

The author notes that there is a vast body of academic description, discussion and analysis of clinical legal education deriving from the United States, England and, to a much lesser extent, Australia. However, it is doubtful whether amongst that wealth of literature there is to be found such a set of practical guidelines which overview the range of methods and provide down-to-earth advice upon how they can best be implemented. Should that prove to be the case, this small book will go a long way toward filling the void.

Editor

**Introduction to clinical teaching for the new clinical law professor: a view from the first floor**

W P Quigley

28 *Akron Law Review* 3, 1995, pp 463-496.

The mission of clinical education has two goals: to educate students in a new way of learning; and to provide legal services to the indigent. Clinic students learn law by providing quality representation to poor people.

Clinical education is essentially a process of learning how to learn from experience. If the student's experience in the clinic results in merely the transmission of skills from teacher to student in the course of representing people in legal matters, it is not actually clinical education. The most critical element of clinical education is that it is experience-based learning.

Clinical teachers engage students in variations of four stages of supervision: 1. planning by student for activity; 2. conference between teacher and student reviewing student's activity plan; 3. performance of activity by student with observation by teacher; and 4. post-activity analysis and evaluation by students and teacher.

It is important that the initial planning for all clinic activity and all subsequent planning be first conducted by the student alone. The teacher should only become involved once the student has developed a plan of action. The student is assuming the role of attorney and must accept the responsibility that comes with that independence. The review of the activity plan is done by the teacher and student together, discussing the contents of the student's plan, how it was developed, how the teacher reacts to the student's ideas and the amount of teacher direction and control that goes into planning. Finally, there should be some form of practice, simulation or walk-through of the activity planned by the student with the teacher's participation. The student's plan must be competent and contain realistic expectations for achievement and the student must be able to articulate the goals the activity is attempting to achieve.

In the performance, the teacher must become an active observer. The substance of the issues addressed, the skills utilised, the student's adherence to his/her plan and reaction to the unplanned must be recorded by the teacher in detailed notes. Feedback and evaluation are central to the self-directed experiential learning method of clinical education. The role of the teacher is not primarily to review the good or bad of a student's performance but to assist the student in honestly and realistically reviewing the performance. The teacher's first responsibility is to help the student accurately reconstruct the activity; the second is to guide the student towards honest evaluation of what specifically occurred. When the teacher gives her own observations, the same rules of honesty and accuracy apply. Then teacher and student can discuss where they go from there.

New teachers are immediately confronted with the dilemma of determining how far their clinical students are to be allowed to become

counsel for their client. Different clinics have different approaches. Some students may not thrive well in a 'sink or swim' environment and need the assistance of the clinic teacher to avoid being overwhelmed, particularly in the initial stages of the clinic. Determining the appropriate levels of control and freedom is an ongoing challenge. Because the clinic teacher directly supervises only a few students and because there is a great variety of talent at a clinic, the high level of motivation and the intensity of the relationship mean that he or she is more than a dispenser of principles and analysis. The teacher is a role model, a mentor, a trusted co-worker, a judge and a friend. These relationships are more important at the beginning of the clinic but, in each instance, supervisors must be aware of the need to take sufficient time to allow development in these relationships with students.

Clinic teachers have ethical and moral duties to the clients of the clinic and respect must be the fundamental premise of all interaction between the students and the client. The teacher must ensure that both know the basics of clinical representation. It is a good idea to have the client give written consent to representation by a student. While direct contact with people in need can have a transformative effect upon clinical law students, students need to be aware that indigent clients who are not paying for their services are not merely clinical cadavers to be poked, prodded and examined for the student's educational benefit.

