



Thanks to the extraordinary commitment and expertise of AHLA leaders, the American Health Lawyers Association continues to thrive and serve as the essential health law resource in the nation. The Association's strong foundation reflects a history that is vibrant, meaningful and worth sharing. Finding a way to preserve AHLA's history was especially relevant in light of the Association's 50th Anniversary, which was celebrated throughout 2017.

This transcript reflects a conversation between AHLA leaders that was conducted via audio interview as part of the Association's History Project. More than 60 of AHLA's Fellows and Past Presidents were interviewed. A video documentary was also prepared and debuted on June 26 during AHLA's 2017 Annual Meeting in San Francisco, CA.

November 21, 2017

Joel Hamme interviewing Michael Schaff:

Joel: It is Tuesday, November 21st, 2017. I'm Joel Hamme, Senior Counsel with the Washington, DC law firm of Powers, Pyles, Sutter and Verville. I have the privilege of interviewing Michael Schaff, who served on the Board of Directors of AHLA at the same time I did. Michael is currently a Fellow of the American Health Lawyers Association, and, as we will discuss, he's held numerous leadership positions with AHLA. He's partner with Wilentz, Goldman and Spitzer in Woodbridge, New Jersey, and specializes in business and corporate issues in health law.

Good morning, Michael.

Michael: Good morning. How are you?

Joel: Good. How and when did you first become involved in health law?

Michael: Well, I started out ... I guess when I got out of law school, I started at Ober, Kaler, Grimes and Shriver in Baltimore, and I came in as a business lawyer. Actually, when I was down there, I didn't know health care law. I was there for about two years, and I moved back to New Jersey, where I'm from, and some of my friends started graduating from medical school and they asked me to review their employment agreements. As a business lawyer, they fell right within my sweet spot, and so I gather it was probably around 1985 or 1987.

Joel: So you started doing physician contracts?

Michael: That's exactly it. Yes. At the time, most of the people that represented physicians were their brothers or sister-in-laws or their cousins. A lot of them did real estate law or matrimonial law, they did something other than health care law because at the time most health care lawyers were really hospital lawyers and not representing physicians so I fit right in at the time because I had no formal training in health care law. This was prior to the passing of the Stark Law.

Joel: And talk about how your career evolved or unfolded at that point.

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Michael: Well, I had good fortune as I indicated, I started representing a physician and the next thing I knew, he was referring me to other doctors. I started providing presentations on how to negotiate ethical employment agreements for some fellows and residents. The funny thing is, when I first started practicing at my firm, my firm really did a lot of medical malpractice cases and sued doctors. One of the first clients that my friend referred me to was a local physician and after meeting with him and interviewing with him, and he said he was going to hire me to deal with his partnership agreement. When I sent a retainer letter over to him, he realized what I firm I was with and he called me up and said, "Michael, I'm really sorry, but since you're at the Wilentz firm, I cannot have you represent me, because you guys sued me in the past."

I responded and tried to think quickly, and I said, "I'm sorry to hear that, but are we suing you now?", and he said, "No". Then I asked, "Were the lawyers ethical, did they do a good job?", and he said, "Yes, but they sued me and we settled ...", you know for whatever it was.

I said, "Do you want us to sue you again?" and he said, "No." I said, "Well, if you hire me, my firm cannot sue you again." We were off running from there on out.

Joel: Well, good. How did you first become involved with either the National Health Lawyers Association or the American Academy of Healthcare Attorneys?

Michael: Well, the Stark Law came out and I realized, or I thought, I did not know much of anything. I figured I would look for some type of seminar, and I did a little research. I found out about the National Health Lawyers Association, the American Academy of Health Attorneys, or whatever it was called at the time. I decided that the seminar, I think it was an annual meeting that I went to, had very interesting topics. I figured I would go sit in and learn something. I went to a meeting in, I think it was outside of San Diego, in Coronado Island.

