



## Are new lawyers ready to practice law?

An OSBA task force has been appointed to work on easing the transition from law student to practicing attorney, preparing graduates to represent clients competently, ethically and professionally.

I have always been grateful that my former and current physicians did not just go to medical school, take the medical boards and then hang out their shingle. Fortunately, they all voluntarily entered postgraduate board-certified residency programs in their practice areas.

In contrast, there is no internship or residency program like this for the legal profession. Law schools typically offer elective, semester-long courses in clinical practice. These courses connect the law students with real clients, but, since this is only one of their classes that semester, the lion's share of the legal work is still handled by the clinics' supervising attorneys. Further, because the number of clinical instructors is limited, the number of students in these courses is also limited.

A speaker at a bar conference recently made a comment that resonated with me. He noted that "law schools' main focus is to teach law students the 'why' of the law, not the 'how' of the law."

So, whose role is it to teach law students and new lawyers how to become lawyers who act professionally and ethically? Whose role is it to teach them how to interview clients, give appropriate legal advice and competently handle a legal matter? Further, how should this be accomplished?

### A historical perspective

Abraham Lincoln learned the practice of law in the early 1800s by reading law books and through apprenticeship. Law schools began springing up across the country by the 1900s with more formalized education. Subsequently, the concept of standardizing the outcome of law school training by administering a state supreme court-sponsored bar examination took root. However, book learning alone does not teach law students how to practice law.

In 2001, the Supreme Court of Ohio attempted to bridge the gap by promulgating a rule requiring all new lawyers to take a 12-hour continuing legal education program. Most new admittees take these two-day courses within a month or so of receiving their licenses. The Supreme Court rule requires that six hours of the CLE be devoted to specific topics that are geared toward professionalism and ethics. The other six hours are devoted to subject matter training.

### The results of the new lawyer CLE-training

I would like to tell you that the new lawyers have walked away from the new lawyer training CLE programs feeling that they have learned a lot and are ready to represent clients competently, professionally and ethically. Based on attendee feedback, though, new lawyers believe they have wasted

two days of their time, not to mention their money.

The attendees believe that since they have taken and passed the MPRE and the bar exam, they know everything there is to know about the law and about acting ethically, and, besides, in their opinion, it is the older practitioners who act unethically and unprofessionally.

Another problem is that many attendees do not have jobs yet, or if they do, they have not yet met with their first client. They lack any personal real-life experience, which can make it difficult for them to relate to the speakers' lectures. Further, the substantive portions of the training have not been effective because many of these new lawyers either do not know what type of law they might end up practicing or if they will work with a large firm or government agency, for instance, and the subject areas may not be pertinent to them. Also, the way law is practiced tends to be specific to which judge's court you are in or the standards used in a particular transactional practice.

The diagnosis, after more than three years of these mandatory new lawyer training CLE programs, is that they are not



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meeting either their aspirational goals, nor the participants' desire to learn what they need to know.

### Interim solutions

In recognizing that the current form of the mandatory new lawyer training CLE needs, at a minimum, to be re-evaluated, I appointed an OSBA task force, chaired by Kevin Taylor of Van Wert, to undertake this work. The task force is comprised of attorneys from the OSBA, the Ohio Metro Bar Consortium, the Supreme Court of Ohio, and the Supreme Court Commission on Professionalism and the CLE Commission. The task force has been working throughout this year to assess and recommend rule changes to the Supreme Court of Ohio to make the new lawyer training courses more valuable.

At the recent request of the Supreme Court of Ohio, our task force will also be exploring the possibility of a mandatory mentor-mentee program for new lawyers and how this type of program might affect the way new lawyer training CLE is fashioned.

### "If money were no object" solutions

There are many people in Ohio who need legal services, but do not have the resources to hire an attorney. There are many law students and new lawyers who need to learn how to provide legal services, but do not have the opportunity to do so.

If money were no object, perhaps all law students would have to take at least one clinical practice course during law school.

Another remedy would be to have mandatory apprenticeships, while doing away with the traditional bar exam, as occurs in Ontario, Canada, and in other countries. The Supreme Court of New Hampshire is considering implementing this model in its state.

A third potential solution is the student loan-abatement program available to Florida's and seven other states' law school graduates. It is a win-win situation for young practitioners, because they earn a salary, learn how to practice law and receive a loan abatement for each year they practice as public service attorneys in that program. However, these programs have, not surprisingly, run into problems with funding and providing supervising attorneys.

### Conclusion

It is not likely that Ohio will adopt a postgraduate type internship program like the medical school model. Law schools will still primarily teach their students the "why" of the law and to "think like lawyers" so their graduates can pass the traditional bar examination. The new lawyer training CLEs will continue to be tinkered with to make them more worthwhile, but they will never be a substitute for a hands-on internship or residency program.

The law schools, practitioners and the Supreme Court of Ohio need to continue to work on options to ease the transition from law student to practicing attorney, and to make it a win-win situation for new attorneys, their clients and their communities. ■



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