

The Benchers considered the Report of the Admission Program Task Force on June 28, 2002. This Report has been updated to incorporate all of the decisions made by the Benchers at that time.

June 28, 2002

Admission Program Reform

Final Report

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TABLE OF CONTENTS

| | Page |
|---|-------------|
| Executive Summary | iii-vii |
| Introduction | 1 |
| The Task Force Process | 2 |
| Admission Program Objectives | 3 |
| Interprovincial Mobility Context | 3 |
| The Importance of the Admission Program | 4 |
| Recommendations | 6 |
| A. Admission Program Expectations | 7 |
| Professionalism in Legal Education - Recommendation #1 | 7 |
| Law Society Expectations of Students - Recommendation #2 | 7 |
| Required/Recommended Law School Courses - Recommendation #3 | 8 |
| B. Articling Term | 9 |
| Articling Education Contract and Checklist - Recommendation #4 | 10-12 |
| Recommendation #5 | |
| Recommendation #6 | |
| Articling Student Evaluation - Recommendation #7 | 12 |
| Articling Principal Eligibility - Recommendation #8 | 13 |
| Articling Support for Students and Principals – Recommendation #9 | 15 |
| Equity Ombudsperson - Recommendation - #10 | 16 |
| Professionalism and Collegiality Events for Articling Students and the Profession - Recommendation #11 | 16 |
| Articling Assignments / Support in Skills Teaching in Articling- Recommendation #12 | 17 |
| Length of Articles - Recommendation #13 | 18 |
| Articling Recruitment and Placement - Recommendation #14 | 19 |
| C. Teaching Term (PLTC) | 19 |
| Character of PLTC - Recommendation #15 | 20 |
| Length of the PLTC Teaching Term - Recommendation #16 | 21 |

| | |
|--|--------------|
| PLTC Curriculum - Recommendation #17 | 22 |
| Mandatory and Elective Components to PLTC Curriculum - Recommendation #18 | 23 |
| D. Examinations and Skills Assessments | 23 |
| Mandatory Entrance Examinations - Recommendation #19 | 23 |
| Multi-Province or National Bar Examinations – Recommendation #20 | 24 |
| Optional Exemption Examinations - Recommendation #21 | 25 |
| Choice of Examination Sittings - Recommendation #22 | 26 |
| Change to Grading System - Recommendation #23 | 26 |
| PLTC - Repeat Attempts - Recommendation #24 | 27 |
| E. Governance and Administration of the Admission Program | 28 |
| Recommendation #25 | 29 |
| F. Continuous Review and Enhancement | 29 |
| Recommendation #26 | 30 |
| G. Post-Call Competence | 31 |
| Restrictions on Practice – Recommendation #27 | 31 |
| Continuing Professional Development and Competence Task Force - Recommendation #28 | 32 |
| Additional Matters | 33-34 |
| Monitoring Indicators | |
| Budget Impact | |
| Implementation | |
| Appendix A: Options considered by the Admission Program Task Force | 35 |
| Appendix B: Options not pursued further | 38 |
| Appendix C: Competency profile | 40 |

EXECUTIVE SUMMARY

The Admission Program Task Force was established by the Benchers in May 2001, following the Bencher Retreat in Kelowna, B.C. on March 30 and 31 of that year. The objective of the retreat had been to identify and recommend issues, approaches and ideas for consideration on the topic of admission reform and enhancement.

The Task Force first met on May 7, 2001, and has met 14 times since then. It presented an Interim Report to the Benchers on December 7, 2001 proposing a number of options that the Task Force believed merited further consideration, and also outlining ideas that the Task Force concluded did not warrant further examination at that time. The Benchers directed the Task Force to consider, investigate and evaluate a series of options (set out in Appendix A) for enhancement of the Admission Program. The Benchers identified a number of other options (set out in Appendix B), which the Task Force was asked not to consider further.

This Report is the result of the many meetings, consultations, reviews and discussions conducted by the Admission Program Task Force between May 2001 and June 2002. It sets out recommendations for Admission Program reform and enhancement, made after careful examination, discussion and consultation about the options listed in Appendix A.

The 28 Recommendations in this Report (as approved by the Benchers on June 28, 2002) are as follows:

A. Admission Program Expectations

RECOMMENDATION #1: In partnership with the B.C. law schools, the Law Society should:

- a. offer to help law schools teach more about professional ethics and professionalism,
- b. increase its profile in the law schools, and
- c. begin at the law school level to explain the Law Society roles of protecting the public and serving the profession.

RECOMMENDATION #2: The Law Society should inform law school students that it is fundamental to their success in the Admission Program that they be knowledgeable in the core areas of substantive law, practice and procedure on which they will be examined but on which they may receive little or no instruction during the Admission Program.

RECOMMENDATION #3: The Law Society should, at this time, neither require nor recommend individual law school courses.

B. Articling Term

RECOMMENDATION #4: Require articling students to obtain experience during articles in the following:

- a. all lawyering skills pursuant to an Admission Program checklist, and
- b. three areas of practice.

RECOMMENDATION #5: Require articling students and principals to file with the Law Society:

- a. an articling education contract, incorporating references to the checklist, at the commencement of articles,
- b. a joint mid-term report, accompanied by a plan for complying with the articling education contract by the end of the student's articles, and
- c. a joint final compliance report.

RECOMMENDATION #6: Set the following consequences for a student's non-completion of the required items in the checklist:

- a. for the student, extend the articling requirement until there is compliance with the required items, subject to successful application to the Credentials Committee for an exception; and
- b. for the principal, a caution and possible referral to Credentials Committee before future articles will be approved.

RECOMMENDATION #7: Require articling principals to state whether they have any reason to believe that the student may not be of good character, fit to practise law, and competent to practise law at an entry level, and also require the principal and student to file a joint confirmation that they have discussed in detail the principal's evaluation of the student's competence.

RECOMMENDATION #8: Increase the required years of practice experience for eligibility to serve as an articling principal to seven years, and limit each principal to two students at one time.

RECOMMENDATION #9: Provide support for articling principals and students, including:

- a. a comprehensive Articling Manual for students and principals, containing practical information and guidance on the student/principal relationship, including Law Society requirements and expectations, resources and contact information,
- b. the designation of a Law Society staff member as the Articling Officer to answer questions relating to articling, including the new articling initiatives, to receive suggestions and complaints concerning the articling process and to refer students or

principals to appropriate resources,

- c. coaching/mentoring by PLTC faculty who would provide support, upon request, to students seeking advice on skills, ethics, resources and the performance of articling tasks.

RECOMMENDATION #10: Enhance the optional services of the Equity Ombudsperson for problems in the articling term related to discrimination and harassment.

RECOMMENDATION #11: Encourage and support local events that promote professionalism and collegiality between articling students and principals and with other senior members of the bar.

RECOMMENDATION #12: Require articling students and principals to participate together to discharge their mutual obligation to ensure that the student fully understands:

- a. the duty of a lawyer at all times and in all circumstances to adhere to the highest ethical standards,
- b. that solutions to ethical problems are not always obvious,
- c. that ethical questions must always be given prompt and serious attention, and
- d. that it is always better to try to answer ethical questions after receiving appropriate advice from others.

RECOMMENDATION #13: Retain the current length of articling term.

RECOMMENDATION #14: The Law Society should co-ordinate with and promote the work of law school career service offices as a means of assisting students to find articles suited to their career goals, and to encourage the elimination of barriers that may be encountered in the articling recruitment process by Aboriginal and visible minority students, and students with disabilities.

C. Teaching Term (PLTC)

RECOMMENDATION #15: Continue the basic character of the PLTC term, including in-person delivery, full time faculty with practitioner guests, and workshop rather than lecture format.

RECOMMENDATION #16: Retain the ten-week PLTC term.

RECOMMENDATION #17: Revise and adjust the curriculum as required to correspond to the Competency Profile including:

- a. increase the instructional emphasis on skills, professional responsibility and practice management;
- b. decrease the substantive law teaching component; and

- c. incorporate diversity issues.

RECOMMENDATION #18: The current PLTC curriculum should continue to be mandatory, with no additional courses added in areas of substantive law, practice and procedure not currently covered in the course.

D. Examinations and Skills Assessments

RECOMMENDATION #19: There should be no mandatory entrance examinations as a pre-requisite to PLTC or articling.

RECOMMENDATION #20: Defer, to a subsequent stage of Admission Program review, consideration of a common national or western examination to support enhanced interprovincial lawyer mobility.

RECOMMENDATION #21: Lawyers applying for admission from foreign common law jurisdictions with a National Committee on Accreditation Certificate of Qualification (or a Canadian common law LL.B.) and five years in practice should be entitled to apply to the Credentials Committee for exemption from parts of PLTC upon terms that may include successful completion of an Exemption Examination or Skills Assessments.

RECOMMENDATION #22: Advise students before articles commence that they have the option to write the Qualification Examinations at any of the scheduled examination sittings during articles, whether before, during or after PLTC.

RECOMMENDATION #23: Change from the points system for examinations and skills assessments to showing a Pass/Fail grade on each.

RECOMMENDATION #24: Adhere to the existing Credentials Committee policy limiting the number of subsequent attempts permitted to failed students.

E. Governance and Administration of the Admission Program

RECOMMENDATION #25: Combine PLTC and articling into a single Admission Program, governed and administered by the Law Society.

F. Continuous Review and Enhancement

RECOMMENDATION #26: The Admission Program should be subject to a structured process of systematic, continuous review and enhancement to ensure it continues to meet the needs of the profession, articling students and the public, including:

- a. regular review of the prescribed lawyering competencies,

- b. ongoing updating and enhancement of the Admission Program,
- c. a mandatory confidential questionnaire for articling students about the quality of their articling and PLTC experience,
- d. regular optional surveys of newly called lawyers and articling principals, evaluating the strengths and weaknesses of the Admission Program,
- e. attention to new administrative, learning and practice technologies.

