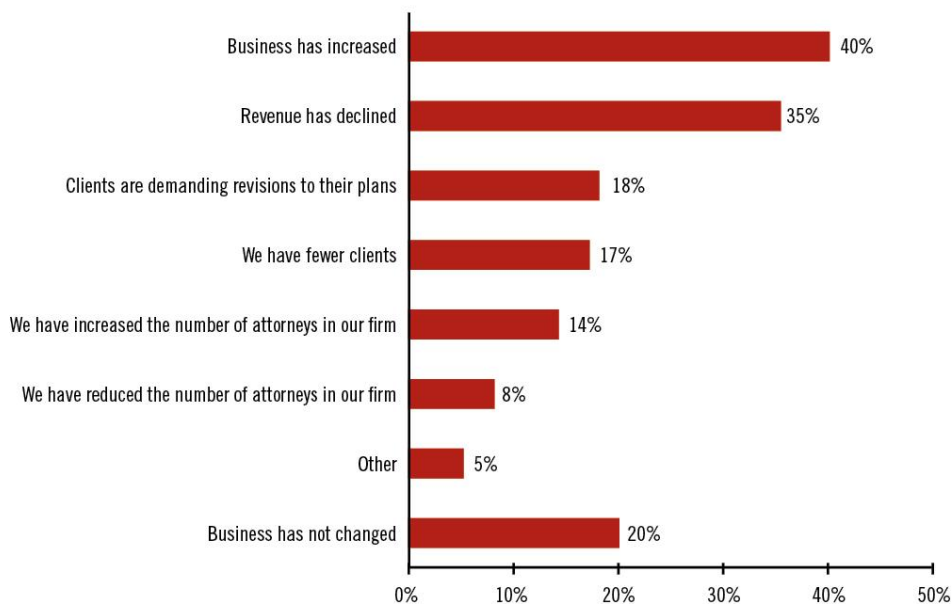
Despite the greatest slump in our nation's economy in more than 70 years, the turbulent economic landscape has led to mixed results for estate planning attorneys. Some have prospered while others have struggled.

While 40% of respondents on average indicate business has increased, 35% have seen a decline in revenue. (See Figure 1 below.)

In terms of those respondents who saw their business increase, a segmented analysis of six major regions of the country indicates that 48% of attorneys in the Northeast reported an increase in business. 42% of attorneys in the Southeast region reported an increase in their business, while 40% or less of attorneys from the Midwest, Southwest, Central and Western regions reported an increase in business. (See Figure 17, page 8.)

Figure 1

How has your firm expanded or contracted in the past 12 months?



Key Challenges Attorneys Are Facing

Overall, the survey findings indicate that most attorneys are challenged to get clients in the door. (See Figure 2.) To fully understand this key challenge, we must ask the question “How do attorneys typically find their clients?”

Respondents indicated that the top three sources for client business are referrals from existing clients (41%); referrals from financial professionals (33%); and referrals from other attorneys (11%). The remaining client generation strategies involved a mix of consumer seminars and a variety of marketing and advertising tactics.

A comparison of the findings dating back to WealthCounsel’s 2007 industry survey points to a gradual decline in the percentage of attorneys who indicate referrals from other professionals are their top source for new clients.

Considering the impact of the recent downturn where consumer confidence plummeted causing many financial professionals to lose clients, it may not be surprising to some that such a volatile landscape would impact the number of client referrals to attorneys. In a survey conducted in October 2009 by *InvestmentNews*, 92% of the financial professionals responding to the survey indicated that their firms lost between 0-25 clients this year versus last year.

A Silver Lining

“Given the fact that 40% of the respondents saw their business increase through the worst economy since the Great Depression, it is obvious that clients are *still* planning,” said Matthew T. McClintock, JD, CEO of WealthCounsel. “Clients who perceive the need for planning proceed anyway, and their motivation has surely been helped by the fact that interest rates have been in the basement for months and thus opening opportunities for advanced gifting and asset-shifting strategies.”



Professional Referrals Are Becoming Less Reliable as a Source for New Clients

Over the past three years, there has been a gradual decline in the number of attorneys who say their primary source for new clients is referrals from financial professionals or other attorneys.

SURVEY YEAR

2007	57%
2008	52%
2009	44%

“Well-trained attorneys can motivate clients to plan, regardless of how much competition there is for the client’s dollar,” McClintock said.

As *Figure 2* illustrates, attorneys who did struggle because of fewer clients experienced a domino effect on their firm. Aside from the “pocketbook issue” involving sufficient cash flow to sustain the business, some attorneys are challenged to manage daily operations and staffing issues.

Compared to the previous years’ surveys where managing daily operations (2008 survey) and staffing issues (2007 survey) were the *second* most pressing issues facing attorneys,

this year’s survey suggests a shift toward boosting their marketing efforts and building stronger referral networks.

When not drafting documents and spending time with clients, today’s estate planning attorneys are focused on client generation, seeking cost effective ways to operate their businesses, and carving out quality time for loved ones. When asked what was most important (essential) to sustaining their business, 46% indicated client referrals; 43% indicated the support of family and loved ones; and 40% indicated an efficient document drafting system.

How Do Attorneys Spend Their Time?

In comparing responses from the 217 WealthCounsel members with the other 495 respondents, we found a striking difference in the way attorneys are spending the majority of their time. (See Figure 3.)

When asked to indicate their first choice for the practice function that takes up the majority of their time, 44% of WealthCounsel attorneys stated they spend most of their time meeting with clients. By comparison, 35% of the attorneys who are not members of WealthCounsel indicate they spend the majority of their time drafting client documents.

Time is Money

Recognizing that the preparation and delivery of client documents are labor intensive but fundamental to accounts receivables, it is logical to examine the methods attorneys are using to draft their documents.

Figure 4 indicates that 89% of WealthCounsel attorneys use the WealthDocx™ automated document drafting system to create their legal documents, whereas 50% of the other 495 respondents draft documents using word processing systems. A conclusion might be drawn from Figures 3 and 4 that WealthCounsel members are able to spend more time with clients because they are using an automated drafting system to create their legal documents.

In today's legal practice, technology and the automation of labor intensive tasks are helping attorneys improve operational efficiencies that clearly have a positive impact on the bottom line. Automated drafting systems have proven effective in producing quality legal documents in a fraction of the time that it takes using the cut-and-paste methods.

Figure 3

Which of the following practice functions take up the majority of your time and resources?

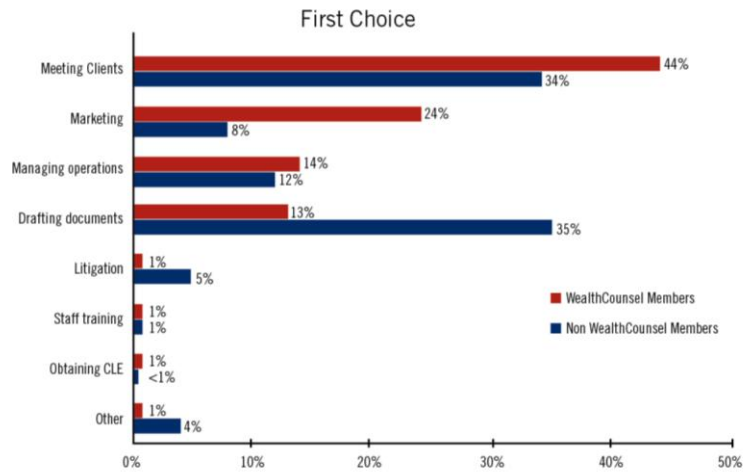
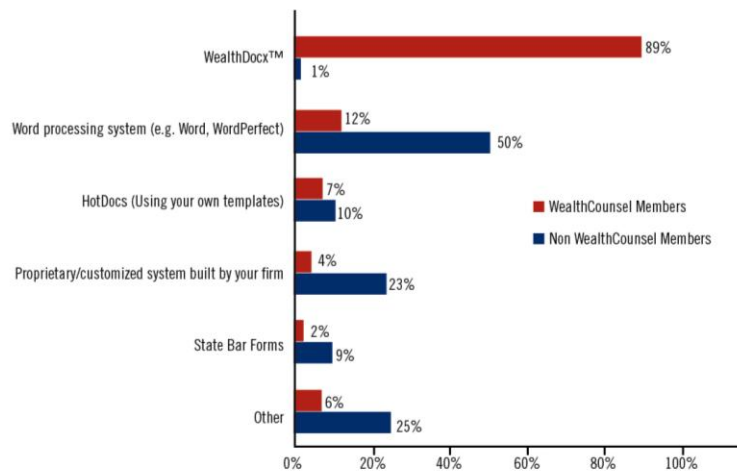


Figure 4

What do you primarily use to draft your estate planning documents?



