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ADMINISTRATION

[no material in this edition]

ADMISSION TO PRACTICE

[no material in this edition]

ASSESSMENT METHODS

Performance based assessment and the NSW Law Society's specialist accreditation program

A Gonczy, P Hager & C Palmer
12 *J Prof L Educ* 2, pp 135-147

For decades there has been a debate in the United States and Canada about the nature of legal education and the nexus between undergraduate studies and legal practice. This has led to attempts to define the competencies lawyers

need for practice and the development of law courses based in part on these competencies. However, Australia law schools saw no need to include in their aims the responsibility to develop competent practitioners. Although in recent years there has been a government funded campaign to develop competency standards and assessment methods in the professions, there is no widespread agreement that universities should base their professional courses on the competency standards developed by the professions.

One important attempt to overcome this dichotomy between theory and practice is the development of the Specialist Accreditation Program of the Law Society of New South Wales, Australia. The scheme has established sets of competency based standards which marry the attributes of specialist practitioners with the actual tasks and contexts of legal practice. The assessment system is based on these competency standards, with the aim of testing the knowledge and its application and the skills, attitudes and values essential to specialist practice.

All practitioners applying for specialist status are obliged to prove special competence by undertaking an assessment. At the outset the Board set up to administer the scheme recognised the need for an assessment program that focused on the practising rather than the academic lawyer. Advisory committees were formed to develop competency standards that would encompass the knowledge, skills and attitudes required of experienced practitioners and reflect the context in which the competencies would be employed. The steps followed by the advisory committees were: identifying the general areas of

activity of practitioners; identifying the tasks involved in performing these general activities; and developing a description of how these tasks would be performed. This process led to the description of the performance standards against which the applicants are assessed.

The ways in which competence has been conceptualised include the behaviourist approach, the general attributes approach, and the holistic approach. The last concept, which has been adopted by the professions in Australia, views performance as a complex structuring of attributes needed for intelligent performance in specific situations. This approach allows us to incorporate ethics and values as elements in competent performance, as well as the need for reflective practice, the importance of context and the fact that there may be more than one way of practising competently. The standards developed for specialist accreditation are based on this integrated non-behaviourist model of competence.

Practical issues faced in setting up the scheme included the need to adopt a consistent approach by advisory committees and the fact that they were largely comprised of people with little experience in education and probably no experience of educational theory. There was a concern to ensure that the assessments reflected what applicants needed for practice and that they did not amount to a "university type" examination which required a mastery of the unusual rather than the ability to understand and to cope with the matters which happen frequently in practice. Detailed case studies are presented of the procedures followed in developing competency-based assessments for two of the specialist

practice areas. In both cases the four methods ultimately used were a written test, a simulation, a mock file and review/ refereeing by peers.

The development process led the committees away from a traditional view of assessment and towards a truer appreciation of what was involved in their job and how they managed it. Performance standards provide a focus for continuing education programs and a guide for practitioners. They give young practitioners the big picture of practice, allowing them to make general sense of the myriad of seemingly unrelated activities they are asked to perform. A post-assessment survey of applicants revealed that those assessments which most resembled practice were considered to be the form which best assessed what was required of a practising lawyer.

CAREER PATHS

REVIEW ARTICLE:

Career intentions of Australian law students

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Department of Employment,
Education and Training
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This book contains the report of the most comprehensive study of the career intentions of law students ever conducted in Australia, carried out in 1994 by the Centre for Legal Education and funded by the Federal Department of Employment, Education and Training. This project is significant in terms of its scope and the wealth of information it brings to light about the motives and future intentions of law students. It marks a watershed in our

understanding both of the factors underlying the continuing strong demand for law places in Australian universities and of law students' expectations of the role played by their law degree as a preparation for their future careers, it also provides a measure of the proportion of these students intending to practise law or seeking a career outside the legal profession.

Chapter 2 describes the methodology employed in conceptualising the study, developing and piloting the instrument and distributing the settled questionnaire. An explanation is offered as to why the decision was taken not to make the survey population all law students in Australian universities, but rather to collect data only from first and final year students, all of whom were to be surveyed, so that sampling was not required. Consequently, this research design does not permit conclusions to be drawn with respect to the entire student body, only the separate groups of first and final year law students, to both of which the same questionnaire was administered. However, one benefit of this particular design is that, while not a longitudinal study, it nonetheless throws into relief the perceptions of different students at the beginning and end of their law studies.

The questionnaire was distributed to students for completion in class, so to some extent they represented a "captured audience", although this is unlikely to have had any impact upon validity. Usable responses were obtained from 3,300 (69.2%) of first year students and 1,600 (54.7%) of final year students. No claim is made as to the acceptability of these levels of response. They are certainly very high for what is

essentially sociological research and there is good reason to be confident that the responses are representative of the two populations, especially the first year students.

The volume and range of the data analysed and the results reported are illustrated by the chapter headings: "A profile of the student group that took part in the survey", "Reasons for studying law", "Respondents' plans in regard to admission to practice", "Respondents' intentions in regard to types of work", "Respondents planning to work in the private legal profession", "Respondents who planned to work in community legal service organisations", "Respondents who planned to work in the public sector" and "Final year students who planned to work in private industry, commerce or finance". There is even a chapter devoted to the results with respect to women law students. The many tables display the data clearly as frequencies and percentages, as well as cross-tabulations where needed.

Obviously, it is difficult in this short review to provide a detailed account but the following outline provides a flavour of some of the important results:

- Among the respondents, women formed the majority of first year students in 19 of the 24 law schools and the majority of the final year students in 12 of the 18 law schools with final year students.
- Over 80% of the respondents were studying law full-time.
- Approximately one-third of the respondents commenced their law studies as mature age students (i.e. 21 or above).
- The most popular reason for choosing to study law was an interest in the subject matter of the law. The second ranking reason was