The introduction of the CPD requirement confirms the commitment of lawyers and paralegals to provide the highest level of service to clients and fosters public confidence in the legal profession,” says Law Society Treasurer W. A. Derry Millar.

The CPD requirement was introduced following a consultation with the profession, which included three free teleseminar sessions.

“The introduction of the CPD requirement confirms the commitment of lawyers and paralegals to provide the highest level of service to clients and fosters public confidence in the legal profession,” says Laurie Pawlitza, chair of the Law Society’s Professional Development and Competence Committee. “There is no question that lawyers have always recognized the importance of continuing professional development. Now the climate is such and the extent of programming is such that the profession is ready to accept a CPD requirement.”

CPD requirements are not new to the legal profession. Minnesota first introduced one in 1975. Since then, 45 American states have added an annual minimum CPD requirement. Most jurisdictions in Australia have a CPD requirement as do England, Wales, Scotland and Hong Kong.

The widespread adoption of CPD requirements reflects the shift of focus in professional regulation from disciplinary measures to supportive programs. “CPD is a quality improvement initiative,” says Pawlitza. “It is not a reactive response to bad apples. Instead it is a proactive measure to ensure competence. It’s about a profession-wide commitment to quality.

“The public also expects regulators to take measures to ensure life-long competence,” adds Pawlitza. Although the Law Society consultation did not include the public, an extensive research project on the topic by the College of Physicians and Surgeons found that a large majority of Ontarians support continuing educational requirements and indeed, according to the survey: “Six in 10 Ontarians find it unacceptable that physicians can receive a licence and not participate in any meaningful educational activity throughout their career.”

While the Law Society CPD model is designed to be as flexible and practical as possible to ensure that practitioners can choose the type and method of CPD that best suits their individual needs, three of the required 12 hours of CPD must be in ethics, professionalism and/or practice management. This follows the models adopted in other jurisdictions and reflects the fact that the large majority of Law Society complaints and LAWPRO claims involve client and practice management issues rather than weaknesses in knowledge of substantive law.
“Because most lawyers already recognize the importance of CLE and partake in at least 12 hours a year, this program is really about focusing and strengthening the existing culture of continuous learning,” says Pawlitza.

**Flexibility and convenience built into program**

Getting together with colleagues for a ‘learning lunch’, during which you discuss current practice issues, will count toward your annual CPD requirement, provided the discussion falls within the CPD definition. This type of flexibility is one of the reasons why the Law Society’s CPD model appealed to both benchers and the rest of the profession.

“It is not necessary to attend and pay for formal CPD sessions to meet the requirement,” says Diana Miles, director of Professional Development and Competence. “Certainly, lawyers will continue to participate in traditional CLE, but there are numerous other flexible and cost-effective means to comply.

“We understand that lawyers are very busy and that many have limited resources to apply to CLE. We kept this top of mind in designing the model,” Miles adds.

Study groups, mentoring and writing an article are some of the ways to meet the requirement. A defining feature of eligible activities is an interactive learning environment, where there is an opportunity to exchange ideas with one’s peers.

While some jurisdictions require lawyers to choose from approved or accredited suppliers, lawyers in Ontario are free to choose any eligible activity and courses or programs from any provider, as long as the activities meet the definition of CPD. Providers do not need to have programs approved by the Law Society unless they wish to provide program content in ethics, professionalism or practice management.

To ensure that lawyers have no difficulty obtaining the required three hours of ethics, professionalism and practice management content, the Law Society will deliver this content in a variety of formats without charging program registration or materials fees.

“For most lawyers, the main change will not be the amount of CPD they take but how they focus and track it,” says Miles. “We are in the process of developing a web-based portal to aid lawyers in tracking their CPD. The Law Society will send out periodic updates to let lawyers know where they stand in terms of meeting the requirement.”

Compliance will be monitored through self-reporting and random audits, with a total of 500 audits of lawyers and 25 audits of paralegals annually. In the audit process, lawyers will be asked to provide proof that they have undertaken the activity claimed on the portal. Typically, proof will consist of receipts for a course or program, a list of topics canvassed in a discussion group along with the names of the participants, or copies of articles written. These records should be kept for one year following the year in which the activities were claimed.