It was amazing. The education and, one of the differences between the National Health Lawyers Association and the American Academy was there was a lot of social events going over at the American Academy, so they had a dinner dance and they had different things. I met all these different people from various areas around the United States. I found it to be enjoyable and educating at the same time so I kind of got hooked.

Joel: How did you then become more involved in the Association? In the sense of not just attending seminars to keep up on current developments in your area, but actually getting a leadership or work responsibility?

Michael: Well, at the time, they had things called SISLCs (Special Interest and Substantive Law Committees) which are now called Practice Groups. They had a few of them. There was none on representing physicians or physician organizations. There was one on technology so I got involved a little bit in the technology one.

I actually met Elizabeth Belmont back then. I went to the person who was the Executive Director at the time, and she said they were starting to think about combining the American Academy and National Health Lawyers. I went to a meeting in Toronto. I talked to the executive director and I said, "We don't have anything on physicians or representing physicians and as I started thinking about it, additional Practice Groups.

They decided to create that Practice Group and I had the good fortune of being appointed one of the first vice chairs of the Group.

Joel: Was that Marilou King, the executive director?

Michael: Yes, yes, Marilou King. She was very nice, and she listened to me and took some notes. I guess she went back to the Board and as they were reconvening, they decided to create this Practice Group. Michael Lafond was the initial chair of the Practice Group and I was one of two vice chairs.

Joel: And then subsequently, what happened after? Did Michael term off?

Michael: Yeah, what he did is, I was involved with it. I was fairly active in it, and there was a ... Again, this has been a long time so the chronological order of some of this stuff may not be 100% accurate, but I know that along the way there was a Physician and Hospital Law Institute that was held in Nashville, and I would go to those. At one of them, I spoke with one of the, I think it was Will Harvey, who was in charge of AHLA publications at the time. There was a book called Fundamentals of Health Law and there was, again, no chapter on representing physicians. I went over and I suggested that it be included in there. Because I suggested it, somehow I was drafted into writing it. I did that.

Over the course of time, several years, being active and speaking at some of the sessions they asked me to be the second chair of the Physician Hospital Law Institute at the time.

Joel: If you volunteer at the AHLA, they'll find something for you to do.

Michael: Right, and I was really truly a beneficiary of it, because as you get involved and you are able to write you become more and more involved. You find out not only is it stimulating mentally and from an education perspective, you're also able to create and have friends and relationships that blossom over the years.

Joel: Yes, networking is one of the key facets of leadership positions at the Association. I hear that time and again in interviewing former leaders. Michael, how did you finally end up on the Board of Directors? I noted from notes that you were on the board for six years from 2006 until 2012, which overlap with the period that I was on the Board.

Michael: I believe I got lucky. I applied several times to be on the Board, and I after several attempts, they took a chance on me, because I'm not the 100% straight arrow. I try to be a lot of fun. Sometimes, I'm a little loud and a little boisterous and some people in large organizations don't like that in a leadership role, but the people that were making the decision took a risk on me and I think I benefited from it, and I hope that the organization also benefited from it.

Joel: Talk about what assignments you had on the Board, what committees you worked with and, if you chaired a committee, what committee you chaired and what you did while you were the chair of that committee?

Michael: Sure. I was on many different committees including publications, membership, programs. I helped plan two annual meetings. My last two years I was the chair of

Practice Groups, where we implemented a number of policies including, even though there was training previously, we instituted reimbursement for some of the Practice Group chairs and vice-chairs to encourage them to come to the annual meeting to get them more involved. We expanded some of the training positions and we did a lot of different things.

I also served for two years on the Finance Committee as well as on the Executive Committee.

Joel: Yeah, that's quite a portfolio. I know from my own personal experience, and not to devolve too much into that, but I was chair of the Practice Group Committee for three years. It was a lot of fun, and a lot of the Association activities really did revolve around the Practice Groups and the programs that related to those particular Practice Groups. It was an exciting time to do things. Obviously then the webinars came along as well, which were sponsored by Practice Groups. People could sign up and call in instead of attending in-person program and actually get updated on a particular legal topic.