G. Post-Call Competence

RECOMMENDATION #27: The Law Society should recommend that newly called lawyers obtain a specific amount or type of continuing education, and that lawyers moving to sole practice obtain relevant continuing education.

RECOMMENDATION #28: Establish a Task Force to develop proposals for a comprehensive, strategic approach to promoting the excellence and competence of lawyers through post-call learning and information support.

ADMISSION PROGRAM TASK FORCE REPORT

Introduction

1. The Law Society of British Columbia has the statutory power to establish requirements, including academic requirements, and procedures for call to the Bar of British Columbia and admission as a solicitor of the Supreme Court. The Law Society, since its inception, has set requirements for and regulated the admission of applicants to the Bar. The importance of this responsibility is now reflected in the overall mandate of the Law Society, set out in s.3 of the *Legal Profession Act*:
 3. “It is the object and duty of the society
 - (a) to uphold and protect the public interest in the administration of justice by...
 - (iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership...
2. Articling has historically been a part of the training process of lawyers. The nature of articles has undergone changes over the years, most notably after the creation of the Faculty of Law at the University of British Columbia in 1945 when articling was reduced to a one-year period after the completion of a Bachelor of Laws. In 1952 a series of Law Society lectures was inaugurated. This was changed in 1954 to a tutorial system, which was strengthened in 1963 and subsequently became the Bar Admission Program. In the early 1980s, the Law Society made a significant change in the Admission Program by replacing the tutorials with the 10 week Professional Legal Training Course, accompanied by a nine month articling requirement. In subsequent years, the Law Society has not, in any significant manner, altered the Admission Program, although PLTC has continued to evolve to meet the demands of the changing practice of law.
3. In November 1999, the Law Society and the Continuing Legal Education Society obtained a report by Christopher Roper entitled, *New Directions for Practical Legal Training in British Columbia*, (the *Roper Report*). The *Roper Report* concludes:

“British Columbia has a well-respected and smoothly conducted course of pre-call training, known as the Professional Legal Training Course (PLTC). The course is very successful in achieving what it sets out to do. But now it is time to review it... Quality control begins at the entry gate and so, naturally, the training for those about to enter the profession must be put under scrutiny, regularly and critically....”
4. The Benchers determined that the time was right to review PLTC and the articling process, and so dedicated their March 30 and 31, 2001 annual retreat to the topic of “Admission Program Reform and Enhancement.” At sessions during this retreat, the Benchers discussed the many changes in the profession and the practice of law in the past twenty years. They noted the changes in law schools, in expectations of

clients, and in expectations of articling students. They noted the many differing types of practice – from large firms through to sole practitioners, and from generalists to lawyers who work principally in one or two discrete areas of law. They expressed concerns about the significant disparity in the quality of articling experiences, supported by surveys and reports. The effectiveness of the existing Admission Program, including both PLTC and articling, was examined in light of these and other considerations, and the Benchers expressed support for initiating a process to renew and enhance the present Admission Program.

5. Following the retreat, the Benchers established the Admission Program Task Force to review the Admission Program, including both PLTC and articling, and where appropriate, to recommend reforms to ensure the Program continues to meet the needs of the profession and fulfil the Law Society's statutory mandate to serve the public interest.
6. The Task Force members are:
 - Benchers: Richard Gibbs, Q.C. (Chair), Howard Berge, Q.C., and Robert Diebolt, Q.C.
 - Non Benchers: Mary Childs, Anne Chopra, William Ehrcke, Q.C., Susan Sangha, Jane Shackell, Q.C. and Peter Warner, Q.C.
 - Staff: James Matkin, Q.C., Lynn Burns (PLTC), Michael Lucas, Lesley Small and Alan Treleaven.

The Task Force Process

7. The Task Force first met on May 7, 2001 and has met 14 times since then. During the course of its meetings, the Task Force reviewed the history of the present Admission Program and also the admission programs in other provinces and countries, as well as in other professions. It considered the content and recommendations of the *Roper Report*, and reviewed student evaluations of the Professional Legal Training Course, as well as the results of surveys of articling students and principals. It examined the results of surveys of the Bar as a whole, and surveys of newly called lawyers. The Task Force reviewed documents from law firms as examples of student evaluation of articles and law firm evaluation of students. Law firm websites and brochures were reviewed. The Task Force looked at statistics relating to claims, complaints and areas of practice, and pass/fail statistics from PLTC. The Task Force consulted widely with members of the profession inside and outside the Lower Mainland and in large and small firms, law societies of other provinces, local and county bar associations, faculty and students of the two B.C. law schools, PLTC and articling students, PLTC faculty and staff, current and former articling principals, articling coordinators, CLE Society staff, the B.C. Branch of the Canadian Bar Association, and Law Society committees. The Task Force also considered the potential for on-line learning, and reviewed on-line learning initiatives underway in B.C., other jurisdictions and other professions.

8. On December 7, 2001, the Task Force presented an Interim Report to Benchers. The Interim Report presented a series of options for consideration by the Benchers, and sought direction from the Benchers as to which options the Task Force should further explore and develop in preparing a final report.
9. The Benchers directed the Task Force to further consider, investigate and evaluate a series of options (set out in Appendix A) for enhancement of the Admission Program. The Benchers agreed with the Task Force that a number of other options (set out in Appendix B) need not be given further consideration at this time.
10. Following the Bencher meeting of December 7, 2001, the Task Force discussed and carefully examined the options listed in Appendix A. The Task Force also widely distributed the Interim Report and either met with interested groups to discuss the options or received and reviewed correspondence from groups and individuals about the Interim Report. As the Task Force moved ahead with its work, there was some expansion and amendment of the list of options, as a consequence of suggestions made by many of those with whom the Task Force consulted. Therefore, the Task Force recommendations contained in this Report incorporate and expand on the options listed in Appendix A.

Admission Program Objectives

11. The Task Force recognizes that the mandate of the Admission Program is to ensure that students admitted to the Bar of B.C. are competent and fit to begin the practice of law. Therefore, a student, to complete the Admission Program successfully, must demonstrate such competence and fitness.
12. The Task Force endorses the conclusion in the *Roper Report* that the profession needs, in the public and its own interest, to be satisfied that newly called lawyers possess:
 - legal knowledge,
 - lawyering and law practice skills,
 - professional attitude,
 - experience in the practice of law, and
 - good character.

Interprovincial Mobility Context

13. The Admission Program Task Force recognizes that increased mobility may eventually call for greater commonality throughout the country of admission standards and bar admission education programs. The Law Society has been participating in meetings, through the auspices of the Western Education Task

Force, of representatives of the four Western bar admission programs and law societies. These meetings produced a list of competencies that newly called lawyers are expected to possess upon call to the Bar. This list, the Competency Profile (set out in Appendix C), has been approved by the Benchers of the four western law societies. The Task Force concludes it will be a useful document when implementing a number of the recommendations in this Report.

14. With discussions on interprovincial lawyer mobility continuing, the Task Force understands that the Law Society may eventually wish to harmonize admission standards on a more national scale, and that as a consequence, further Admission Program reform may be warranted. The Task Force decided that such future developments should not deter it from its task of reviewing the present Program and making recommendations with respect to its reform and enhancement. The Task Force believes that its work will allow the Benchers to consider and make a decision as to the preferred approach for admission to the profession in B.C. The end result, in turn, will assist the Benchers in understanding and considering future proposals for Admission Program reform that may come as a result of increased interjurisdictional lawyer mobility.

The Importance of the Admission Program

15. The Task Force, in its Interim Report, supports an effective Admission Program that includes both a teaching and an articling component as a pre-requisite to admission to the Bar. When considering the Interim Report, the Benchers rejected the further consideration of any option that would lead to the discontinuance of articling or bar admission teaching. The Benchers rejected the option of requiring that candidates only pass self-study bar admission examinations, the requirement in the United States.
16. The Task Force endorses the importance of the articling process. While recognizing that the Admission Program represents a cost to the Law Society, firms and students, and that it prolongs the length of time before students can be admitted to the Bar, the Task Force concludes that articles are necessary and beneficial to both students and the profession generally.
17. There are important reasons for supporting an effective Admission Program, including both a teaching and articling component. These reasons include:
 - narrowing the competence gap that otherwise exists between law school graduation and admission to the Bar, by providing supervised practical experience with actual clients,
 - teaching the “how-to” of the practice of law, including practical application of substantive law, procedure, skills, professional responsibility, loss prevention and office management,

- socializing students to their role in the profession and responsibility to the public, the profession and the administration of justice,
 - assisting and preparing those students who may soon be either in sole practice or otherwise largely unsupervised, and
 - mitigating through teaching and mentoring any disadvantage that may be faced by students from groups under-represented in the profession.
18. The Task Force has heard from some individuals during its consultations that the competitive advantages of having no articling program ought to be considered in light of the fact that a number of Canadian law graduates leave this country to seek work in large American centres where, upon passing the Bar examinations, they can be admitted to practice without delay. The Task Force has heard suggestions that the free market in the United States eliminates the incompetent lawyer.
 19. The Task Force recognizes that, with increasing globalization, there are competitive market pressures impacting on the consideration of issues such as the requirement of continuing the Admission Program.
 20. It is true that there does not appear to be empirical evidence comparing standards of competence for newly called lawyers in B.C. (or Canada) and the United States. However, the Task Force observes that a 1992 American Bar Association report, *Legal Education and Professional Development*, commonly referred to as the *MacCrate Report*, is critical of the U.S. system, and recommends measures to eliminate the competence gap between U.S. law school graduation and admission to practice, while acknowledging the superiority of Commonwealth admission programs, including Canada's.
 21. The Task Force is mindful of the statutory mandate of the Law Society to “protect the public interest in the administration of justice.” To this end, the Task Force concludes that both articling and a teaching component are fundamental to the excellence of the admission process. Although the free market in the U.S. may regulate those who will ultimately practice law by forcing out the unsuccessful practitioners, this process may take some years. In the meantime, lawyers who are not competent, have no practice experience or familiarity with law practice, and (in some states) may not even have a legal education, are licensed to practise law and represent members of the public in legal matters. This is clearly not in the best interests of the public. In the opinion of the Task Force, protecting the public interest in the administration of justice requires an Admission Program where candidates do not just know the law, but learn and practise lawyering skills, ethics and practice management, and are supervised by a lawyer in practice while obtaining practical experience. Eliminating or substantially reducing either the PLTC teaching term or articling would provide a shortcut to admission to the Bar at the expense of the public whose interest the Law Society is duty bound to protect.