In his book *The Electronic Practice*, author Don Kelley, an ACTEC Fellow, includes a chapter on automated drafting systems. Recognized as a leading authority on the application of technology in the law practice, Kelley indicates that an advantage of automated document systems is that the attorney has the benefit of someone else doing the preparation of the language and the continual research to keep the documents prepared in response to changing tax law and changing local probate and trust law.

Kelley concludes that, “the result flowing from the quality and accuracy of a competently prepared document assembly system is not only to give attorneys the benefit of someone else’s thinking on the document language, but to force the attorney through a checklist, or hierarchy, of the decisions that need to be addressed in the preparation of the document.” Some have suggested that the “checklist” function helps attorneys avoid malpractice.

Profiles of Clients

Respondents were asked what percentage of their clients fell into specific age categories. Figure 5 at right shows the majority of clients who engage in planning are in a marital relationship. 74% of clients are aged 50 or older. The findings indicate that adults of nearly all groups are engaging in estate planning, with 16% falling into the 40-49 age group.

67% predominantly have clients with a net worth under \$2 million. 33% predominantly have clients with a net worth of \$2 million plus. Among respondents whose expertise is general estate planning, 22% of their clients have a net worth of \$2 million or more. Among respondents whose expertise is business entity planning, an average 39% of clients have a net worth of \$2 million or more. Among respondents whose expertise is an integration of multiple planning techniques, an average 57% of clients have a net worth of \$2 million or more.

Why do Clients Plan?

For the third year in a row, most attorneys indicated that the top reasons clients plan are to avoid probate and to minimize estate taxes. (See Figure 7.) This year's survey found that minimization of estate taxes is more often sought by clients of respondents (76%) with a more sophisticated practice involving business entity planning or an integration of multiple planning techniques.

Another major factor that motivates clients to plan is their ability to project what would happen "if they don't plan."

As the population ages and savvy baby boomers become engaged in inter-generational planning for their own estates while also playing a key role in the management of inherited assets from their parents' estates, attorneys expect to

Figure 5

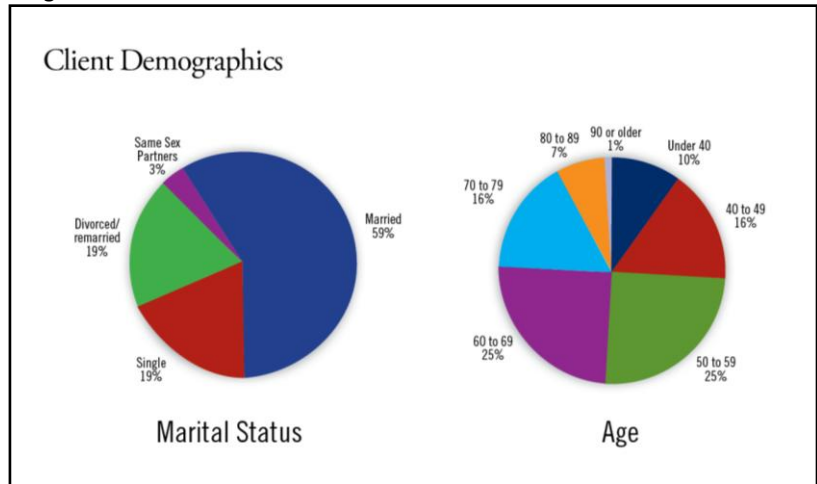


Figure 6

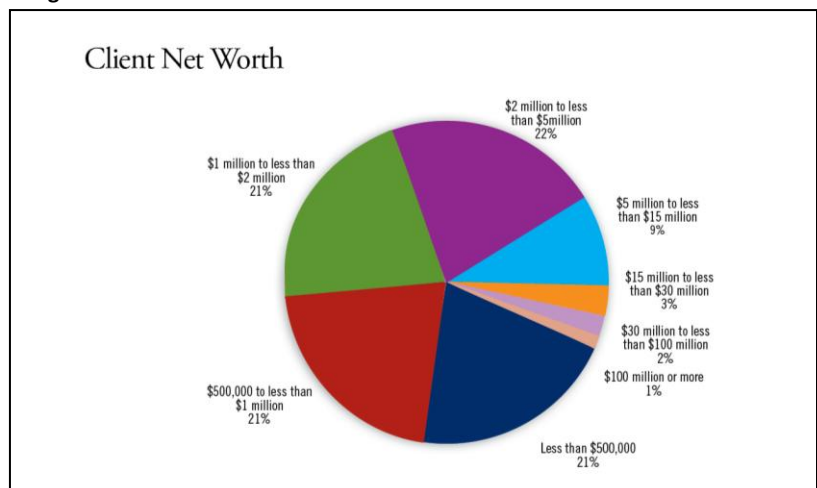
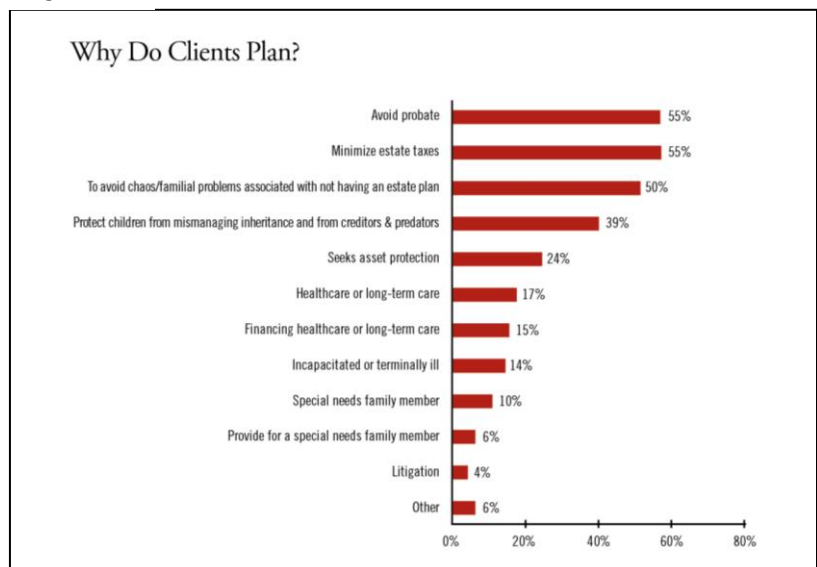


Figure 7



see an increase in the number of clients coming through the door. Along these lines, the 2009 survey tells us that respondents

expect their estate planning business to grow an average of 16% within five years as a result of the aging population.

Top Practice Areas as Revenue Generators

When comparing the results of the previous surveys, basic estate planning involving the preparation of wills and trusts remains the bread and butter of the majority of estate planning attorneys. (See Figure 8.)

Among respondents who are engaged in multiple techniques (those with higher net worth clients), the top revenue generating source is estate planning, followed by trust administration, followed by tax planning.

Practice Areas That Attorneys Want to Add to Their Businesses

Attorneys vary in the areas they want to add to their business model. (See Fig. 9).

The largest percentage (30%) wants to add planning for high-risk business clients (including asset protection for doctors, dentists, lawyers, CPAs, architects, engineers, etc.). This is especially true for WealthCounsel members (38%, compared to 27% for non-members). (See Fig. 10).

The large percentage of WealthCounsel members who are focused on this practice area is likely due to the expertise that some members have developed in this field. The expected growth in the health care industry coupled with an increase in lawsuits against these professionals points to a need for asset protection. Last year, WealthCounsel moved to tap and leverage the expertise of these member-attorneys to develop a “planning for physicians” module inside the Domestic Asset Protection Trust assembly now available with WealthDocx 7.