## CURRICULUM

**Curriculum—a judicial perspective**

The Hon. Mr Justice W.P.M. Zeeman  
13 *J Prof L Ed* 2 1995 pp 215-226

Educating lawyers by means of successive courses of academic and practical instruction with a clear dividing line between the two is

unlikely to produce the best outcome. Each stage must realise that there is no clear dividing line and inform the others. It is difficult to quarrel with the proposition that any educational institution must have final control over the content of the courses offered by it and the prerequisites for any award made by it. At the same time, however, no educational institution can claim an entitlement to determine the prerequisites for a person to be admitted to a particular profession. Nonetheless, the incorporation of PLT courses into the university curriculum ought to have the potential for a change for the better in the content of such courses.

*This approach requires that pressures from the practising profession to add to a curriculum by teaching more should be resisted if they are aimed at no more than seeking to make students familiar with the performance of more routine tasks, often with the emphasis on detailed minutiae. An emphasis on the acquisition of merely mechanical knowledge of this type will tend towards the lowest common denominator of legal practice and is unlikely to lead to the production of practitioners who have the facility of applying particular skills to other areas. (p. 217)*

The development of curriculum ought to occur in the context of a healthy interaction between the scholarly traditions of a university which endeavours to achieve the teaching of those skills which will fit the student for actual practice. If it does, students will grasp the concept of law as a learned profession; members of staff will grasp the reality of being engaged in a scholarly pursuit; and students will not feel that a practice course is an anti-climax and of little benefit.

The expression 'curriculum development' conjures up a number of distinct concepts. A lawyer's work is a mixture of the mundane and the intellectual. There should be real

endeavour to design tasks to be performed in legal practice courses so that the relevance of the application of intellectual skills to the mundane and the continuing relevance of practical matters to the intellectual are part of the ongoing learning process.

All this must be done in the context of a proper set of aims. Putting aside matters of honesty and professional conduct, the writer suggests that most of the failings of lawyers have their origin in the lack of ability to think and express themselves clearly and logically. Every task performed by a lawyer contains these elements. It is not suggested that the emphasis on performing tasks in a course of practical instruction is inappropriate, but that is essential that such courses be concerned with ensuring that students acquire the ability to perform those tasks which they will be required to perform in practice. The emphasis should not be on the task qua task but rather on how the teaching of such a task may be made the vehicle for teaching wider skills.

Task orientated instruction must be a learning experience relevant to a wide range of situations. Each task can be used as a vehicle to teach an understanding of the legal landscape; an understanding of the needs of the client; an ability to determine what is to be done to satisfy those needs; an appreciation of proper professional standards; an ability to comprehend written materials; and an ability to express him or herself clearly.

Direct teaching of the substantive law is not something which is advocated by the author. Inevitably it will be taught as being incidental to the tasks. The substantive law changes from day to day. The interests of students are better served by equipping them to cope with and absorb changes in the law as they occur rather than by teaching them the minutiae of law as it may presently be in force. They should know how to find the law and have the skill to appreciate its

significance and apply it when they have found it.

## LEGAL EDUCATION GENERALLY

### Practice makes perfect

C Sherrin

13 *J Prof L Ed* 2 1995 pp 131-145

The role of legal education is two-fold: to provide a liberal intellectual experience for students who are not necessarily intending to qualify as lawyers and to provide specific professional education for those who are. This duality has created conflicts in legal education so that at worst, the liberal confronts the practical, theory is contrasted with practice, the cognitive with skills, the pedagogical with the clinical. The plurality of objectives can be accommodated by a sophisticated educational progression which provides choices and enables students to diverge from a common path at critical stages.

The pedagogical objectives of all legal education should be to inculcate an understanding of pervasive theoretical concepts and fundamental principle. In addition, legal educators have to equip their students for the intellectually and morally strenuous professional life that lies before them. Like all university teachers, legal educators strive for academic excellence and intellectual integrity. The professions demand high standards, which involve consideration of curricula and examination papers but which is often reduced to a jealous scrutiny of the pass mark.

The specific educational objectives of modern legal practices courses are first, to enable the student to adapt the knowledge of the law and the intellectual skills acquired in the academic stage to the problems that arise in legal practice and secondly to lay the foundations for the continuing development of professional skills