Recommendations

22. As outlined above, the Task Force has examined a great deal of background information and has considered many options. The Task Force concludes that the recommendations in this Report represent important first steps in Admission Program reform and enhancement. There has been a recognition throughout the process undertaken by the Task Force that there are reasonable practical and financial limits on what would be acceptable within both the profession and the wider legal community by way of Admission Program reform and enhancement. The recommendations in this Report are what the Task Force concludes can and should be done at this time to make important improvements to the Admission Program. These reforms should be reviewed after an appropriate period of time. If warranted, further reform may be considered by the Benchers at a later date.
23. The 28 recommendations in this Report fall into seven categories:
- A. Admission Program Expectations
 - B. Articling Term
 - C. Teaching Term (PLTC)
 - D. Examinations and Skills Assessments
 - E. Governance and Administration of the Admission Program
 - F. Continuous Review and Enhancement
 - G. Post-Call Competence.
24. The Admission Program currently comprises two distinct stages, the 10-week teaching term and the nine-month articling term. The Task Force concludes that it is important to enrich the Admission Program by combining and harmonizing the PLTC term and articling term. This view is supported by the *Roper Report*:
- “... I suggest that the one year period from graduation to Call be seen as a whole; as an integrated time of professional preparation, with its own objectives and components. I also suggest that the proposed content of PLTC be, in fact and with some slight adaptation, the prescribed content of the articling year itself.”
25. Therefore, although this Report presents many of the articling term and PLTC recommendations separately, the Task Force recommends that, both administratively and from an educational viewpoint, they should both be considered as integral parts of one comprehensive Admission Program.

A. Admission Program Expectations

Professionalism in Legal Education

26. Law school is the first step in the formal legal education process by which students are readied for the practice of law. The Task Force recognizes that the Law Society can be more effective in supporting and working with the law schools in the ongoing enhancement of legal education, particularly in the areas of ethics and professionalism.
27. The Law Society is currently represented on the University of British Columbia Faculty of Law Curriculum Committee, a useful avenue for working together more fully and effectively.

RECOMMENDATION #1: In partnership with the B.C. law schools, the Law Society should:

- a. offer to help law schools teach more about professional ethics and professionalism,
- b. increase its profile in the law schools, and
- c. begin at the law school level to explain the Law Society roles of protecting the public and serving the profession.

Law Society Expectations of Students

28. During the Admission Program, students are examined on, in addition to lawyering skills, law office management and professional responsibility, the following eight core areas of substantive law, practice and procedure:
 - Commercial
 - Company
 - Creditors' Remedies
 - Criminal
 - Civil
 - Real Estate
 - Estates
 - Family.
29. Some law school students choose not to take courses in a number of these core areas while at law school, and their articles may also be restricted by choice or necessity to one or very few areas of practice, not necessarily these core practice areas.
30. Teaching at PLTC is primarily focused on law office management, professional responsibility, and the lawyering skills of advocacy, writing, drafting, interviewing, legal research, dispute resolution and problem solving. There is currently little instruction in the substantive areas of law, practice and procedure on which the students will be examined during the Admission Program.
31. The Law Society has a clear and significant responsibility to make law school

students fully aware of the Admission Program's knowledge expectations, and should be proactive in taking advantage of multiple opportunities to deliver the message to law school students that if they plan to practise law, it is their individual responsibility to learn these core areas of substantive law in law school, during articles, or by self study before or during PLTC.

RECOMMENDATION #2: The Law Society should inform law school students that it is fundamental to their success in the Admission Program that they be knowledgeable in the core areas of substantive law, practice and procedure on which they will be examined but on which they may receive little or no instruction during the Admission Program.

Notes:

- a. The PLTC Practice Material is a key resource for articling students during the Admission Program and their first years of call. This material contains succinct summaries of practice and procedure in the core substantive areas of law enumerated above. It forms the basis for the Admission Program examinations. This material should be provided at the commencement of articles to students who begin PLTC later in the articling term. This material is currently available to law school students at cost, and copies are provided to the B.C. law schools and courthouse libraries at no cost.
- b. There are a variety of opportunities to deliver this message to law school students including speaking at student events, through law school career services offices, and a new Admission Program publication.
- c. The Law Society should consult with the B.C. law schools in preparing the content of an Admission Program publication intended to advise law school students about the Law Society's expectations.

Required / Recommended Law School Courses

32. Although the Law Society has the statutory authority to do so, it currently does not require or recommended law school courses to prospective lawyers. Regardless of a student's course selection at law school, the Law Society accepts as meeting its Admission Program entrance requirements an LL.B. degree from any of the 16 Canadian common law schools or a Certificate of Qualification from the National Committee on Accreditation for a holder of a Quebec civil law degree or a foreign law degree.
33. Only the Law Societies of Upper Canada and Newfoundland require specific law school courses for entry to their programs. Both require students to have taken courses in Contracts, Torts, Canadian Constitutional Law, Civil Procedure, Criminal Law and Procedure, and Real and Personal Property. Newfoundland adds Administrative Law to the mandatory list. Some other law societies publish a list of recommended law school courses. Most do not.

34. The Task Force recalls the negative reaction of the B.C. law schools (from many students and faculty) to the proposal, approximately three years ago, that the Law Society introduce a pre-test for entry to the Admission Program. This reaction occurred in part because the suggestion of a pre-test raised concerns of excessive impact on student course selection.
35. It is not the Task Force's view that students should be limited in their course selection at law school. The Task Force sees value in permitting students to pursue law school courses in areas of law in which they are specifically interested and may choose eventually to focus their practice. Nevertheless, students must be advised of Law Society expectations so that they may make an informed choice to bear the burden of educating themselves in the areas examined in the Admission Program in which they have not taken law school courses.

RECOMMENDATION #3: The Law Society should, at this time, neither require nor recommend individual law school courses.

B. Articling Term

36. The articling term should fulfil a significant role in preparing students, in a practical way, to apply their legal knowledge, acquire and enhance practical skills and know-how, and develop a sense of professionalism that encompasses the attitudes and values of the legal profession. Articling is a key building block in the preparation for becoming a competent lawyer. It provides the real-life part of the student's professional training.
37. The Interim Report adopts the concerns heard at the Benchers' March 2001 retreat that, for some students, the articling term is too often the weak link in the professional legal education process. Articling functions in isolation, and the quality of experience for some students can provide inadequate preparation for the competent practice of law. The articling term is the only part of the pre-call education and qualification process, from the first day of law school to call to the bar, dedicated to assisting students to acquire, in an actual law practice context, the competence to practise law. As such, it is analogous to the teaching hospital experience for medical students, but too often can fall far short. The 1997 and 2001 surveys of articling principals and students, supplemented by interviews, confirm the perception that the most significant shortcomings of the articling term include:
 - inconsistent quality in articling experiences,
 - inconsistent supervision and feedback,
 - inconsistent instruction about professional values and attitudes, and
 - powerlessness of students to ensure they receive a satisfactory quality of articles.

38. Historically, the Law Society's approach to the articling term has been largely hands-off. Although the Law Society provides modest guidelines to articling principals and students about what should happen in the articling term, the Law Society largely ignores whether these guidelines are met. The Law Society requires articling principals to be in good standing with four years of practice experience, but does not involve itself in determining whether articling principals are able to provide a reasonable quality of training, and does not meaningfully support such quality.
39. The need for improvement in articles is underscored by the many submissions made to the Task Force during its consultation, most of which recommend the Law Society assume a more active role in governing and supporting the articling process.

Articling Education Contract and Checklist

40. For articles to be of maximum value, principals should understand their obligations to their articling students and provide a range of quality, well-rounded work assignments with effective supervision and guidance on ethical issues and professionalism. It is equally important, however, that articling students also understand their obligation to their principals, their entitlement to articles that meet the requirements of the Law Society and the consequences of not meeting those requirements.
41. The Admission Program currently has no specific articling content requirements. Alberta, Newfoundland and Nova Scotia require students to obtain experience in specified practice areas. This requirement has been modified in Quebec, Ontario and Manitoba, where students now must complete a list of mandatory skills functions. This enables articling in specialized firms in a wide range of practice settings, with no requirement for the student to be seconded elsewhere for completion of articling requirements.
42. The Law Society ought not to continue with its hands off approach to articles. The Law Society should take steps to ensure that principals and articling students understand their obligations during articles and that a process exists to ensure that there is a reasonable level of consistency in the articling experience.

RECOMMENDATION #4: Require articling students to obtain experience during articles in the following:

- a. all lawyering skills pursuant to an Admission Program checklist, and**
- b. three areas of practice.**

Notes:

- a. The three practice areas are to be chosen by the articling principal and student, and need not be limited to a list of core practice areas.

- b. The Task Force and Benchers considered other options including requiring experience in a specified number of core practice areas, requiring specified tasks within those practice areas, and not requiring experience in more than one practice area.

