

sirable and proper) has tended to give way to multiple providers. The result is that the situation in many countries is far more fluid, if anything less structured, and the institutional providers are under far greater pressure. Competition can bring benefits but in the area of education the normal measurement when competition occurs, namely the bottom line net profit, is not an appropriate one.

Another feature of CLE in the Commonwealth is that it has grown beyond seminars and workshops into other activities. There is no reason why information cannot be distributed to the profession by as many means as possible. As a result of these developments, a small but important sub-professional group has developed, namely CLE providers and CLE administrators. Often they have formed themselves into organisations such as the CLE Association of Australia (CLEAA).

A feature of CLE has been that, on the whole, it has dealt with substantive and procedural law, rather than legal skills. There are certainly CLE skills programs but generally they are not as well received as programs dealing with developments in the law or refresher courses in various areas of practice. The one exception is advocacy, which has generally been very well received from its inception.

A final feature of CLE is that it is largely a reactive form of education. It tends to be reactive and market driven, run largely by people for whom it is either a second career or a part-time job, attended on a voluntary basis, without any standards or evaluation systems, and not requiring participants to be assessed on their learning.

The mandating of CLE inevitably arises at some point after a CLE program has established itself. Whether or not a Commonwealth country adopts a mandatory CLE regime will depend on all sorts of arguments and dynamics. There is a range of educational arguments as to whether the mandating of CLE is a good thing. It is, however, fairly unlikely that those advocating its introduction can prove beyond doubt that the CLE really makes the difference, both to the profession as a whole and for individual lawyers.

It is not as if CLE has moved into a golden age where it no longer has problems to be faced. There is still reluctance on the part of the profession to acknowledge that good education is an investment and is critical to its survival. There is a natural tendency of most professional organisations to think small and act cautiously and thus are reluctant to commit sufficient resources to the development of the sort of CLE the professional of the future will require. There is a lack of standard systems and procedures, which means that training programs have to be highly customised if they are to be truly successful.

Another feature of CLE has been the development of in-house CLE programs. For institutional CLE providers, this has presented quite a challenge. In some cases, the in-house programs have taken away a significant part of the institutional providers' market.

Big issues for CLE in the future include: the changing distribution of solicitors and their increasing location in a small number of larger firms; the increasing importance of international corporate work; the growth of specialisation; the development of contract training for governments and other bodies working in legally related areas; the development of CLE 'series' (a number of seminars on a major topic); joint projects with other professional bodies; joint arrangements with high level presenters who can offer an ongoing program; and teleconferencing to tap into regional and country areas.

CLE in most Commonwealth countries is an undoubted part of the life of the profession. Whether this will continue to be the case is by no means a foregone conclusion. The increased use of electronic technology could well challenge many aspects of CLE. On the other hand CLE may rise to the challenge and offer increasingly interesting and diverse forms of educational activities. CLE has been marked by enthusiastic and intelligent amateurism. Whether this will continue remains to be seen.

Continuing legal education: opportunities in the new millennium

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There has always been a recognition that a lawyer must maintain and develop his/her professional skills. The objective is clear; the achievement of the objective is not. Many hold the firm belief that reading books, articles, and current decisions is sufficient to keep a person up to date and competent. This view fails to consider how lawyers receive their primary training, the cut and thrust of questions and answers, the value of discussions and the impact of a knowledgeable speaker on a topic. It has now been widely accepted throughout the British Commonwealth that self-education is not sufficient to satisfy practitioners who are prepared to be lifelong learners.

Continuing Legal Education (CLE) is recognised as a major concern of the legal profession, behind which all of its resources must be mobilised. The approaches, methods, formats and scope of CLE programs vary throughout the Commonwealth. They range from informal seminars, in-house programs and conferences to structured programs with detailed curriculum and courses leading to specialisation. The main providers of CLE include national, state, territory and regional professional associations, universities, law schools, government agencies and private interest groups.

So far the responsibility of providing for this continuous process of legal learning and training has fallen squarely on the shoulders of law societies and bar associations. This imposes a burden far too often upon volunteers who are busy practitioners meting out what precious time they can to organise, conduct and encourage the process. Universities and law schools throughout the Commonwealth are established for this very thing – teaching, training, and disseminating knowledge. They should be in the forefront of the process, but too often lag far behind.