In an October 2009 live webcast produced by WealthCounsel and accessed by nearly 500 attorneys nationwide (not members of WealthCounsel), WealthCounsel member and panelist Mark Monasky, MD, JD, FACS (a neurosurgeon and estate planning attorney) stated that one-third of emergency room physicians and one-half of all neurosurgeons are sued each year. “The need for physicians to protect their assets is obvious,” Monasky said.

NOTE:
An archived version of the webcast entitled “Practical Asset Protection Strategies for Business Owners and Professionals” is available without charge at www.wealthcounsel.com.

Figure 8

Which of the following areas are the top three revenue generators in your business?

(Top 8 responses reported)

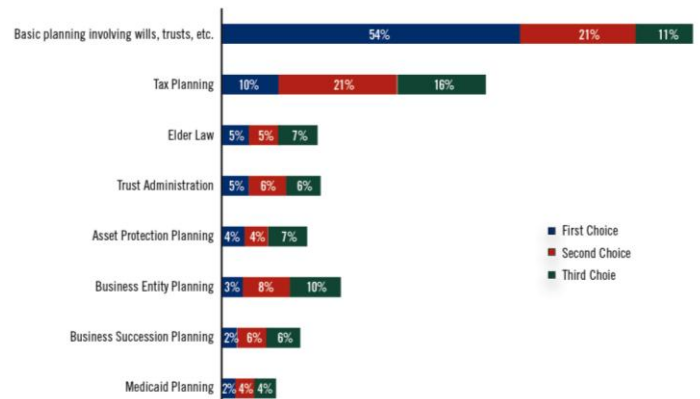


Figure 9

What practice areas that you are not active in do you want to add to your business model?

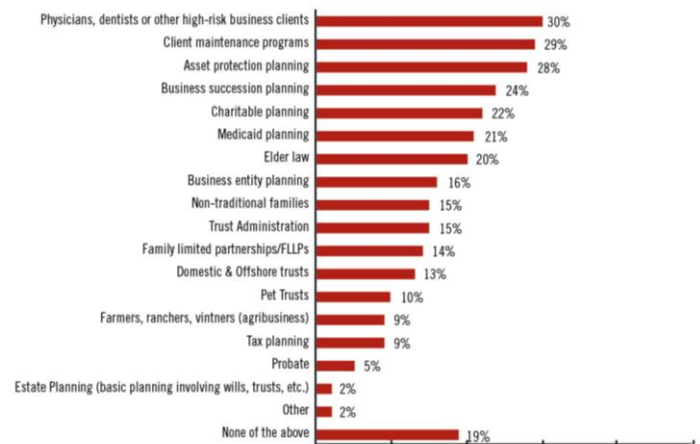
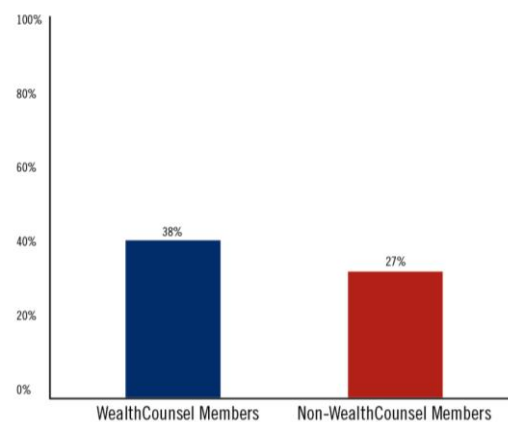


Figure 10

Percentage of respondents who would like to add planning for physicians, dentists or other high-risk business clients to their business model.



What Publications Do Attorneys Read on a Regular Basis?

Figure 11 illustrates that state bar publications and *Trusts & Estates* magazine are the most read publications. *Trusts & Estates* is more likely read by those who offer integrated planning techniques than by those who focus on general estate planning (57% vs. 28%).

The Largest Group of Respondents Who Read *Trusts & Estates* Are from the West & Northeast Regions

A segmented analysis by six regions of the country (See Figure 12) indicates that the highest number of respondents who read *Trusts & Estates* magazine came from the Northeast and Western regions.

Rich Santos, Group Publisher for *Trusts & Estates*, was pleased with this year's level of response. "Inasmuch as the Industry Trends Survey is still relatively new and some of the data in 'benchmark status,' I expect to see even greater participation in future years as awareness of the survey increases and as the data collected proves meaningful and valuable to those who read it," said Santos.

Communication Preferences: Email is Most Preferred; Social Media is Least Preferred

76% of the respondents stated a preference for receiving professional communications via email. (See Figure 13). Interestingly, more WealthCounsel members (28%) versus non-members (22%) expressed a preference for direct mail. In comparing the 2009 and 2008 data on this topic, attorneys who prefer email increased by 16% (from 60% in 2008 to 76% in 2009). The preference for direct mail has dipped slightly over the past year by 8%.

It appears the social media revolution has not gained traction among estate planning attorneys, even though it is becoming more popular in the financial services sector. According to "What Advisors Do Online 2009," a survey conducted by asset management consultancy Kasina LLC, nearly 50% of the advisers surveyed stated they are using FaceBook and LinkedIn, whether for business or for purely social reasons.

On the other hand, there are some financial professionals who cite concerns over compliance issues as to their primary reason for not engaging in social media.

Figure 11

Which of the following trade publications do you read regularly (3 out of 4 issues)?

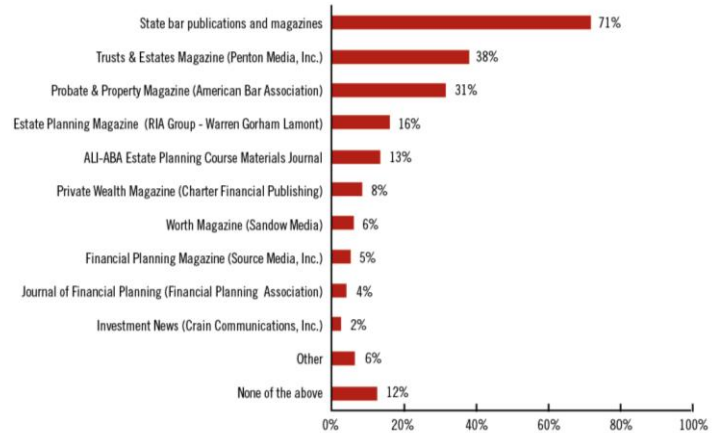


Figure 12

Survey Participants Who Read *Trusts & Estates* Are Located in the Following Regions

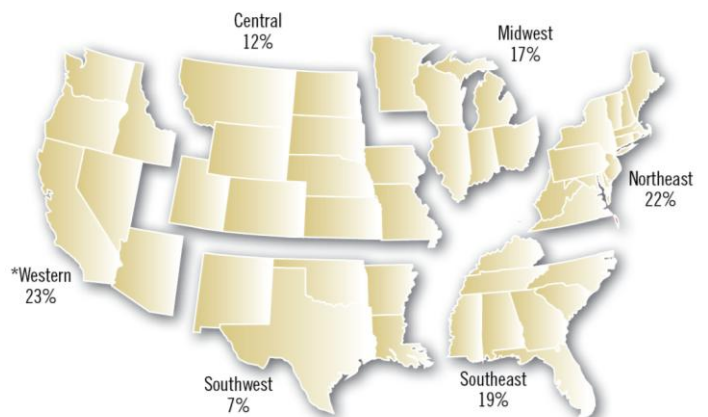
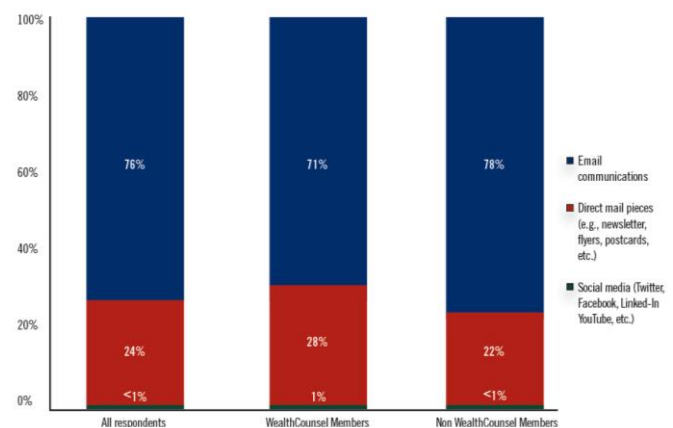


Figure 13

Which of the following is your preferred method for receiving professional communications?