**New lawyers**

In 2008, Convocation approved a requirement that new lawyers must take 24 hours of *accredited* continuing professional development within the first 24 months of practice as part of enhancements to the licensing process. The post-call CPD requirement was intended to create a tighter nexus between learning and day-to-day practice requirements, permitting new lawyers to relate their educational materials directly to the issues that confront them in their own law practice.

To preserve its original intent, the requirement for new lawyers will continue in a modified format to co-ordinate with the new CPD requirement for all practising lawyers. Rather than 24 hours of programming in 24 months, all new lawyers are required to take 12 hours per year for the equivalent of two full years of practice. They must choose from programming accredited by the Law Society. To be accredited, programming must include a minimum of 25 per cent ethics, professionalism and/or practice management content. The requirement for new lawyers will commence the January 1 following their call to the bar.

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1 *Revalidation Consultation Summary; College of Physicians and Surgeons of Ontario; April 7, 2006.*
**Quick Facts**

- Requirement is 12 hours of continuing professional development (CPD) annually with a minimum of three hours to be taken in ethics, professionalism, and/or practice management.
  - Applies to all lawyers who practise law and paralegals who provide legal services: those in the Law Society’s 100 per cent fee-paying category and lawyers who practise law and are excluded from paying fees.
- Includes an allowance for exemptions to accommodate special needs and circumstances.
- Comes into effect **January 1, 2011**.
- Continuing professional development is defined as the maintenance and enhancement of a lawyer or paralegal’s professional knowledge, skills, attitudes and ethics throughout the individual’s career.

**Eligible Activities**

(a) **Participation in CPD courses**: This includes attendance at live programs or participating in online ‘real time’ courses; streaming video, web and/or teleconference courses, provided there is an opportunity to ask and answer questions; and viewing a previously recorded course with at least one other lawyer or paralegal. This includes programming offered by providers both in and outside Ontario. To qualify there must be the opportunity to interact with colleagues and/or instructors, for example in person, by email or on the phone.

(b) **Participation as a registrant in a college, university or other designated educational institution program, including distance education**: This includes LL.M. programs.

(c) **Teaching (to a maximum of six hours per year)**: One hour of teaching equals three hours of credit to reflect preparation time. The teaching content must be law-related and within the CPD definition. There is no limit on the audience. If the same content is taught more than once in a year, credit is only available for the first time. The teaching credit will be available for volunteer or part-time teaching, not as part of full-time or regular employment.

Credit for chairing a program may apply, provided the chair does more than introduce speakers. Credit is as a facilitator of the program. Credit will be limited to time spent in the chair capacity.

(d) **Acting as an articling principal or mentoring or being mentored or supervising a paralegal field placement (to a maximum of six hours per year)**: The articling principal, mentor, paralegal who is supervising a field placement and lawyer or paralegal being mentored may claim the hours spent on topics within the CPD definition.

(e) **Writing and editing books or articles (to a maximum of six hours per year)**: The content must be law-related and within the CPD definition; must have been prepared solely by the person seeking the credit; and intended for publication or use in course materials, rather than for personal use or purposes or primarily for marketing purposes. Credit for an article or book may only be claimed once. The credit may also be claimed for editing legal texts or case reports and for preparing case headnotes, with the same restrictions as set out for writing. There is no limitation on the audience for whom the work is written.

Credit is only available for volunteer or part-time writing, not as part of full-time or regular employment.

(f) **Study Groups**: This includes attendance in a group setting at an educational session of two or more lawyers or paralegals, the purpose of which is to consider content that comes within the CPD definition. This may include lawyers or paralegals in the same firm, legal department, government agency, clinic or other similar entity. File specific discussion is not eligible. No time may be claimed for preparation for the discussion group unless it comes within paragraphs (c) or (e) above.

(g) **Educational components of bar and law association meetings**: Where lawyers or paralegals attend meetings that involve both business related to the association and substantive law content that comes within the CPD definition, the lawyer or paralegal may claim credits for the hours devoted to the substantive law content.