RECOMMENDATION #5: Require articling students and principals to file with the Law Society:

- a. **an articling education contract, incorporating references to the checklist, at the commencement of articles,**
- b. **a joint mid-term report, accompanied by a plan for complying with the articling education contract by the end of the student's articles, and**
- c. **a joint final compliance report.**

Notes:

- a. The articling education contract would include an education plan to be approved by the Law Society as well as a copy of the checklist. The Law Society would provide a simple comprehensive form of articling education contract with required terms and space for additional terms. The Admission Program staff would not have to embark on a time consuming process of checking these contracts in detail for content, but the contracts would be reviewed fairly expeditiously because of their standard form format. After a trial period, a more sophisticated form of articling education contract could be contemplated.
- b. The Task Force has considered requiring that the contract be filed with the Law Society before articling commences, for advance screening and approval or further direction. This process has been rejected as being administratively cumbersome, but could be reconsidered as a part of a subsequent review.
- c. Articling principals and students should be informed that for a student to obtain experience in the required number of practice areas and the skills set out in the checklist, they may be seconded to another firm for up to eight weeks without the approval of the Law Society, and longer with Law Society approval.
- d. A simple form of mid-term report would be provided by the Law Society to enable staff to review the adequacy of each report expeditiously and determine which items have been performed and which remain. The form should also account for the reality of students often being supervised by other lawyers in the firm. This mid-term report would not be an evaluation of student competence.
- e. The end of term report would cover what items from the checklist have been performed by the student, but would not include an evaluation of student competence in each item.

RECOMMENDATION #6: Set the following consequences for a student's non-completion of the required items in the checklist:

- a. for the student, extend the articling requirement until there is compliance with the required items, subject to successful application to the Credentials Committee for an exception; and**
- b. for the principal, a caution and possible referral to Credentials Committee before future articles will be approved.**

Notes:

- a. The Task Force decided against recommending that the principal be required to extend the student's articles until there is compliance. However, where appropriate, the principal should be encouraged to engage a student further during a student's extended articles.
- b. The Task Force decided against recommending the lighter consequence of only cautioning the student to be careful after Call in any prescribed areas not covered during articles. The Task Force also decided against requiring the student to successfully complete supplemental assignments. These potential consequences may be considered as a term of the Credentials Committee granting an exception.

Articling Student Evaluation

- 43. Currently in B.C., articling principals are required to sign a form on behalf of the articling student indicating that the student is "fit" to practise law. Some principals appear not to understand that this includes an assessment of the articling student's overall competence, and the current form does not include any criteria upon which the articulated principal is to assess fitness. If a principal is unable to declare the student "fit", the current practice is to refer the matter to the Credentials Committee for decision.
- 44. The Barreau du Quebec requires principals to evaluate student competence for each item on a prescribed checklist of skills, functions and practice areas, and complete a written explanation for any aspect of the evaluation where the student is rated as less than satisfactory. Adopting this scheme would introduce a fairly complex administrative scheme and present significant challenges in setting standards.
- 45. The Task Force is of the view that articling principals should actively turn their minds to a student's competence and be prepared to report to the Law Society. Principals are in a unique position to be able to make such assessments. However, principals need not be required to do more than report on competence in a general rather than a particular manner. As to the details of a student's competence, it is important that the principal have a detailed discussion with the student as to the student's strengths and weaknesses.

RECOMMENDATION #7: Require articling principals to state whether they have any reason to believe that the student may not be of good character, fit to practise law, and competent to practise law at an entry level, and also require the principal and student to file a joint confirmation that they have discussed in detail the principal's evaluation of the student's competence.

Notes:

- a. The principal's report on the student's competence would be on a general yes/no basis.
- b. This requirement could be combined with either the end of term report or the certificate of fitness.
- c. If the articling principal's evaluation of the student's entry level competence is negative and the Credentials Committee agrees with the evaluation, options for the Committee to consider, in its discretion, could include extension of the articling requirement or supplemental assignments.

Articling Principal Eligibility

46. Currently, students apply for approval of their articling arrangement by filing appropriate documentation thirty days before beginning the Admission Program. Law Society approval of an articling principal is not required before student recruitment, but lawyers may apply for pre-approval. Students may not apply for pre-approval of their proposed principal.
47. There is currently no limit on the number of students for whom a lawyer may be principal at one time. However, the Task Force observes that presently there is not necessarily any relationship between the nominal principal and the student. While the student may be gaining experience under the supervision of other lawyers in the firm, the Task Force concludes that someone specific to each student should take responsibility for the student's guidance in professionalism and fulfillment of the Law Society requirements. This is difficult to do with a nominal principal who has many students.
48. Given the increased relationship between articling students and principals contemplated in this Report, the Task Force is concerned that some potential principals may not be senior or experienced enough to convey concepts of professionalism and serve as role models to their students.

RECOMMENDATION #8: Increase the required years of practice experience for eligibility to serve as an articling principal to seven years, and limit each principal to two students at one time.

Notes:

- a. Law Society statistics indicate that lengthening the practice requirement for eligibility to be a principal from four to seven years would only nominally reduce the number of articling positions, if at all. Any slight reduction would be lower or nil if only three of the seven years had to be in B.C.
- b. An increase in the minimum years of practice requirement for principals should only require that the previous three years be in B.C. The balance may be in other provinces. Applications for individual exceptions, such as for years of practice in a foreign common law jurisdiction, could be made, as at present, to the Credentials Committee.
- c. The current Law Society system for applying for articles and approving principals once the student and principal have agreed to an articling arrangement appears to work well. The Task Force does not recommend changing them. Law Society staff routinely approve principals unless there appears to be a problem, in which case they refer the matter to the Credentials Committee. The following factors are considered when considering eligibility to serve as a principal:
 - discipline record (citations, conduct reviews),
 - complaints record,
 - Practice Standards record,
 - financial difficulties,
 - whether the placement offers a sufficiently rounded student experience,
 - the merits of the individual lawyer as principal (but not the entire firm).
- d. Also working well is the Law Society's practice of making it the student's responsibility to apply for approval of the articling arrangement. If a student fails to do so, the student will receive no credit for time served in unapproved articles, subject to a successful appeal to the Credentials Committee. There are no consequences for the lawyer's failure to do so.

Articling Support for Students and Principals

49. The Task Force recognizes that because many articling placements are isolated, it is important for both students and principals to understand what is expected of them, have access to support, and be aware of resources available to help them. The goal is to maximize the learning experience for the student while ensuring the articling experience is equitable and free of discrimination.

RECOMMENDATION #9: Provide support for articling principals and students, including:

- a. a comprehensive Articling Manual for students and principals, containing practical information and guidance on the student/principal relationship, including Law Society requirements and expectations, resources and contact information,**
- b. the designation of a Law Society staff member as the Articling Officer to answer questions relating to articling, including the new articling initiatives, to receive suggestions and complaints concerning the articling process and to refer students or principals to appropriate resources,**
- c. coaching/mentoring by PLTC faculty who would provide support, upon request, to students seeking advice on skills, ethics, resources and the performance of articling tasks.**

Notes:

- a. The Articling Manual would include contact names and numbers of various resources available to support and enrich the articling experience, including the PLTC Faculty, the Articling Officer and the Equity Ombudsperson. The Articling Manual would encourage students and principals to use these resources for advice on lawyering skills, ethics, law office management issues, rules and articling problems.
- b. The Articling Officer would act as a central source of information available to students and principals, help to resolve problems and co-ordinate with PLTC and the Equity Ombudsperson.
- c. A PLTC faculty member would be assigned to each student as a mentor/coach available to assist at the student or principal's option during articles (not just during PLTC). Articling students would be invited to contact PLTC faculty for skills, ethical and practice management advice.

Equity Ombudsperson

50. The role of the Ombudsperson is to be an advocate for fairness and a help in fostering an equitable work environment. The Ombudsperson is available to encourage and support articles that are free of discrimination, harassment, and other problems that may arise in a closed environment where there is an imbalance of power.
51. The Ombudsperson fulfils an important role in supporting the objectives in the Aboriginal Law Graduates Working Group Report (*Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers*, April 2000), and can help to minimize discriminatory experiences in the articling process by offering pro-active, equity education activities for law firms.

RECOMMENDATION #10: Enhance the optional services of the Equity Ombudsperson for problems in the articling term related to discrimination and harassment.

Notes:

- a. The Ombudsperson's services should be advertised more extensively to articling students and principals, to encourage and support fair and equitable articles. For example, it would be highlighted for both articling students and principals in the Articling Manual that the Ombudsperson is available to help them resolve and manage equity conflicts and disputes during articles, intervene on request, and otherwise provide confidential, informal and independent advice and information.
- b. Discrimination, harassment and other problems of unfairness in articling would also be addressed with additional content in the Articling Manual. The PLTC curriculum would be used to heighten awareness of these issues, the services of the Ombudsperson and the other available resources.

Professionalism and Collegiality Events for Articling Students and the Profession

52. Members of the profession and legal organizations, through the consultation process, expressed some enthusiasm for expanding the current Inns of Court or other mentoring programs on a voluntary basis to all articling students and the junior bar, regardless of area of practice or location.
53. The Task Force has considered the potential for adopting and expanding the existing Inns of Court Program model. It is apparent that an expansion of the Inns of Court Program model would be complex and resource intensive. The current program has two groups of 25 junior lawyers, each group meeting six times per year.

Approximately 35 judges and senior litigators are involved as speakers, panelists, and discussion group leaders. The program is open to lawyers in the Lower Mainland with two to five years of call in a barrister's practice.

54. The Task Force concludes that it would be more desirable and feasible for the Law Society, in conjunction with county and local bar associations, to encourage a less formal program of periodic meetings throughout the province, specifically intended to encourage collegiality between articling students and principals and with junior lawyers and senior lawyers.