Michael: That's correct. One of the things I pride myself on is that if you look at the Board composition now, many of these people were chairs or vice-chairs of Practice Groups, while I was the chair. I felt that I have helped in training people and getting more people involved and adding to the benefits that are AHLA.

Joel: Yeah, and I think that one of things that people should recognize is that there's a trajectory that you get in the AHLA when you first become involved. That is usually getting assigned to a Practice Group as a member of the Practice Group committee or program. Then working your way up through that, doing writing and speaking, and ultimately hopefully getting on the Board and maybe even a leadership position beyond that.

It isn't simply getting on the Board at the outset. It's working your way through all of that, showing that you're committed to the organization.

Michael: It takes a lot to get there, but the journey is well worth it. The rewards are plentiful.

Joel: Let's talk in that vein, Michael. Give me your thoughts on some of the attributes and strength of the Association.

Michael: I think, and I get a lot of my younger attorneys involved, is it becomes an opportunity to network and share information. When I started practicing health care, I was kind of by myself and I felt that because my firm didn't have other health care lawyers. Sometimes, it was a little bit difficult trying to figure out what was meant by some new statute or new regulation or whatever it was and when you have people across the country that do this, you get different perspectives on it.

It started out with meeting people at in-person meetings and following up with them, and sharing of ideas and information. It became very helpful when I had a new matter and sometimes I really didn't know where to turn. I would call, maybe somebody who was in Atlanta or someone who was in Ohio or someone who was in Chicago or California and asking them what have thought about, have they seen it.

Since New Jersey is not always on the forefront of health care law, it gave me an opportunity to learn from people who have been through it before. They gave me valuable idea and they also acted as sounding boards. Now, for the younger lawyers, I was very active in the Fundamentals of Health Law program where I've spoken for maybe 15 or 20 years on representing physicians. I was on the planning committee and chair of it. I find that people who go to those sessions find an ability to speak about and find out about different information. If they go to these sessions, they could call up their friend that's in another state and use them as a sounding board before they go talk to the partner who gave them the assignment, so they at least have some practice and they don't look like a total fool.

Joel: Now, Michael. Did you end up chairing the Fundamentals program before, after, or during the time you were on the Board?

Michael: When I came off the Board, I became the chair of the Fundamentals program, but I was on the program committee a couple years before that and was speaking there. I was also the chair of the Physician Hospital Law Institute subsequent to that.

Joel: So you chaired two programs?

Michael: Yes, yes.

Joel: Not too many people do that, that's a real exemplary service there.

Michael: The good part about it is, you can help shape the programs and try to be more practical with respect to the presentations that are going on. I found it very beneficial to me and I hope that the people who attended those found it beneficial.

Joel: Well, I know for a fact that the Fundamentals program was used by a lot of law firms as an educational training for their new associates who were going to be doing health care work so they would send them off to, I think it's ordinarily held in Chicago. They would go to the Fundamentals program and learn the basics about Medicare, Medicaid, and many of the specialty areas that the practice groups deal with.

Michael: It's a bootcamp basically. It deals with everything that health care lawyers may deal with from a basic perspective, and then it gets into some detail. It's really a great opening into what health care is and what American Health Lawyers is. It creates an opportunity to mingle, and learn, and deal with people from other law firms. To me, I found it be extremely beneficial.

Joel: And I think that you're not alone in that. Most of us who have cycled through the system feel the same way – that the networking opportunities and the friendships are major factors. What advice do you have for younger attorneys? In terms of if they are interested in health law, and how they should be involved in health law, and or, the Association itself?

Michael: Well, the first thing I want to let everyone be aware of that health law is difficult. Okay. It's very difficult to learn it on your own. Reading books, or reading statutes will give you some basis, but it doesn't deal with the practical aspects of it. I would strongly recommend getting involved, having sounding boards, having people who have different

perspectives than you. Because, typically, in your law firm, even if you have a large law firm that specializes in health care law you aren't able see different perspective on things. Health care is not one perspective, it is many perspectives. A broader knowledge and a broader perspective that you have, the better you can advise your clients. I suggest get involved, get involved early, volunteer, don't be afraid.