Budget for Continuing Legal Education

Respondents indicated that they spend on average \$3,189 for professional development and education.

Preferred Delivery Methods for CLE

Live, on-site instruction is the most preferred delivery (69%) among the respondents. (See Figure 14.) The second most preferred method for obtaining CLE is live webcasts and telenars, and the least preferred methods of delivery are 24/7 on-demand courses.

Preferred Providers of CLE

The top three choices for obtaining CLE varied substantially between WealthCounsel members and non-members. The top three choices in order of preference for non-members are: (83%) state bar organizations; (50%) local bar organizations; and (27%) ALI-ABA.

For members of WealthCounsel the top three choices in order of preference are: (80%) WealthCounsel (document-centric instruction); (73%) state bar organizations; and (38%) local bar organizations.

What Educational Topics Do Attorneys Want in 2010?

The top three preferred educational topics are business succession planning, sophisticated planning strategies, and marketing.

As illustrated earlier in Figure 2, 38% of the respondents state that marketing their practice is one of the greatest challenges they face today. It comes as no surprise that attorneys also consider marketing as one of their top picks for educational courses in 2010.

Are Marketing Courses the Answer?

“Are marketing courses alone the answer, or do attorneys also need more time out of their day to bolster referral relationships?” asks Jonathan A. Mintz, JD, CEO of *The Advisors Forum*, the marketing arm and sister company of WealthCounsel. “This question is particularly significant since 46% of respondents indicated that referrals from financial professionals were

Figure 14

Which method(s) of delivery do you most prefer for CLE?

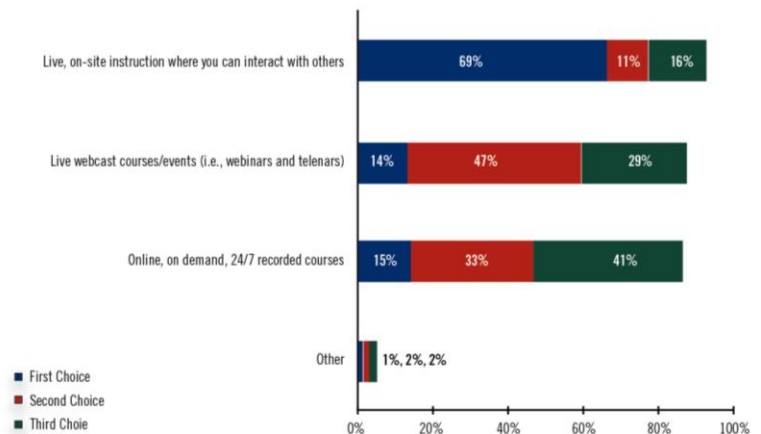
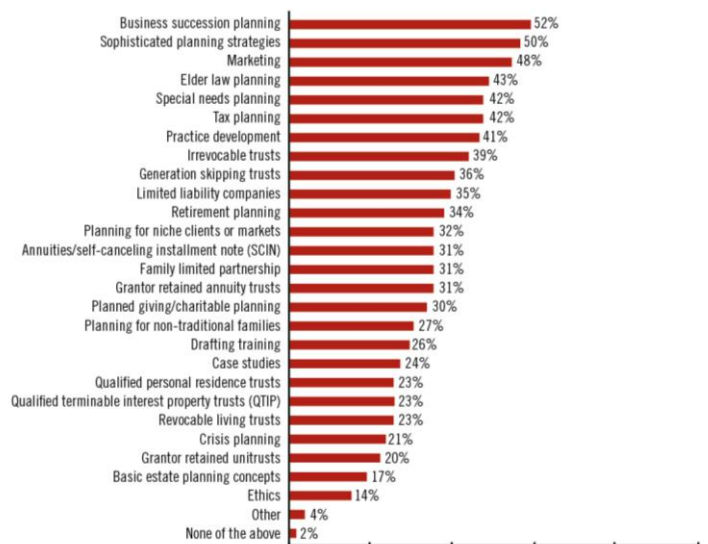


Figure 15

What educational topics would you or others in your firm find helpful in 2010?



‘essential’ to developing and sustaining their business.”

Mintz points to the data on page 3 that indicates members of WealthCounsel are spending more time than non-members meeting with clients and marketing their practices. “As observed earlier, this is likely due to the fact that WealthCounsel members (13%) are spending less time drafting documents than are non-members (35%),” Mintz added.

Advancing one’s technical knowledge is key to attracting a broader client base. Courses taught by experienced practitioners that bridge legal theory with practical application will prove of most value to attorneys seeking to expand their legal expertise.

Attorneys who have a solid understanding of the client demographics in their area and who pursue the technical knowledge to serve them will be better positioned to generate an increased number of referrals.

Respondents Vary in Their Primary Focus for the Next Five Years

The focus over the next five years is dependent on respondents' level of expertise in estate planning. Those who practice general estate planning are more likely to focus on elder law planning (48%) than respondents whose practice involves business entity planning (25%) or an integration of multiple planning techniques (22%).

Those whose practice consists of business entity planning, FLPs, LLCs and charitable giving as well as those who integrate multiple planning techniques are more likely to focus on business succession planning (45% and 43%) and business entity planning (52% and 42%).

Regional Analysis

As illustrated in *Figure 1*, page one, 40% of respondents indicate business has increased. 35% state they have experienced a decline in revenue. As illustrated in *Figure 17*, certain regions of the country fared better than others in 2009.

Outlook is Optimistic

When asked by what percent they expected their business to grow over the next five years, nearly one-third stated they expected their business to increase by 25% or more. The average of all respondents indicated an expected growth of 16% over the next five years.

As WealthCounsel's CEO Matt McClintock indicated, in spite of the worst economy in over 70 years, clients are *still* planning, and they will continue to do so.

Figure 16

What do you plan to focus on most over the next five (5) years?

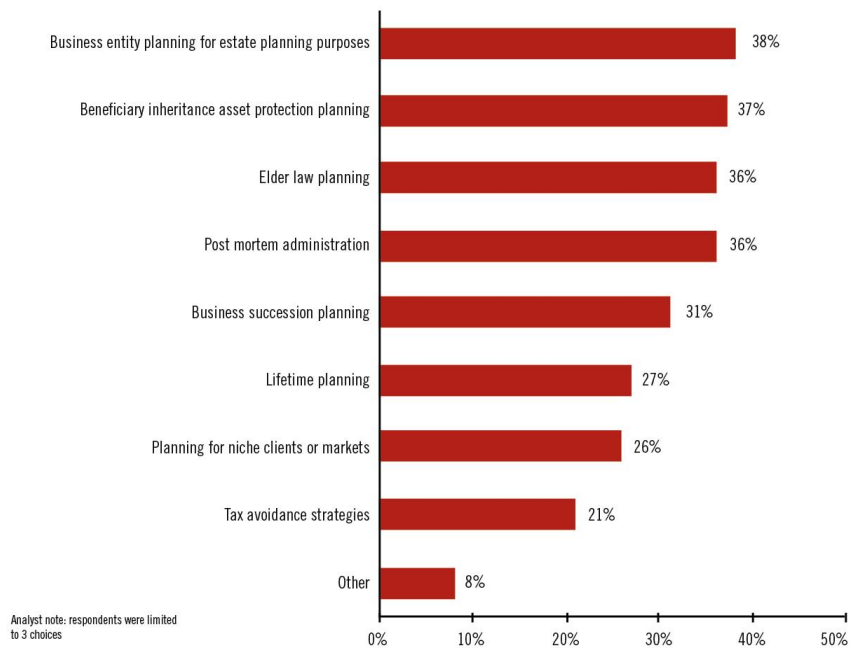
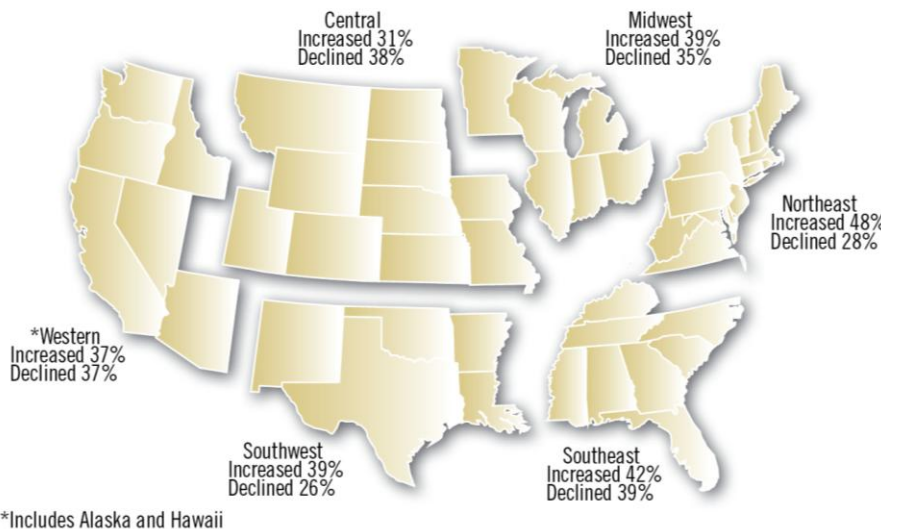