RECOMMENDATION #11: Encourage and support local events that promote professionalism and collegiality between articling students and principals and with other senior members of the bar.

Articling Assignments / Support in Skills Teaching in Articling

55. In keeping with its theme of integrating PLTC and articles, the Task Force has considered, in addition to, or in lieu of some of the current assignments during PLTC, introducing assignments that students would perform in articles and submit to PLTC for feedback or marking.
56. Examples of such requirements in other jurisdictions include Newfoundland, which requires articling students to complete and submit a Statement of Claim assignment and a Will assignment. Ontario has a mandatory Professional Responsibility assignment, which articling students complete in writing and then discuss with their principals. The principal submits a certificate to the Law Society indicating that the process has been completed. In New South Wales, students are required to submit a report and an analysis in journal form.
57. A mandatory writing assignment for articling students in Alberta was discontinued when its Bar Admission Course became a full time classroom program.
58. In consultation meetings, both lawyers and articling students have consistently indicated to the Task Force their preference that there be no assignments during articling that would interfere with an already pressured articling experience. In the focus group consultations undertaken as part of an on-line writing pilot project, the suggestion that students submit actual client documents or legal memoranda for feedback of PLTC faculty met with resistance. Lawyers said that students should not submit actual client documents because of confidentiality, conflicts and liability issues. Students also indicated a reluctance to submit documents due to time constraints and a fear that negative feedback would not be confidential. The Task Force agrees.
59. The Task Force is concerned that PLTC assignments required to be completed during articles would be performed in haste and isolation, diminishing their educational value.

60. Nevertheless, the Task Force sees considerable value in the practical experience, guidance and professionalism that can be brought by having principals discuss ethical issues with their students. The Task Force sees merit in creating a process to ensure such discussions take place.

RECOMMENDATION #12: Require articling students and principals to participate together to discharge their mutual obligation to ensure that the student fully understands:

- a. the duty of a lawyer at all times and in all circumstances to adhere to the highest ethical standards,**
- b. that solutions to ethical problems are not always obvious,**
- c. that ethical questions must always be given prompt and serious attention, and**
- d. that it is always better to try to answer ethical questions after receiving appropriate guidance from others.**

Notes:

- a. The principal and student would not need to report the content of their discussions but would confirm, in their final report, that they had taken place. The Admission Program could make hypothetical ethical problems available for the use of articling principals and students, and include suggested solutions.
- b. The Admission Program would ensure, through the Articling Manual, that articling students and principals are aware that the PLTC faculty are available to offer advice and support on professional responsibility or practice management issues, and as a resource to assist students in acquiring and enhancing their skills.
- c. With respect to skills, PLTC faculty assistance could include, at the student's option and with the approval of the articling principal, the student submitting samples of writing or drafting for feedback by PLTC instructors, subject to issues of cost, time, conflicts and liability being resolved.

Length of Articles

61. The Task Force has assessed the current nine-month length of the articling term. None of the groups with which the Task Force has consulted made any suggestions or expressed any concerns in this regard.
62. The Task Force is concerned that shortening the articling term might reduce the opportunity for students to work through complete matters, and make it more difficult for firms to assess articling student performance.

63. The Task Force notes that lawyers who have practised in common law jurisdictions outside of Canada may apply to the Credentials Committee for a reduction in the articling term, and that in recent years the requirement for students newly called in other provinces to re-article in B.C. has been eliminated.

RECOMMENDATION #13: Retain the current length of articling term.

Articling Recruitment and Placement

64. The Aboriginal Law Graduates' Working Group Report seeks support for students in the articling recruitment process, and in particular Aboriginal and visible minority students, and students with disabilities.
65. One recommendation in the Aboriginal Law Graduates' Working Group Report is that the Law Society assist students in finding articles that are suited to their career goals, and work to eliminate barriers that may be encountered in articling recruitment by Aboriginal and visible minority students, and students with disabilities.
66. The Law Society is not now formally involved in the articling recruitment process. The two B.C. law school career services offices currently publish lists of potential articling principals and provide articling placement and support services. They also co-ordinate with their counterparts in other Canadian law schools to assist students who come to B.C. from other provinces. Rather than expand Law Society activities by setting up a new articling placement program, the Task Force recognizes an opportunity to co-ordinate with these existing programs.

RECOMMENDATION #14: The Law Society should co-ordinate with and promote the work of law school career services offices as a means of assisting students to find articles suited to their career goals and to encourage the elimination of barriers that may be encountered in the articling recruitment process by Aboriginal and visible minority students, and students with disabilities.

C. Teaching Term (PLTC)

67. PLTC is a ten-week course that is a required element of the Admission Program. Students may select one of the three scheduled sessions of the course in Vancouver commencing in February, May or September or in Victoria in May. Four skills assessments are administered during the course. Two examinations covering eight core substantive areas, practice and procedure in those areas, law office management and professional ethics are administered during the tenth week.
68. Students articling outside the Lower Mainland and Vancouver Island students are given priority in selecting a Vancouver or Victoria session immediately following law school to avoid most accommodation or travel issues.

Character of PLTC

69. The course is taught by a faculty of five full-time Instructors who are all senior lawyers with both practice and teaching experience. Their teaching is supplemented by occasional guest lawyers who either lecture or participate in class seminars or skills workshops in the area in which they practise.
70. The emphasis at PLTC is on practice and detailed feedback in the skills of legal research, problem solving, advocacy, writing, drafting, interviewing/advising and dispute resolution. These skills are learned in classes of 20 with students receiving written material and a few lectures, but mostly small group instruction and discussion. The students have multiple opportunities to practise the skills and receive feedback before they are assessed. Issues of practice management and ethics also form a part of the many exercises and assignments in which the students engage.
71. During PLTC, articling students are immersed in a learning environment. They learn from each other as well as from the regular and guest faculty. During PLTC, students are strongly discouraged from “working” in their firms and may not work elsewhere without Law Society permission.
72. The *Roper Report* comments on the current PLTC teaching/learning model as follows:

“This model is a very appropriate one. I heard little criticism of the mix of learning methods used. There has to be a mix of methods and small group exercises are certainly quite appropriate. I do not suggest that the current mix change.

Feedback is a vitally important part of learning. This is especially so where the student is learning something essentially new, such as the skill of advocacy, or is attempting to integrate knowledge, skills and attitude into the act of lawyering. Once the student enters the workplace, as an articling student or as a junior lawyer, it will often be very difficult to receive feedback...So, the PLTC is a major opportunity to provide feedback in an explicit and detailed way. Its value as a means of enabling learning is immense.

The main reason why detailed and specific feedback is not given to students in [other] PLT courses is the time involved, on the instructor’s part. And yet feedback is an essential element of ensuring deep learning.

The provision of feedback to students should be seen as a core element of the teaching process. I therefore recommend that the provision of feedback continue to be an essential element of the learning process in the course.”
73. All provinces other than B.C. and Nova Scotia rely more fully on volunteers from the practicing bar to lecture in the teaching component of their bar admission programs. (The fuller reliance on volunteers, and problems with affordability and availability of teaching space, are currently presenting serious challenges for some other programs.)

74. The Task Force also recognizes the collegial and practice value of small group learning of skills in workshop format as being superior to lectures, whether in person or recorded for solo review on video or on-line during busy articles.
75. The *Roper Report* recommendations generally approve maintaining the basic character of PLTC, and the Task Force, in its consultations, has heard these recommendations confirmed. PLTC is a well-respected course that runs well.

RECOMMENDATION #15: Continue the basic character of the PLTC term, including in-person delivery, full time faculty with practitioner guests, and workshop rather than lecture format.

Length of the PLTC Teaching Term

76. The Task Force has considered lengthening PLTC to twelve weeks to permit more coverage of lawyering skills, to relieve the pressure on students to cover the skills as well as prepare for Examinations in such a short period, and to qualify the course for deferral of student loan payments.
77. The Task Force has reviewed information about student salaries, fees, and loans, and considered the pros and cons of keeping the PLTC term at ten weeks or increasing the length of the PLTC term, including cost to the program, the students and the firms.
78. The PLTC equivalent in other provinces range in length, with the longest being in Quebec (six months) and Ontario (currently sixteen weeks, but perhaps to be drastically reduced to as little as one to two weeks, in whole or in part online). Other Canadian programs range from six to eight weeks. Articling components range from six months (Quebec) to twelve months.
79. The Task Force is opposed to lengthening PLTC simply to provide more study and preparation time for students or to reduce stress. Increased work during PLTC in law office management, professional responsibility and skills should be achieved by reducing the amount of time spent teaching substantive law, which the students are responsible for having learned in law school or by self-study, with the assistance of the Practice Material.

RECOMMENDATION #16: Retain the ten-week PLTC term.

PLTC Curriculum

80. A competent lawyer must possess, in addition to legal knowledge, a range of skills and abilities for carrying out a variety of ever-changing functions. The lawyer must, for example, be an effective interviewer, adviser, researcher, analyst, manager, organizer, negotiator, writer, drafter and advocate. Legal knowledge is essential, but is of little value without skill and know-how. The Law Society must ensure that newly called lawyers possess the requisite lawyering skills, through effective Admission Program training and rigorous assessment.
81. The teaching at PLTC currently centres on the lawyering skills of legal research, problem solving, dispute resolution, advocacy, writing, drafting and interviewing/advising. Students engage in exercises and assignments and are given extensive practice and feedback in all of these skills, and are assessed during the course on the latter four.
82. PLTC concludes with two written examinations covering its eight core substantive areas of law and the practice and procedure in those areas. There is a minimum of instruction on each of these areas during PLTC. The vast majority of instruction at PLTC is in skills. Students are provided with written material, which forms the basis of the examinations, and is a useful resource in practice.
83. The Task Force endorses the recent trend in B.C. and other bar admission programs, including Nova Scotia, the United Kingdom, Australia, New Zealand and Hong Kong, toward a skills emphasis and away from the teaching of substantive law.
84. Students, provided with information about the Law Society's expectations, must accept responsibility for learning substantive law in law school or undertake to self-learn before or during articles with the assistance of the Practice Material provided by PLTC.
85. Staff and Benchers of the law societies of the western provinces have met several times over the past year with a view to harmonizing the four western provinces' programs by pooling resources and standardizing some elements. The Competency Profile developed by the group and adopted by the Benchers of all four provinces is an important tool for further development of the PLTC curriculum.
86. PLTC is also in the process of incorporating Aboriginal law and other diversity issues into the Practice Material and the curriculum, subject to the time limitations of the ten-week course and in keeping with the trend toward increasing skills and decreasing substantive content.