The objectives of CLE include: to provide knowledge for knowledge's sake; to remedy short-comings in current information and skills, primarily aimed at newly admitted lawyers; to assist lawyers in fulfilling their ethical and professional duties to deliver competent services; and to assist in professional personal growth.

An increasingly diverse bar calls for increasingly diverse educational options. Technology offers significant opportunities to enhance traditional learning models and increase access to these educational opportunities for all lawyers. The predominant approach to CLE has traditionally been through seminars/demonstrations/workshops on various topics presented by lecturers/speakers or a panel or persons with particular interest and knowledge in the subject. Written materials often accompany the presentation. Good speakers are not plentiful; really interesting ones, unusual; a speaker who inspires re-attendance is rare.

Financing seminars on a regular basis depends primarily on the provider of the services. If a commercial or business organisation or group is arranging the seminars, commercially viable tuition fees will be charged. If CLE programs are to be commercially organised, there should be an administrative organisation to set standards and evaluate those programs and thereafter recommend them to lawyers. CLE should be a co-operative endeavour drawing from the bench, the bar and the law schools. The participation of teachers from law schools is particularly important. Not only are they equipped to teach a subject but also they generally have more time to prepare and more experience in preparing for this learning environment.

The same seminars, or specially prepared studio-produced seminars, can be made available to an expanded audience by satellite transmission and/or teleconferencing. Videos can also be prepared for viewing by individuals or groups, providing increased exposure at a variety of times and places.

CLE can also be done through the use of printed material, including corres-

pondence courses, legal journals and regional law reports. Correspondence courses require the individual to be motivated and disciplined to study generally alone. These courses are particularly valuable in states where there are vast distances between local bar association and/or communication problems. Production of correspondence course material, articles for a journal and law reports, require the most competent lawyers with the time, energy, and discipline to prepare high quality material.

Specialisation is not a distinct approach to continuing legal education, but more an important by-product. Specialisation is becoming increasingly important to lawyers throughout the Commonwealth because of a number of factors, including the complexity of certain areas of law, the involvement of other professions in legal matters, the increased population of lawyers, not only in a particular county but from abroad, and the demands of more knowledgeable clients. A regulatory scheme of specialisation can produce significant benefits for consumers or legal services by providing an assurance that specialist lawyers have their skills evaluated, meet specified standards of competency and are subject to regularly scheduled reviews. As clients rely on the published specialisation of lawyers, there needs to be a system of accreditation and monitoring. The advantage of being certified a specialist in an area of law should provide the necessary incentive to pay ample fees to set up and sustain a system of accreditation for specialists.

Mandatory CLE is another approach. Many lawyers feel they should not be forced to attend seminars but should be relied on to be personally responsible for maintaining and updating their knowledge and skills. Compulsory attendance and the prescription of content are the most frequent complaints raised. While no study has yet been carried out which can directly link mandatory CLE to increased pro-fessional competence, there is a general belief that CLE does improve professional competence. It also plays an

important role in maintaining public confidence in the profession. The legal profession is one of self-regulation. If the profession is to retain that privilege and not have regulation imposed on it from the outside, it must show that it is prepared to do what is necessary to ensure the highest standards of practice and consequently of service to the public.

Much criticism is directed at the way in which the programs are carried out, rather than the concept of structured CLE. The lack of assessment and curricular standards are particularly criticised. The programs have an annual requirement of a number of credit hours. These can be achieved through a recognised variety of activities and presentation of papers at seminars. A mandatory scheme is also a step in the direction towards a specialisation system.

The chance for advancement and progress for continuing legal education in the new millennium lies in the dissemination and exchange of information throughout the Commonwealth. Co-operation is needed to distribute models and make financial and technical assistance readily available.

ENROLMENT POLICIES

Portia denied: unmasking gender bias on the LSAT and its relationship to racial diversity in legal education

W Kidder

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Currently the Law School Admission Test (LSAT) is the foremost gatekeeper to obtaining a legal education at schools accredited by the American Bar Association (ABA). At first blush, data indicate a pattern of women's ever-increasing representation in law school. However, there is reason to believe that women are, and in the foreseeable future will continue to be, under-represented in the legal profession. Despite the fact that among college freshmen, higher proportions of