Figure 17

Respondents by Region: Increase/Decrease in Business

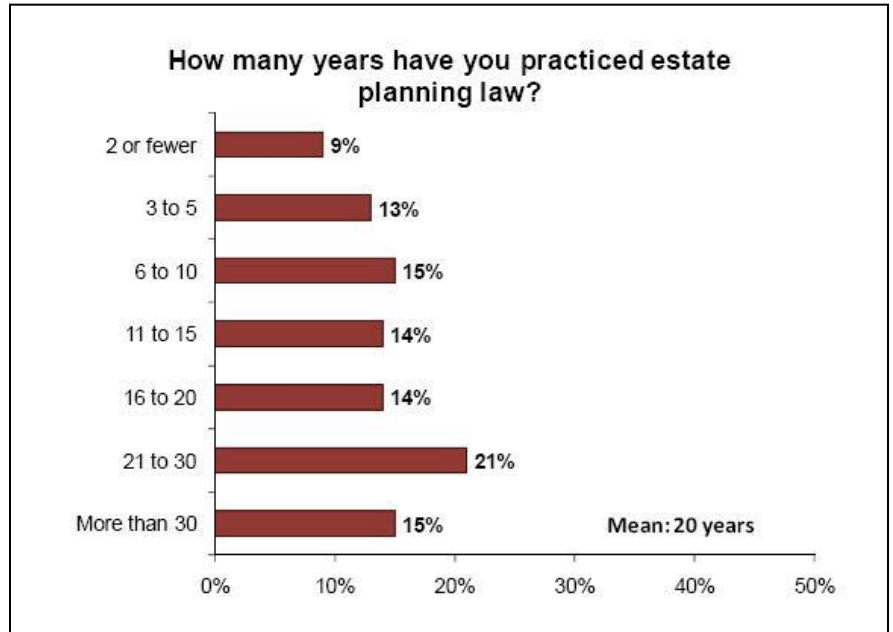
- The Northeast & Southeast Reported the Highest Increase in Business
- The Central Region Reported the Least Increase in Business



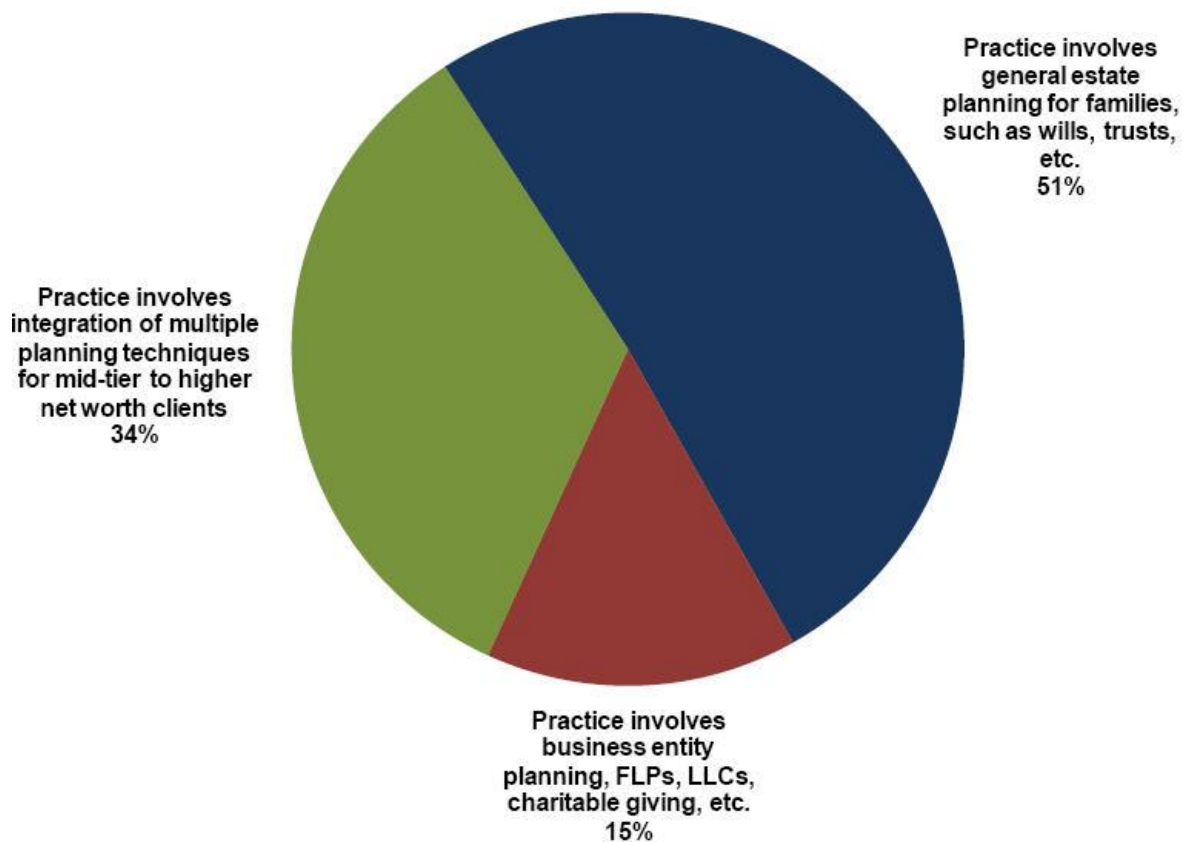
Attorneys who spend time boosting their knowledge, building referral networks and improving operational efficiencies will be better positioned for success in the future than other attorneys.

Various levels of estate planning practices are represented by respondents.

Respondents have been in the estate planning industry for an average 20 years.



Which category best describes your estate planning expertise, or the level of your practice?



Respondents work with an average 2 other estate planning attorneys.

The majority of respondents (90%) were either a solo practitioner or worked in a small firm of less than five other estate planning attorneys.

Only 10% worked in a firm that had more than five other estate planning attorneys.