When I was the editor of the Physician Practice Groups newsletter, we set up some basic things because so many people are afraid to admit that they don't know what things mean. We put together a column that was the ABCs of health care. We would put together all the acronyms, because a lot of times when you're a young attorney and you're sitting in a meeting with more senior attorneys, and they're talking about, ACOs, CINs, PPMCs, or whatever it is, half the time you don't know what they're saying, you shake your head yes because you don't want to seem like you're stupid.

A lot of times these acronyms you're dealing with – it's the same with everything. Get involved, learn, don't be afraid to ask questions. Don't be afraid to share. You have to pay it forward a little bit, and if you do that you'll feel good about what you do.

Joel: Well, talk a little bit about mentorships and perhaps some of the folks you dealt with or worked with in the AHLA who weren't in your own firm.

Michael: Yeah, I mentored either formally or informally a large number of people. In fact, my view is that I've mentored some of the people that are on the Board today. What it is, whatever you put into it, you can get out of it. You are there to help out, to guide people, to have them not make the same mistakes that you've made. There is a formal mentorship program and I've had a mentee for a number of years. She was someone who was not a health care lawyer to start and did criminal and other stuff and got into health care later in life. She had a great attitude, she got involved in stuff. In fact, on occasions, I've asked her to come and speak with me on some sessions. It started out with, "Can I do one slide of your presentation, Michael, in front of a bunch of people?", and I said, "Yeah."

It gave her the comfort and the confidence to be able to speak in large groups. It's almost like being a parent where you see your child blossom. I was very lucky. This person blossomed, got very involved in the AHLA and did a lot of different things. Whatever you put into it, you get back in multiple ways.

Joel: Yeah, I think it's important for younger attorneys to realize there is no shame in not knowing something or having to learn a particular area. Knowing-

Michael: One of the benefits of that, I'm sorry to interrupt you, is that the fact you can learn it without the partner you're working for knowing it, because they're people across the country. It takes away some of the concerns that, "Oh, I don't want to look stupid in front of the partner who is deciding whether or not I get a raise or not." So, think about that.

Joel: That's an important attribute to know what you don't know and to be able to reach out to people often times not from your own firm. Particularly, for many members of the AHLA, they aren't in large health care firms. They may be the only person who does health care. They may be a solo practitioner, so having that network in place is sort of a

safety net, in a way, of people you can talk to or turn to when you need information or just a sounding board is a key thing.

What, Michael, after all your years of practice do you view as the major challenges facing health law today?

- Michael: I think there are a lot of challenges facing health care. I mean, first of all, the economics of it. Health care is now close to, if not over, 20% of gross national product. A lot of money is coming in, if things continue the way it is, the economy is going to be 25, 30 or 40% healthcare, and I don't think the economy can sustain it. A lot of it deals with making sure that health care is dealt with in a manner that is economically viable, and does not bankrupt the country. Keep in mind that young people today can't afford their own health care. It's a scary thought and what we need to do as health care attorneys is aid in trying to help the government figure out how to approach those things.
- Joel: And what do you view as the major challenges for health lawyers themselves? Is it being part of that system that seems to be ever growing and need certain cost containment so that the United States can sort of resemble other countries in their per capita spending instead of being the higher with mediocre results? Or do you view it as some other set of issues that relate to practice areas?
- Michael: I think it depends on your perspective, on many things. People have different views depending on how they were raised, where they live, what their environment is, who their friends are, who their colleagues are. One of the nice things about AHLA is when you go to a meeting you get to sample that. You don't sit in a room with 20 people who have similar views and perspectives as you do. You sit in a room and you have conversations and the conversations take on a life of their own. They are a lot of times information when you believe is information that may help shape your opinion on things that may be different now after the conversation than before because of the knowledge that you learned.
- Joel: We spent a lot of time talking about the American Health Lawyers Association. What sort of challenges and obstacles do you see it facing?
- Michael: I think one issue is AHLA has been founded on its education. One of the big components is it's the place to go for top of the line issues associated with health care. Now, a lot of large law firms are creating their own seminars on things, publishing papers, and doing items. I don't believe at the depth as AHLA is doing it. I believe that AHLA has some concerns because as people see it not as the only source of quality education, there are concerns as to the economics of it. A lot of people don't want to spend the time going someplace or listen to a webinar or buying the AHLA book. I believe it's important to get people active and involved, because another positive of AHLA is its ability to get people active and involved. When you have to teach something, you end up learning in more depth than otherwise. I think it's a challenge to get people motivated and involved, but once people do, they tend to enjoy themselves.
- Joel: Go ahead.
- Michael: I have a friend of mine from high school who started doing health care law a little late. I was going to a Physician Law Institute seminar, and he was on the same plane as mine.