***RECOMMENDATION #17:* Revise and adjust the curriculum as required to correspond to the Competency Profile including:**

- a. increase the instructional emphasis on skills, professional responsibility and**

practice management;

b. decrease the substantive law teaching component; and

c. incorporate diversity issues.

Mandatory and Elective Components to PLTC Curriculum

87. The Task Force has considered how students in law school, and sometimes in articles, pursue individual interests. PLTC is the only stage in the professional legal education process where a broadly based experience in basic core practice areas and skills is assured. In the relatively brief PLTC time frame, non-mandatory and non-examinable sessions have in the past proven to be poorly attended, while cutting into the short time available for skills training.
88. The Task Force concludes that articling students, once provided with a solid base, can best learn their preferred areas of interest through CLE courses or in their firms through the development of their practice. The Task Force is of the view that optional specialty seminars should not be added to the PLTC curriculum.

***RECOMMENDATION #18:* The current PLTC curriculum should continue to be mandatory, with no additional courses added in areas of substantive law, practice and procedure not currently covered in the course.**

D. Examinations and Skills Assessments

Mandatory Entrance Examinations

89. The Task Force has reviewed the reasons for the original proposal for self-study entrance examinations, as a pre-requisite to the Admission Program. These include:
- ascertaining student readiness for the Admission Program,
 - facilitating the reduction or elimination of substantive and procedural law content in the PLTC curriculum,
 - ensuring a common student knowledge base at entry,
 - moving examination related tension during PLTC to an earlier time,
 - identifying students unable to succeed in the Admission Program at the outset rather than at its conclusion,
 - encouraging law school students to take more of the law school courses that are immediately relevant to success in the Admission Program.

90. The Task Force has also considered the concerns raised by opponents of entrance examinations, including:
- the narrowing effect such an examination might potentially have on the law school curriculum,
 - delay in commencing the Admission Program after law school to permit study, examination, grading, and appeals,
 - uncertainty of whether and when a student may begin the Admission Program, posing problems for firms, students and Admission Program,
 - concern that students might instead go to other provinces,
 - the modest amount of time currently dedicated to teaching substantive law at PLTC,
 - the Aboriginal Law Graduates Working Group Report, which considers an entrance examination to be a barrier to access to the profession.
91. The Task Force concludes that, at least for the time being, the Law Society should continue to accept a Canadian common law LL.B. or a Certificate of Qualification from the National Committee on Accreditation as satisfying the academic requirement for beginning the Admission Program. Qualification for admission to the Bar would continue to depend on successful completion on the Admission Program, including the examinations and skills assessments. With this in mind, the Task Force does not, at this time, see entrance examinations as necessary or desirable. The Task Force prefers to have the Law Society communicate its expectations clearly to law school students, and to adhere strictly to them.

RECOMMENDATION #19: There should be no mandatory entrance examinations as a pre-requisite to PLTC or articling.

Notes:

The mandatory entrance examinations option, including perhaps a national or western examination, could be reconsidered in a subsequent review of the Admission Program, and account for interprovincial mobility initiatives.

Multi-Province or National Bar Examinations

92. The Task Force concludes that consideration of a multi-province or national bar examination is premature, given on-going discussions on lawyer mobility in the western provinces and across Canada.
93. When such discussions are concluded and standards are set for lawyers to transfer from one jurisdiction to another with greater ease, it may be appropriate that each province's criteria for admission of new lawyers also be coordinated. In that event, law societies can consider whether such coordination is better achieved with

common standards or common testing instruments.

RECOMMENDATION #20: Defer consideration, to a subsequent stage of Admission Program review, of a common national or western examination to support enhanced interprovincial lawyer mobility.

Optional Exemption Examinations

94. Some students have expressed the desire to opt out of portions of PLTC either because of their lack of interest in the substantive area or because of their perceived sufficient knowledge or ability in a skill.
95. PLTC is presently the only component of the legal education process where coverage of the basic practice areas and skills is assured and required. The Task Force is of the view that articling students should not be encouraged or permitted at such an early stage of their careers and for such a short time period to opt out of any of the lawyering skills or core substantive areas on which they will be examined.
96. Currently, lawyers who have practised for a number of years in a foreign common law jurisdiction may apply for exemption from a part of the articling term. There is no similar provision for applying for exemption from any portion of PLTC.
97. Lawyers from other Canadian jurisdictions are already exempt from the Admission Program (both PLTC and articling), and may apply for membership in the Law Society of B.C. through the transfer process. This requires them to write transfer examinations covering seven of the eight core substantive law areas set out above (excluding criminal) and statutes specific to B.C. (As a result of current mobility discussions, the requirement to write this examination may be eliminated.)

RECOMMENDATION #21: Lawyers applying for admission from foreign common law jurisdictions with a National Committee on Accreditation Certificate of Qualification (or a Canadian common law LL.B.) and five years in practice should be entitled to apply to the Credentials Committee for exemption from parts of PLTC upon terms that may include successful completion of an Exemption Examination or Skills Assessments.

Notes:

There would continue to be no optional examinations or assessments for exemption from PLTC or articling for those law students holding a Canadian common law LL.B. who are not lawyers in another province or territory or common law foreign jurisdiction.

Choice of Examination Sittings

98. The *Roper Report* suggests that separating examinations from PLTC may relieve the PLTC learning environment from examination stress pressures.
99. In the past when this choice was available on a trial basis, students overwhelmingly elected to continue to write examinations at the end of PLTC.
100. The current PLTC examination deferral policy permits PLTC students to write the Qualification Examinations at any later sitting during their articles. Few choose to do so except in case of illness or other personal problem. The policy does not currently permit students to write before PLTC.
101. While recognizing that most students and their firms will still prefer that the student write the examinations at the end of PLTC, the Task Force notes that PLTC does not teach to the examinations and will increasingly direct its teaching towards skills, law office management and professional responsibility and away from teaching of substantive law. Offering the option to separate the Qualification Examinations from PLTC would help emphasize to the students that it is their responsibility to either educate themselves at law school or self-study with the assistance of the Practice Material during articles.

RECOMMENDATION #22: Advise students before articles commence that they have the option to write the Qualification Examinations at any of the scheduled examination sittings during articles, whether before, during or after PLTC.

Notes:

- a. Students would be cautioned to consult with articling principals before choosing examination dates that, including study time, conflict with articling obligations.
- b. With students having the option of choosing to write the examinations at any of three or four scheduled sittings, the examinations may increasingly be perceived as being a distinct part of the Admission Program. Accordingly, the examinations could be renamed.

Change to Grading System

102. The Task Force has considered the pass/fail rates on examinations and skills assessments, including whether to reset passing scores to reflect a particular level of competence. It has been decided that, as these matters are included in Appendix B (“Options not to be pursued further”) in the Interim Report, the Task Force would not pursue them further.

103. However, the Task Force notes a discrepancy in the information reported to articling students and principals about a student's performance on the examinations and assessments. While a student's results on the four skills assessments are recorded as a pass (2 points) or fail (0 points), the student's performance on the examinations is ranked by awarding 1.5 points for a passing mark between 60 and 70 and 2 points for a mark over 70.
104. This ranking of students on their examinations is not necessary and is not consistent with the skills emphasis of PLTC. It creates unnecessary stress for the students in firms with more than one student. Firms indicated that the difference of 1.5 or 2 on an examination is of no significance to them. Firms have the law school transcript, and can form their own assessment of student abilities during articles.

RECOMMENDATION #23: Change from the points system for examinations and skills assessments to showing a Pass/Fail grade on each.

Notes:

Although not recorded on the transcript, the points system would be maintained in internal records as it may be useful for the members of the Credentials Committee, when considering matters relating to failed students, to have information on student strengths and weaknesses.

PLTC - Repeat Attempts

105. The Task Force has reviewed the Credentials Committee's current policy on students who fail PLTC, and considers it to be appropriate, if students are provided with clear and timely notice. The policy states:
- A. A second attempt will be granted in most circumstances to a student who has failed three or less of six items (*i.e., of 4 assessments and 2 exams*) if the student provides sufficient evidence that the failure was an aberration or caused by exceptional personal circumstances and a satisfactory educational plan is filed. A student with four failed items, in most circumstances, will be permitted to re-attend PLTC.
 - B. A third attempt will only be granted in exceptional circumstances upon the student providing evidence that the performance was caused by extraordinary circumstances, and is not simply a demonstration that the student cannot meet the required standard.
 - C. A fourth attempt will not be granted unless the student can show that the previous attempts are not a demonstration that the student cannot meet the required standard. This will generally require some new information to explain the failure. The Committee will want to know why the new information was not disclosed previously and may not consider new information without an adequate explanation.

- D. As a result, those who fail any aspect of PLTC three times will generally be required to complete articling and PLTC again. In most situations the Committee will not permit the applicant to re-apply for two years.

RECOMMENDATION #24: Adhere to the existing Credentials Committee policy limiting the number of subsequent attempts permitted to failed students.