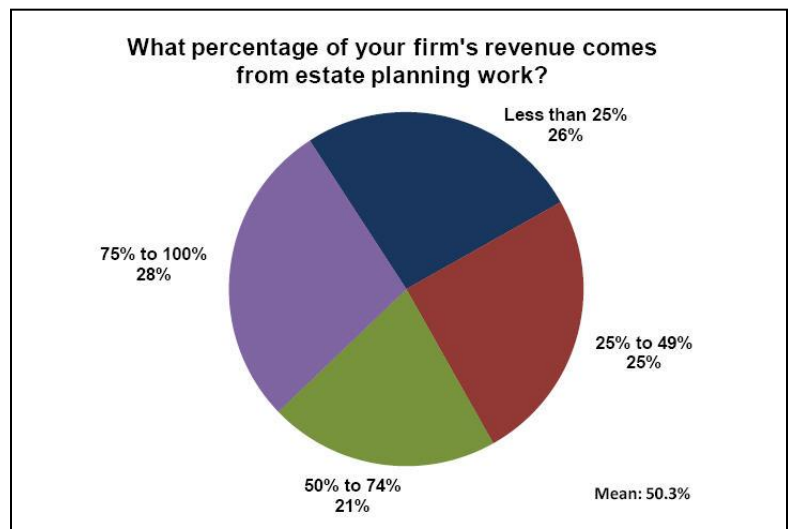
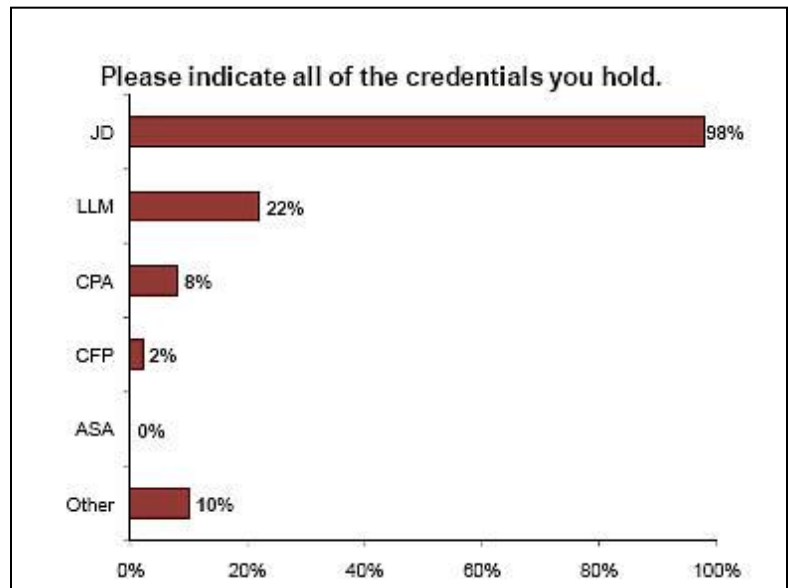
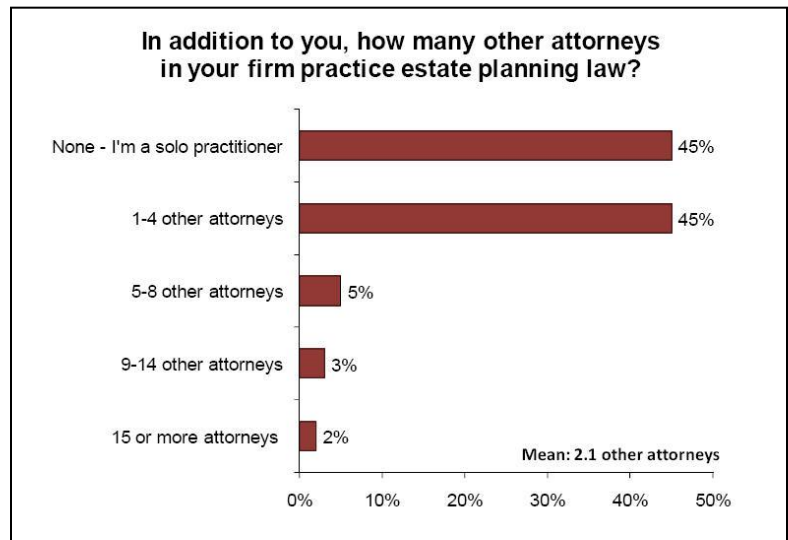
Nearly all respondents held a JD. Those who indicate their level of estate planning expertise is an integration of multiple planning techniques are more likely to have an LLM than are respondents who practice general estate planning (35% vs. 14%).

A small sampling of other credentials cited among the respondents included:

- ACTEC fellow
- AEP
- CELA
- ChFC
- CLU
- CTFA
- MBA
- PhD

An average 50% of revenue comes from estate planning work.

Among WealthCounsel members, an average 62% of business is from estate planning work.

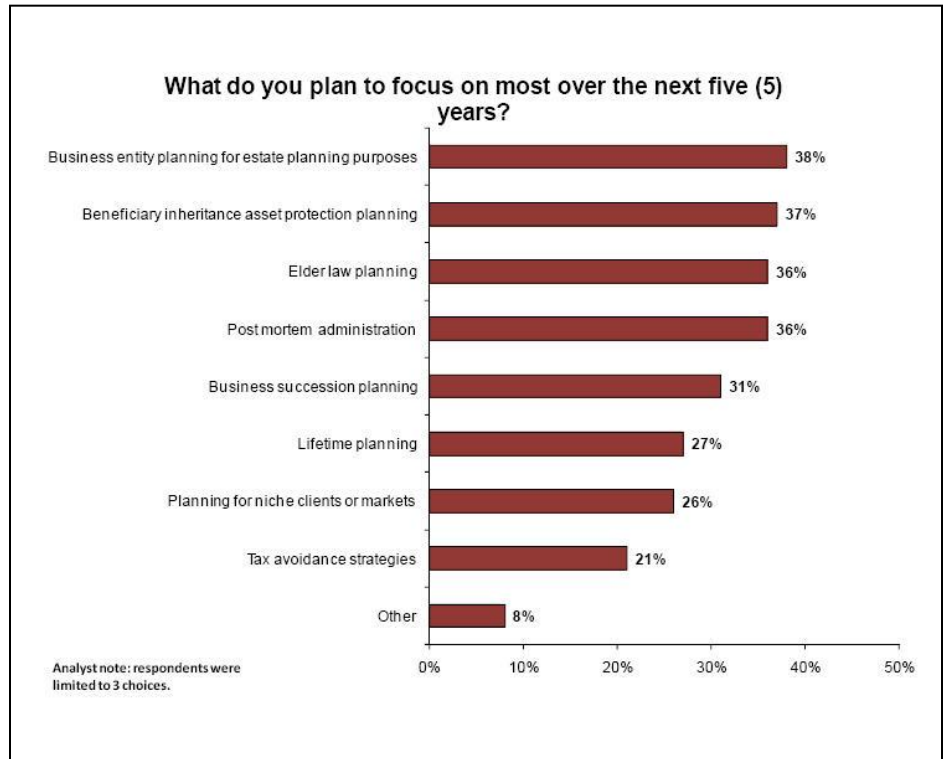


Respondents vary in their primary focus for the next five years.

The focus over the next five years is dependent on respondents' level of expertise in estate planning.

Those who practice general estate planning are more likely to focus on elder law planning (48%) than respondents whose practice involves business entity planning (25%) or an integration of multiple planning techniques (22%).

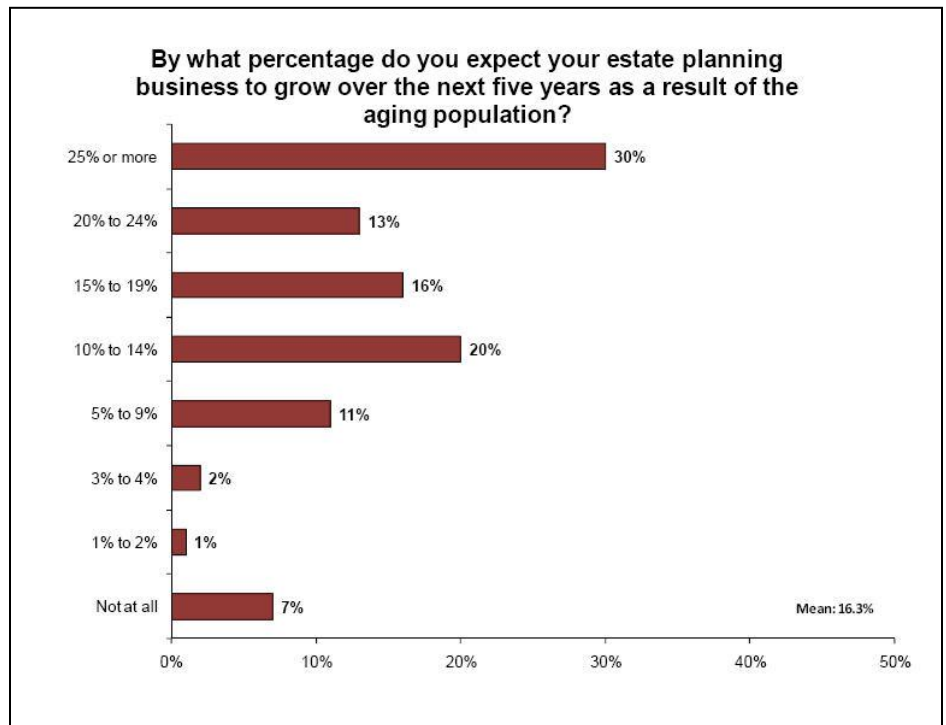
Those whose practice consists of business entity planning, FLPs, LLCs and charitable giving as well as those who integrate multiple planning techniques are more likely to focus on business succession planning (45% and 43%) and business entity planning (52% and 42%).



