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From time to time, our attention is drawn to articles, reports etc. by authors who request that they be digested. Although the database searches we conduct are quite comprehensive, we acknowledge that there may be interesting published material that sometimes is overlooked. If you come across an article etc., which in your opinion has something significant to say and should be digested, we would be grateful to be advised.

Editor

All the materials digested have been categorised in accordance with the subject headings listed on page 20. Where there is no material in the issue under a particular subject heading, the heading will not appear.

CONTINUING EDUCATION

Lawyers as teachers - the art of supervision
H Rose
Law Practice Management, May/June 1995, pp 28-34

Lawyers who supervise other lawyers are teachers. The real issues therefore is whether this teaching is as effective as it could be and whether the person supervised learns how to be a better practitioner. Inexperienced attorneys are often dissatisfied with the quality of the supervision they receive.

Good supervision improves the law firm's work product for the clients, increases billable hours and, in the long term, improves morale. A commitment to supervision is consistent with all modern notions of business management. employees are the firm's key resource and so their talents must be properly developed to improve firm productivity. Codes of professional responsibility now make supervisors ethically responsible for the work of associates under the principle of *respondeat superior*.

It is trite to say that law school graduates need to learn practice skills on the job by experience in the job and interaction with other attorneys, especially supervisors.

There are three core principles of effective supervision: (1) Guide, do not direct, associates. Supervisors need to assist the self-knowledge of associates, not to tell them what to do. The supervisory process should maximise the independent thinking by the associate. (2) Encourage associate self-reflection. As experience is the best teacher, associates need to reflect on their work. Supervisors should insist that the associates critique themselves. (3) Provide meaningful feedback. Supervisors must evaluate the performance of associates and identify their strengths and weaknesses and suggest ways to compensate for the weaknesses in future. Feedback should be a two-way process with the associate responding to the supervisor's evaluation.

These principles are applied in the preparation of work by the associate and the evaluation of that work. The greater the responsibility given to the associate, the deeper the learning will be. Contextual information on the task at hand should be given to the associate. The heart of the supervisory role is the provision of feedback. Feedback reinforces positive behaviour and seeks to modify negative behaviour. Evaluative comments from supervisors should be concrete, current, direct, non-judgmental, open and personal. Evaluation meetings should begin with the associate's self-critique. The supervisor should ask how the associate assesses performance, what part of their performance they thought was good and what part was not so good, and what will they change in future. Strengths, rather than weaknesses should be focused on first, thus setting a constructive tone. Associates should be allowed an opportunity to respond to the

weaknesses identified by the supervisor.

One of the major obstacles to effective supervision is the inherent tension int he supervisor's dual role as teacher and evaluator. Associates may not be candid in discussing problems in assignments or in critiquing themselves because they fear that self-disclosure may be used against them in promotion and compensation decisions. Moreover, two lawyers may approach the same matter differently. Supervisors must account for individual professional judgement. It is an invalid criticism for a supervisor to criticise an associate's performance on the basis that the supervisor would not have performed the task in the way the associate did. Attorneys who believe they have insufficient time to supervise tend to overestimate the time required and ignore the idea of supervision as an investment in the firm's future.

EVALUATION

The proliferation of law schools in Australia - should Australia adopt the American Bar Exam model?
S Garkawe
13 *J Prof Legal Educ* 1, June 1995, pp 23-43

The article examines the feasibility of an American style bar exam in Australia. This would require a law graduate to pass an exam administered by the legal profession as a prerequisite to practice, in order to ensure that graduates meet the appropriate standards before entering the profession. The recent proliferation of law schools in Australia has brought this issue into focus. Whilst quality is the primary motivation for a bar exam, other considerations include the use of the exam as a method of limiting the number of people entering the profession and the associated issues of access to the profession and the effect that such an exam would have on the mutual recognition framework.

The article provides a detailed history of legal education in Australia. There are some essential differences between legal education in America and Australia, most importantly that American legal education is only open to graduates and law school graduates may proceed directly to admission on passing the bar exam. America has no requirement for articles or PLT.

In Australia the only requirement of an LLB degree is that the curriculum be approved by the relevant authorities as satisfying the academic criteria that will allow graduates to enter the profession after the requisite practical training. The academic criteria have now been consolidated into the Uniform Admission Rules which set out 11 subject areas and the topics within the subjects which are now required for admission to practice. The issue therefore is whether these requirements constitute sufficient control over the quality of law schools or law graduates so as to make the imposition of some form of external control by the profession superfluous.

The author is of the view that the Uniform Admission Rules are an insufficient control mechanism. It is not necessary for law schools to teach all of the core subjects. What must be taught within a subject area does not constitute an important control over the quality of the teaching of the law school and there is no restraint over the academic content of the core subjects. In Australia, there are few barriers keeping inadequately trained graduates from being admitted to practice and so it would appear that there is a need for some form of control over law degrees to ensure the quality of graduates.

Despite the need for quality control, the imposition of an American style bar exam may not be appropriate. First, there is no evidence that those who pass the American bar exam are necessarily better lawyers than those who do not or have difficulty doing so. Secondly, the presumptions behind the justifications for the exam are based on the narrow professional viewpoint of quality. Thirdly, it has been shown in America that the bar exam has a negative affect on the quality of legal education by discouraging diversity and the use of greater critical and theoretical approaches to the law. On top of these considerations is the concern that exams are not the most effective way to assess competency.

In view of these considerations, a bar exam would not be an appropriate method to control the quality of legal education and graduate competency in Australia. However, some form of external review is necessary given the need for greater quality control of Australian law schools. A carefully considered accreditation system offers far greater scope for improvements to the quality of