E. Governance and Administration of the Admission Program

106. The Benchers have observed, as recently as their March 30 and 31, 2001 retreat, that articling is, for too many students the weak link in the professional legal education process, and that there is positive potential to strengthen articling through a linking with the PLTC curriculum. The Admission Program Task Force has focused on these factors in making its recommendations.
107. The Law Society administered the entire Admission Program (teaching, examinations, and articling) until 1981. In September of 1981, the Law Society asked the CLE Society to assume responsibility for administration of the teaching and testing components of the Bar Admission Program, while retaining articling.
108. Beginning in May of 1984, PLTC replaced the tutorials of the former Bar Admission Program, and from that time PLTC has been administered by the CLE Society. Articling itself continues to be administered by the Law Society.
109. The Law Society, pursuant to its statutory mandate, continues to be accountable for the governance of the entire Admission Program, including both PLTC and articling. While responsibility for governance includes ultimate policy setting authority for the Admission Program, the Law Society continues to delegate administrative responsibility for PLTC to the CLE Society. The Task Force is of the view that this should be changed.
110. Following ongoing discussions between the Law Society and the CLE Society, the CLE Society Board of Directors on June 6, 2002 formally authorized the CLE Society Executive Director to negotiate the transfer of the administration of PLTC to the Law Society. Discussions have continued for effecting a positive transition, and to establish a strengthened relationship between the two organizations in advancing post-call education.
111. The Task Force sees this change as essential. Ongoing division of Law Society responsibility for PLTC policy and CLE Society responsibility for administration means that PLTC, a program central to the Law Society's ability to fulfil its statutory mandate, is divorced from direct Law Society control and therefore not effectively accountable to the Law Society. There are also administrative duplications and inefficiencies related to cost, data collection and technology.

112. The *Roper Report* identifies the governance of PLTC as a concern as follows:

“The PLTC sits, in some ways, in an unclear position between the Law Society and the CLES. This can result in it either answering to two masters, or having none. Neither is desirable . . .

The course is administered by the CLES . . . the Credentials Committee itself is effectively the course’s governing body . . .”

113. The Task Force concludes that these changes would have a positive impact by making the Law Society responsible for the quality of the entire Admission Program, including both PLTC and articling, at the policy, regulatory and administrative levels.

114. The Law Society and the CLE Society acknowledge the importance of both organizations continuing to be partners in advancing the continuum of legal education, and that the change in the administration of PLTC should not detract from the effectiveness of that partnership.

115. The Law Society and the CLE Society have an important ongoing relationship that, to be fully effective, requires concerted co-operation in renewing and enhancing post-call learning and supporting lawyers’ competence, and in enabling the Admission Program to continue to adapt and change to meet the needs of the profession and the public it serves.

RECOMMENDATION #25: Combine PLTC and articling into a single Admission Program, governed and administered by the Law Society.

F. Continuous Review and Enhancement

116. The *Roper Report* states:

“I recommend that PLTC have in place a system to enable ongoing evaluation and renewal.

There needs to be a built-in ability to continue to review and readapt. It needs to be so structured that it can be responsive to change, where it is appropriate, and be in a state of continuous improvement.”

117. The Task Force agrees that there ought to be a clearly articulated process prescribed for continuous review and enhancement of the articling component of the Admission Program as well as PLTC. As the practice of law changes together with the needs and demands of clients and the forces of the marketplace, it is important that the Admission Program not only be prepared to meet the changes, but be out in front of them.

118. Future planning may be enhanced by a requirement that articling students, on application for call, file a confidential questionnaire about the quality of their articling and PLTC experience.
119. The Task Force expresses its general support for using the existing technology effectively for enhancing the Admission Program. However, the cost of new technology must be considered carefully, including whether it would provide meaningful Admission Program enhancements that are reasonably affordable. Consideration of the future use of existing or advanced on-line technology may include:
- facilitating student use of their own laptop computers during PLTC,
 - improving student access to materials, registration and other information,
 - integrating the articling term with the PLTC term, including the PLTC faculty role as mentor/adviser during articles,
 - ensuring PLTC faculty have the necessary technology to teach effectively,
 - supplementing legal research, writing and drafting skills work.

RECOMMENDATION #26: The Admission Program should be subject to a structured process of systematic, continuous review and enhancement to ensure it continues to meet the needs of the profession, articling students and the public, including:

- a. regular review of the prescribed lawyering competencies,
- b. ongoing updating and enhancement of the Admission Program,
- c. a mandatory confidential questionnaire for articling students about the quality of their articling and PLTC experience,
- d. regular optional surveys of newly called lawyers and articling principals, evaluating the strengths and weaknesses of the Admission Program,
- e. attention to new administrative, learning and practice technologies.

Notes:

- a. The process of review would be through a special Working Group of the Credentials Committee or some other means approved by the Credentials Committee, and would take place at least every two years.
- b. The mandatory questionnaire for articling students would be filed with each student's application for call to the Bar.

G. Post-Call Competence

120. The Task Force recognizes that making recommendations with respect to post-call competence of junior lawyers is not in its original mandate. Nevertheless, such considerations flow inevitably from a review of the Admission Program.

Restrictions on Practice

121. PLTC teaches and examines on practice management and law office accounting, but not at a level of rigour sufficient to prepare a lawyer to set up or manage a law practice without further education, information and support.

122. Specific mandatory CLE requirements for entry-level lawyers exist in 25 U.S. states and the District of Columbia, in the absence of bar admission programs and articling. The specifics of these requirements vary considerably, from mandatory programs ranging from one to five days in length, to a 10 to 15 annual credit hours model, with or without specific mandatory courses included.

123. Forty states and the District of Columbia have mandatory CLE for the entire bar. Ontario recommends a minimum amount of voluntary CLE annually and has introduced a system of mandatory, detailed reporting to the Law Society as to the amount of voluntary CLE obtained annually.

124. Mandatory limits on practice for entry-level lawyers exist in varying forms in the U.K., Hong Kong and New Zealand.

125. However, Law Society statistical information shows that lawyers within the first three years of practice experience notably fewer complaints and insurance claims than the overall lawyer population.

126. The Law Society's Practice Advisory Service offers very useful support and information, including written material and a CD-ROM entitled "Getting Started: Opening Your Law Office and Trust Accounting," and the CLE Society offers a wide range of excellent courses and publications, including on-line information and products.

127. The *Roper Report* proposes supporting the competence of newly called lawyers:

"...a period of about three years, perhaps to be called The Professional Triennium, could be a distinctive aspect of professional legal training in British Columbia. It would be a three-year period of structured training opportunities, beginning in articles and continuing on past Call into practice. The PLTC would be the first segment. The post-PLTC segments of the Triennium would not be mandatory."

128. The Task Force has considered a proposal that a lawyer, if setting up as a sole practitioner the first three years of practice, have on file with the Law Society the name of a mentor. The Task Force, however, favours recommending voluntary CLE measures and promoting a continued collegial relationship between former students

and their principals.

129. The Task Force has also considered suggestions for a certificate course in setting up and running a law practice, a mandatory CLE reporting requirement, limits on initial years of practice and other prerequisites to set up as a sole practitioner or a small partnership.
130. The Task Force observes that restrictions, including post-call mandatory education requirements, do not apply elsewhere in Canada. Introduction of any restrictions or post-call mandatory education requirements should account for mobility, both temporary and permanent.

RECOMMENDATION #27: The Law Society should recommend that newly called lawyers obtain a specific amount or type of continuing education, and that lawyers moving to sole practice obtain relevant continuing education.

Notes:

- a. The Law Society should work with the CLE Society to offer a series of courses for newly called lawyers or lawyers who are moving to sole practice or assuming law firm management responsibilities. Courses should be accessible outside the Lower Mainland, perhaps on-line. Appropriate arrangements, including financial, would have to be worked out between the Law Society and CLE Society to offer such courses at low or no cost.
- b. The Articling Manual and collegial events should encourage continuing support and collegiality after call to the Bar between junior and more experienced lawyers, including encouraging voluntary ongoing contact with former articling principals, law firm mentors and PLTC instructors, attending CBA section meetings, and using the Law Society Practice Advisory services and the Canadian Bar's Practice Advisory Panels. Benchers should also provide this advice and information to students at the pre-call Bencher interviews.
- c. This subject is best suited to further study by a new Continuing Professional Development and Competence Task Force (Recommendation 28 below).

Continuing Professional Development and Competence Task Force

131. The Law Society's Strategic Plan sets as strategic initiative #5:

“To ensure that lawyers are competent throughout their careers to provide quality legal services.”

132. Objective 5.1 of the Strategic Plan states:

“Enhance the quality of and access to post-call legal education and support programs, in collaboration with the CLE Society, CBA and BCCLS,” including to “Implement special practice management programs for newly-called lawyers and lawyers in transition to sole, small and private practice.”

133. A new “Continuing Professional Development and Competence Task Force” could further consider Strategic Initiative #5, including its impact for newly called lawyers.

RECOMMENDATION #28: Establish a Task Force to develop proposals for a comprehensive, strategic approach to promoting the excellence and competence of lawyers through post-call learning and information support.

Notes:

- a. Such a Task Force could include in its considerations a recommended, voluntary post-call CLE curriculum of courses over the first years of practice to help junior lawyers to meet their particular needs, enhance their competence, and adapt to the rapidly changing practice of law. These courses could be offered at low (or possibly no) cost to the registrants, and could be a useful substitute for the former voucher and insurance credit programs. Appropriate financial arrangements would have to be worked out between the Law Society and the CLE Society, as this initiative could not likely be self-funding, at least at the outset.
- b. Mandatory continuing legal education could also be considered.

Additional Matters

Monitoring Indicators

134. The Law Society’s Audit Committee is formally monitoring the performance of programs and projects through monitoring indicators.