Respondents expect to see a growth in their business as a result of the aging population.

Respondents expect their estate planning business to grow an average 16% over the next five years as a result of the aging population.

This expectation is fairly consistent across estate planning expertise levels as well as membership / non- membership in WealthCounsel.



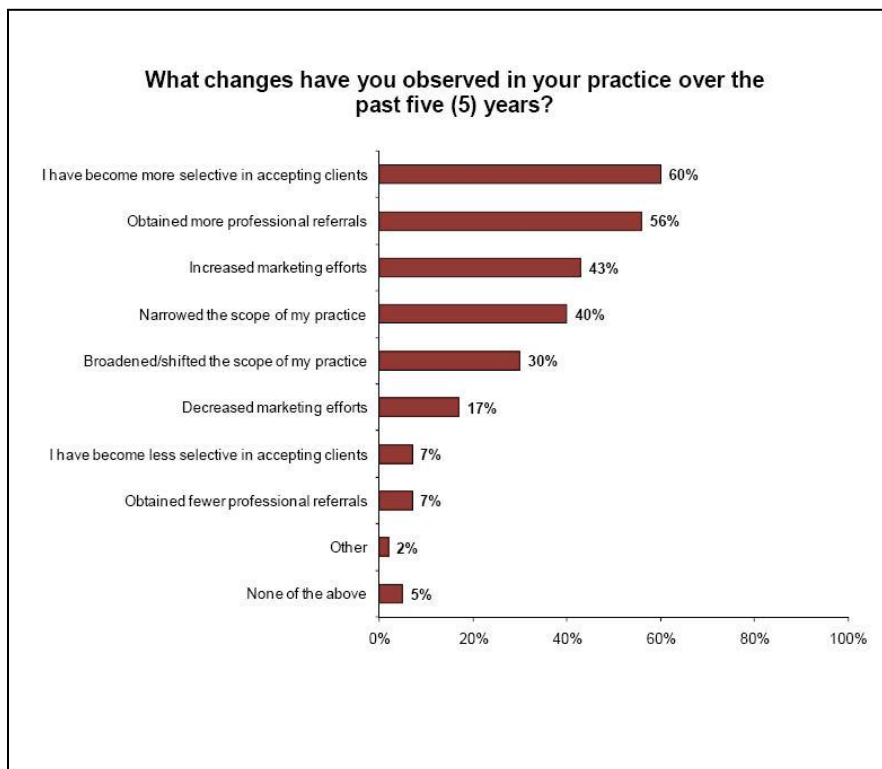
Attorneys use several methods for charging fees.

Respondents primarily charge a flat rate, followed by an hourly rate or a combination of the two.



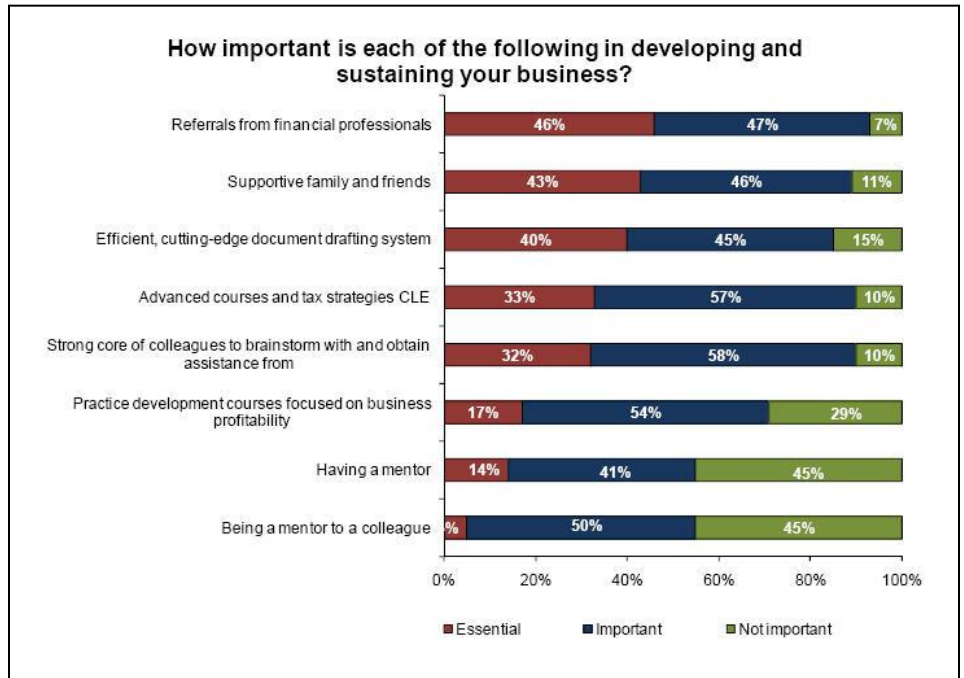
As attorneys grow their practices, they can be more selective with clients.

When asked what changes they have observed in their practices over the past five (5) years, most respondents indicated they have become more selective in choosing their clients.



Many factors play a role in developing and sustaining an estate planning business.

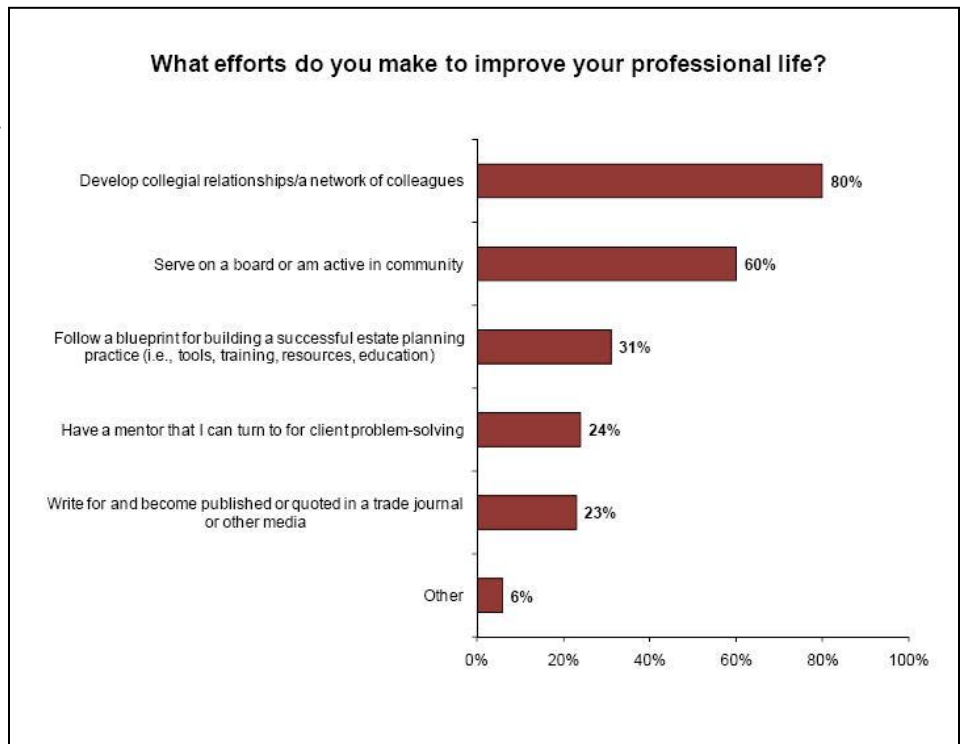
Mentoring is considered least important – both having a mentor and being a mentor.



