

systems as designed and administered are not rationally linked to the stated goals of enhancing lawyer competence. They do not require lawyers to attend programs that are related to their particular fields of practice. They do not require that lawyers be tested at the conclusion of CLE programs to determine whether or not they have 'learned' what the program teaches. An attempt is then made to counter each of these arguments, while acknowledging that it is inappropriate to conceive of MCLE as a panacea for the goal of lawyer incompetence. Wisely the authors realise that in planning for the introduction and ongoing administration of a MCLE scheme the focus should be upon making the lawyer an ally in the task of pursuing the collective goal of continued maintenance and enhancement of lawyer competence. This should be done by constructing a system which provides lawyers with a maximum range of choices and opportunities and then reliance should be placed upon them to discharge their professional obligations.

Two remaining areas of criticism are addressed: whether MCLE can be justifiably construed as an insult to the lawyer and whether it is essentially a public relations ploy designed to head off more drastic reforms that would be considerably more unpalatable, thereby deceiving an unsuspecting public. Finally in this chapter of the report the authors look at the evidence to assess MCLE's role in reducing the incidence of ethical and malpractice claims against lawyers. They conclude that MCLE will not reduce the frequency of ethical complaints because education will have no influence on intentional misconduct, seemingly ignoring the

important potential for using CLE to affect attitudinal change and aid the practitioner to recognise and respond appropriately to ethical dilemmas. They also do not consider the evidence sufficiently clear-cut to conclude that MCLE will in fact reduce the number of malpractice claims.

The report then examines the nature of the CLE marketplace and issues of cost and the availability of quality programs, before elaborating upon the principal features of the MCLE system they recommend for their jurisdiction. These chapters (V and VI) reveal a proposed scheme which displays admirable attention to administrative detail, while recognising the practical difficulties arising during implementation.

In this reviewer's opinion the MCLE Task Force report demonstrates a well-considered approach to the thorny problem of whether to mandate CLE within a particular jurisdiction, despite the groundswell of opposition that this proposal will normally stimulate. It also highlights the importance of engaging in a process of proper consideration and consultation before the decision is reached. One could but hope that all professional bodies had been as scrupulous at the feasibility stage of MCLE introduction. It will be of considerable interest to see if the D.C. Bar adopts the recommendations contained in the report.

Editor

## OTHER DISCIPLINES & PROFESSIONS

[no material in this edition]

## PERSONALIA

[no material in this edition]

## PLANNING AND DEVELOPMENT

### Quality assurance in practical and clinical legal education: a brave new world

M Tzannes

12 *J Prof L Educ* 1, 1994, pp 57-68

A recent survey conducted by the Graduate Careers Council in Australia revealed that law graduates scored the teaching of law at the very bottom of the 'good teaching scale' and law was the second lowest performer in the scale of 'satisfaction by field of study'. There is an urgent need to improve teaching in the discipline of law and quality assurance in legal education may be the means to achieve this.

Quality assurance (QA) goes further than either quality control or course evaluation. In the business environment, 'quality circles', where employees sit around a table to discuss the system as a whole, are used to alert management to any potential problems. This gives a 'bottoms up' input to the management process. QA can be defined as a commitment to excellence by everyone in the organisation, which is achieved by teamwork and a process of continuous improvement,



leading to the development of 'best practice'.

The driving force behind the QA movement in education in Australia has been the Committee for Quality Assurance which was preceded by the Piper Report in 1993. The first step towards QA for practical and clinical legal education is the formulation of a mission statement. Such statements are an attempt to capture the essence of an organisation so as to direct the energies of organisation members towards achieving the same goals. Often, the mission statements for PLT are subsumed within the overall mission statement of the university to which the PLT course is affiliated. This is sometimes detrimental and some autonomy in this regard may be necessary.

Where a course already exists, QA commences with a written audit and analysis of all systems in place. A strategic plan for continuous improvement can then be made. QA would look at the course content and teaching strategies to decide what is to be taught or omitted from the course, who teaches the course, when each component is to be taught in relation to other components, how learning is to be assessed, and how the course is to be evaluated and revised and by whom. In determining course content QA would assess the use of outside consultants, such as advisers from legal and educational fields, teaching and administrative staff and the needs of professionals and clients.

Staff are the most valuable and expensive resource of a teaching institution. QA would identify staff recruitment and selection procedures. It would look at

thorny issues, such as tenure and promotional opportunities for clinical staff similar to those enjoyed by academic staff. Quality PLT cannot be delivered without the physical resources such as mock courtrooms, interview rooms, group work rooms and audio-visual facilities. QA requires the adequate provision of physical resources to enable the delivery of high quality legal education. QA would put in place selection procedures which provide the most capable and motivated students. PLT also has to be marketed, as it is difficult to encourage funding and justify the high cost of PLT. QA would ensure that quality promotional material was developed and disseminated.

#### **Continuous quality improvement, law and legal education**

J Mixon and G Otto

43 *Emory L J* 2, Spring 1994, pp 393-505

Continuous quality improvement (CQI) is responsible for Japan's current industrial success. W Edwards Deming conceived CQI in the 1950s. The basic precept in CQI is that customer satisfaction is the only reliable standard to measure quality. Once an organisation is committed to quality, the entire organisation must work cooperatively to anticipate customer desires and to satisfy those desires by constantly and forever improving the quality of goods and services. Managers must view their organisations as interconnected systems, a cooperative spirit must pervade management-worker (vertical) interactions and supplier-manufacturer-consumer (horizontal) interactions. Deming maintained that 94% of what goes wrong in a

system is attributable to management and only 6% is attributable to individual persons or things. Controversially, Deming asserted that competition diminishes quality. Inspection procedures are stop-gap measures and represent a waste of resources and CQI eliminates the need for such procedures. The CQI type organisation focuses on longevity rather than short-term gain. Ironically, American management styles defy all of Deming's rules.

In America, law schools are also far from adopting Deming's principles. Regional law schools model themselves on the national schools without any consideration of the regional needs that they should be aiming to satisfy. Law school governance does not encourage or allow a commitment to a common vision. Factionalised faculties approach pivotal issues as win-lose situations and competition, not cooperation, drives the law schools. Law schools must question whether they can survive without providing customer satisfaction.

The question that remains is, could Deming's formula create a quality law school? The road to a quality law school begins with administrative and staff services. The law school must be viewed as part of a system. Staff must know where they fit in and why they are important and what their purpose is. As a result of the relatively short tenure of law deans, it is the staff who will be responsible for the longevity of the law school and the training of successor deans. The goals and purposes of the law school must be clarified by the dean and staff. Professional consulting firms, although expensive, may be useful in