135. Monitoring indicators intended to reflect the expected outcomes of the Admission Program should be developed for the Admission Program.

Budget Impact

136. A budget impact statement must be prepared, based on the recommendations approved by the Benchers. The Task Force has made its recommendations while intending to minimize pressure on the Admission Program budget.

Implementation

137. With the Benchers having completed their consideration of the Task Force Report, an implementation plan must be developed. Where Rule changes are required, they will be presented to the Benchers for approval. Where the recommendations have a potential impact on law schools and law firms, it will be essential to coordinate with them to ensure that the implementation plan, including its timelines, is fully effective in enhancing the Admission Program.
138. Implementation will be one important step in the process of Admission Program reform and enhancement. Ongoing review of the enhancements, followed by implementation of further reforms, will enable the Admission Program to continue fulfilling its central role in ensuring that the public is well served by a highly competent and ethical legal profession.

APPENDIX A

Options considered by the Admission Program Task Force

Articling term

#1 Raise the criteria for eligibility to serve as an articling principal (e.g. increase the required minimum years of practice from four to five or more years, and/or disentitle some principals from having students, based on practice history).

#2 Require articling principals and students to agree to a comprehensive, detailed articling educational contract (including an educational plan), to be approved by the Law Society before an articling placement is approved. The principal and student would then file a mid-term and final compliance/progress report.

#3 Require articling students to complete one or more assignments during the articling term, to be submitted for review and timely, confidential feedback from PLTC faculty, perhaps on-line, such as:

- a writing assignment,
- a drafting assignment,
- a professional responsibility assignment with the articling principal, or
- an articling journal, including a description and analysis of the student's conduct of (and perhaps principal's critique of) one or more of the following:
 - a negotiation
 - a mediation
 - a client interview.

#4 Require articling principals and students to complete a checklist of some mandatory and some optional skills and practice areas in which the student has received practice experience.

#5 Require articling principals to certify or evaluate student competence (e.g. by a simple Yes/No or a more detailed assessment of student competence).

#6 Provide optional support for articling principals and students, including one or more of:

- coaching/mentoring by PLTC faculty (support for students in dealing with

problems or concerns in the articling term, or for specific advice in performing articling tasks),

- a video,
- an articling manual,
- an articling principal handbook, or
- an articling principal/student collegial annual event.

#7 Enhance the optional services of an Articling Ombudsperson for problems in the articling term, including those related to discrimination and harassment.

#8 Provide or encourage a voluntary Inns of Court/mentoring type of program throughout B.C.

#9 Shorten the articling term (e.g. from the current nine months, to six or eight months) while increasing the length of the PLTC term (e.g. from 10 to 12 weeks).

#10 Whether or not articling is shortened, impose restrictions during the initial year(s) of practice (e.g. required mentoring, CLE courses, limits on practice, prerequisites to setting up as a sole practitioner or small partnership, such as a management course, years of practice requirement or a management pretest).

Teaching term (PLTC)

#1 Continue the basic character of the PLTC term, including 10 weeks, in-person delivery, full-time faculty with practitioner guests, skills emphasis, and workshop rather than lecture format.

#2 Revise and adjust the curriculum to correspond to the Competency Profile developed in cooperation with the three other western provinces.

#3 Use on-line technology to:

- integrate the articling term with the PLTC term, including the PLTC faculty role as coach/mentor and provider of feedback on articling assignments, as described in articling term options #3 and #6 (above),
- improve access to materials, registration, information, etc., and
- supplement legal research, writing and drafting skills work.

#4 Adhere more strictly to the Law Society policy limiting the number of subsequent attempts permitted to failed students.

#5 Introduce a system of mandatory plus some elective components.

- #6 Increase skills work, and further decrease the substantive law teaching component.
- #7 Lengthen the PLTC term (e.g. to 12 weeks) and shorten the articling term accordingly, as described in articling term option #9 (above).
- #8 Institute a pre-test to allow for exemption from part(s) of the PLTC term for:
 - a) foreign trained lawyers,
 - b) all students.
- #9 Reconsider an entrance examination to qualify for entry to the Admission Program.

APPENDIX B

Options not pursued further

Articling term

#1 Eliminate the articling term. (This would be consistent with the U.S.)

#2 Replace the articling term with a substantially longer practical experience component. (The Law Society of England and Wales mandates a two-year pre-call training contract for solicitors.)

#3 Replace the articling term with a considerably expanded course and/or expanded testing. (This is the situation in some Australian states. In the U.S., there are no articling requirements, although 40 states have mandatory CLE.)

#4 Maintain the existing, largely hands-off approach to the articling term.

#5 Encourage law schools to establish alternative cooperative programs, alternating the academic and workplace terms. (*The Queen's cooperative program is four years in length, and satisfies the Ontario articling requirement.*)

#6 Implement a mandatory coaching program for articling principals on how to provide effective student supervision.

#7 Implement a mandatory Inns of Court style program.

#8 Provide some credit toward the articling term requirement for law school student temporary summer articles. (*as in Newfoundland*)

Teaching term (PLTC)

#1 Eliminate the PLTC term and replace it with examinations and skills assessments. (*This would be consistent with the U.S.*)

#2 Substantially lengthen the PLTC term. (*Ontario has 18 weeks.*)

#3 Raise the passing score on Skills Assessments and the Qualification Examination.

#4 Develop an on-line program to substantially replace classroom learning. (This is a feature of the CA School of Business in western Canada, and one stream offered by the Colleges of Law in New South Wales and the U.K. It is being considered by some jurisdictions to overcome shortcomings in volunteer-delivered programs and significant geographic barriers.)

#5 Divide PLTC into two or more terms, held at different times during articling term. *(as in Alberta, Saskatchewan, Manitoba, and New Brunswick)*

#6 Add a professional year to law school for those wishing to practise law. *(as in Hong Kong)*

#7 License other providers, and a possible variety of programs. *(as in England and Wales, and in New South Wales)*

APPENDIX C

Competency profile

Note: This competency profile was adopted by the Benchers on December 7, 2001, and includes the amendments to the draft made by the Benchers at that time.

This competency profile outlines the knowledge, skills and behaviours expected of entry-level lawyers.

A newly called lawyer must demonstrate competency in the following four areas:

1. Lawyering skills;
2. Practice and management skills;
3. Ethics and professionalism;
4. Legal knowledge.

1. Lawyering skills

A newly called lawyer shall have and maintain the following lawyering skills:

(i) Problem-solving

A newly called lawyer must:

- identify relevant facts
- identify legal, practical and client issues and conduct the necessary research arising from those issues
- ascertain the client's goals and objectives
- analyze the results of research
- apply the law to the facts
- form an opinion as to the client's legal entitlements
- identify and assess possible remedies
- develop and implement a plan of action

(ii) Legal research

A newly called lawyer must:

- identify the question(s) of law
- select sources and methods and conduct research
- select sources and methods and conduct search(es)
- analyze and apply guiding principles of case law

- analyze and apply statutes
- identify, interpret and apply results of research
- effectively communicate the results of research

(iii) Writing

A newly called lawyer must:

- clearly identify the purpose of the proposed communication
- use correct grammar and spelling and use language suitable to the comprehension of the reader and the purpose of the communication
- present the subject of the communication, advice or submissions in a logical, organized, clear and succinct manner
- be persuasive where appropriate
- be accurate and well-reasoned in legal content and analysis
- communicate with civility

(iv) Drafting

A newly called lawyer must:

- identify the purpose of the document
- effectively organize the document
- be able to draft an original transactional document without a precedent
- use precedents appropriately
- use clear language appropriate to the document
- draft a legally effective and enforceable document
- understand and be able to explain a legal document
- identify and implement all necessary steps to enforce a legal document

(v) Interviewing and advising

A newly called lawyer must:

- determine the client's goals, objectives and legal entitlements
- use appropriate questioning techniques to ensure the interview is thorough, effective and efficient
- be understood by the interviewee
- manage client expectations
- establish and maintain rapport and an open communication relationship with the client
- clarify instructions and retainers
- explain and assess possible courses of action with the client
- document the interview

(vi) Advocacy and dispute resolution

A newly called lawyer must:

- represent the client effectively in trial or hearing
- effectively prepare, present and test evidence
- represent the client effectively at a mediation
- negotiate effectively on behalf of a client
- advocate effectively on behalf of a client
- know and observe procedures and etiquette of the forum

2. Practice and management skills

A newly called lawyer shall have and maintain the following practice and management skills:

(i) Personal practice management

A newly called lawyer must implement effective practices, procedures or systems for:

- time management
- project management
- diaries/limitation reminders
- timely and ongoing client communications
- client development
- risk avoidance
- technological proficiency
- balancing professional life with personal life
- effectively managing documents

(ii) Office management

A newly called lawyer must understand and be able to implement effective practices, procedures or systems for:

- quality control
- billing and collection
- trust and general accounting
- file and precedent organization
- avoiding conflicts of interest
- diaries/limitation reminders
- record-keeping/archiving/file destruction

3. Ethics and professionalism

A newly called lawyer shall:

(i) with respect to professionalism:

- demonstrate professional courtesy and good character in all dealings
- maintain and enhance the reputation of the profession
- recognize an obligation to pursue professional development to maintain and enhance legal knowledge and skills
- act in a respectful, non-discriminatory manner
- recognize the limitations on one's abilities to handle a matter and seek help where appropriate
- recognize the importance of public service

(ii) with respect to ethics:

- recognize circumstances that give rise to ethical problems or conflicts
- recognize and discharge all duties and undertakings
- protect confidences
- know and apply professional ethical standards.

4. Legal knowledge

A newly called lawyer shall have a general knowledge of the substantive law and current practice and procedures of the areas of law that are likely to be encountered in the early years of a general practice.