He was going to the same seminar. He said to me, "I don't understand why you enjoy this so much. It's kind of dull and it's kind of boring sitting through eight hours a day in sessions". So, I said, "Well, what do you do after the sessions?" He says, "I normally go into my room, I do work, and I order in room service."

I said, "Listen, today don't do that. After the session, come out with me. I'll introduce you to some people, we'll sit around, we'll go out to dinner. I realize you have all this work to do, but you're missing a big chunk of what these in-person sessions are."

He went out, I introduced him to a number of people. He's now a lot more actively involved in those and knows a lot more people. At the end of that weekend he said to me, "Michael, now I know why you go to these and you enjoy it so much. It's a blast. You know, it's always enjoyable when you're having fun and learning at the same time."

Joel: Yeah, I think that one of the points you made is very relevant, which is that a lot of law firms are doing internal training, and then outreach to clients via webinars, etc... While that is in some way a challenge to AHILA, I think the one thing that AHILA offers that no single law firm itself can offer is the fact it has members who have differing, sometimes opposing perspectives, on those same issues. If you're talking about an anti-kickback issue or having a webinar on that from a firm you may only hear the perspectives of the people in that firm, as those who represent providers who are affected by those rules. But, AHILA will provide you with a forum that you not only hear those perspectives, but the perspectives of government enforcement people, or folks or on the other side of those particular issues.

I think that is a key strength that AHILA has that it has to preserve and help to capitalize on.

Michael: One thing that you point out very well is the fact that you have the governmental perspective on things. You get to meet these governmental workers and they're involved in presentations, rap sessions, etc... You realize they're not always the big bad wolf. Many times they're really nice. They understand, and they want to help people comply with the law. It's not all about trying to squeeze people for settlements, or violations. It's always nice to be able to call somebody if you meet them at one of these programs, or email them, and find out how helpful they are and making sure your client is compliant with the law.

Joel: Yeah, I know, for example, in an area like yours where you do a lot of physician work, understanding not just the perspective of the government, in terms of how they enforce things, but also the perspectives of the attorneys who represent the hospitals, who are dealing with the physicians. It is important as well.

Michael: Exactly. One of the nice things I've been fortunate of, over time, I started primarily doing physician work, but over time, hospitals would retain me because I understood a physician perspective. Because the hospitals do not want to be the adversary of the physician, they want to be their "partners" and, as part of it, it's important to understand how they think so that a deal can work for everyone's benefit.

Joel: Well, we covered a lot of territory. Anything else that you would like to add before we close for the day?

Michael: Well, I guess there's one thought. I know I've stressed it during this conversation, is get involved. Okay. It's hard to find the time in everyone's busy life to get involved, but to enjoy your career and open your eyes in respect to other things. AHLA is a phenomenal forum, you learn, you have fun. You meet friends that you know become lifelong friends. If I have one thing to add or to stress, it's that, get involved.

Joel: Well, very well said, Michael. Thank you for talking with me today.

Michael: Thank you, Joel.