Estate planning attorneys actively network to improve their professional life.

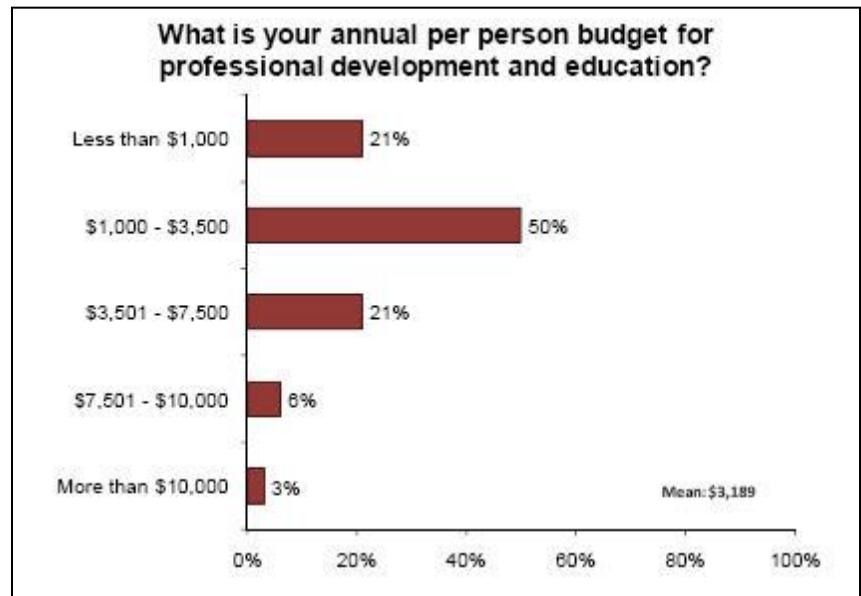
Respondents are likely to indicate they network, either by developing collegial relationships, or through serving on a board or becoming active in their community.

WealthCounsel members are more likely than non-members to follow a blueprint for a successful practice (46% vs. 24%).



Professional development budgets average \$3,189 per person per year.

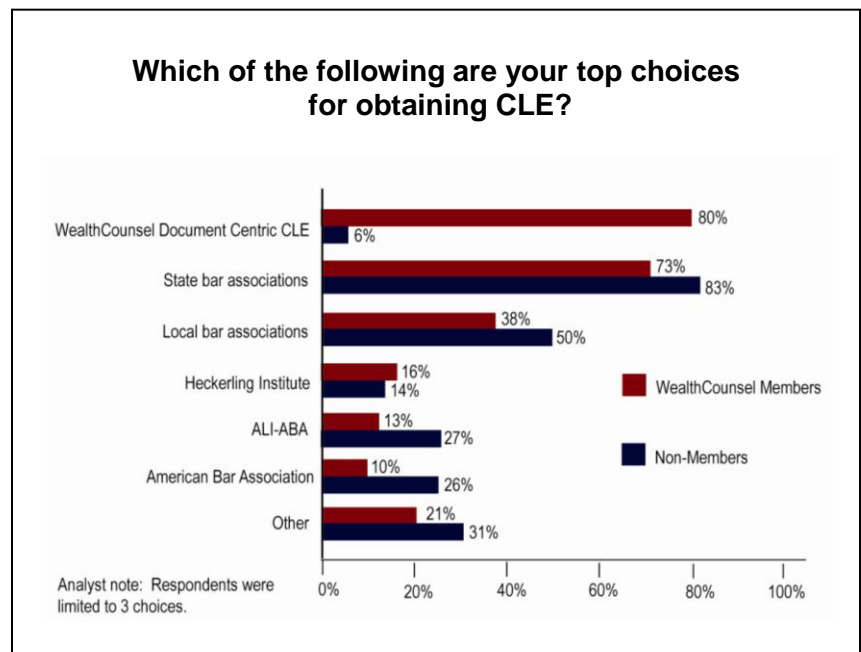
Among WealthCounsel members, the average budget for professional development is \$3,940, compared to \$2,860 for nonmembers



WealthCounsel and state bar organizations rank highest as sources for CLE.

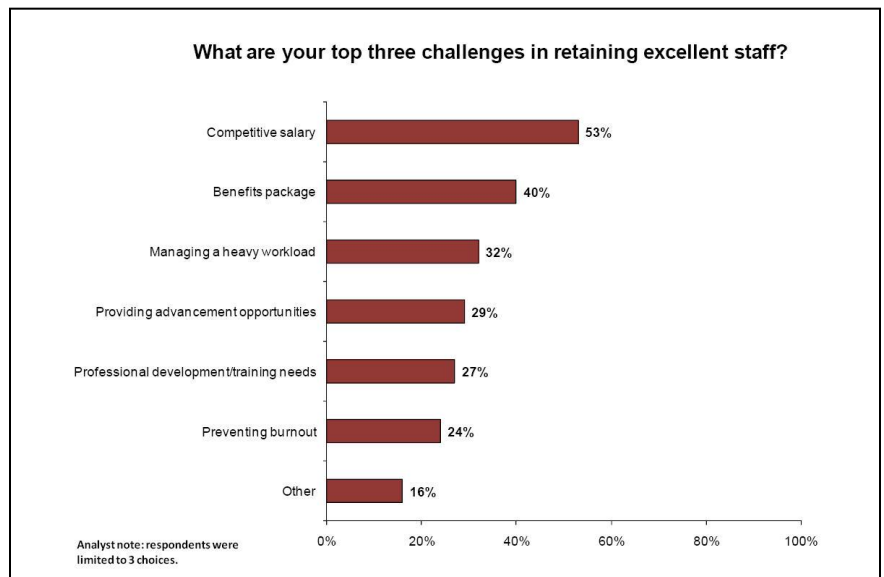
WealthCounsel's course curriculum combines document-centric instruction with relevant planning strategies that can be readily applied in the attorney's practice. Courses are available for attorneys at all levels of proficiency and are offered in various live locations around the country as well as online.

State and local bar organizations ranked high as they are considered convenient and require less time away from the office.

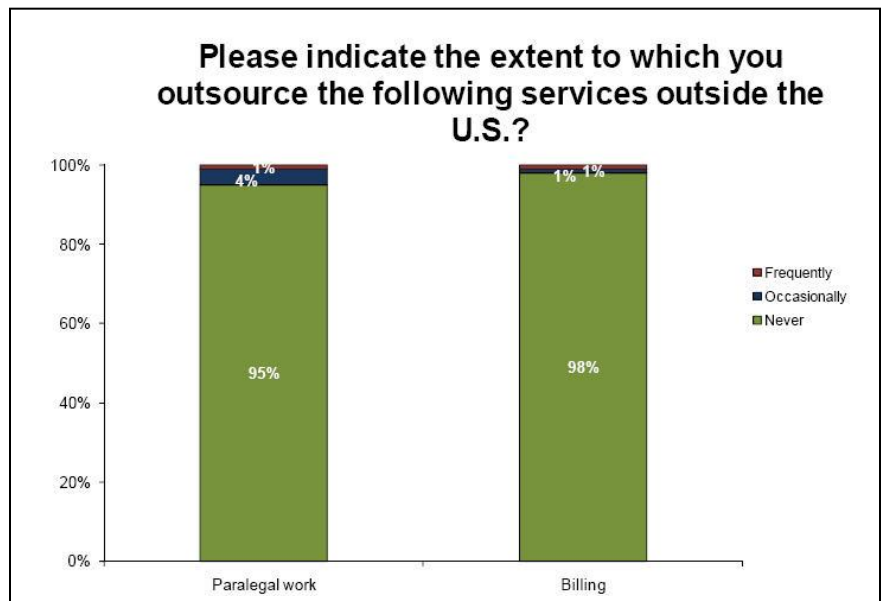


Salary and benefits are the top challenges in retaining staff.

The average size of support staff among respondents is 3.4 people.



Respondents are not likely to outsource outside the U.S.



Most estate planning attorneys have a website.

Those who do not are likely to have plans to launch one in the next year. Among WealthCounsel members, 81% currently have a website and an additional 15% plan to launch one in the next year.

