



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.

February 20, 2017

Katherine Benesch interviewing Tim Blanchard:

Katherine: Hi. This is Patricia Benesch, I'm coming to you from Princeton, New Jersey and good morning. We have on the line with us Tim Blanchard who is coming to us from Orcas, Washington. One of the San Juan Islands off of Seattle and this is just an example of what a wonderful bi-coastal organization American Health Lawyers is. Good morning, Tim. Thank you for being with us this morning and I think we'll get right into the interview because you have a lot of really fascinating things to say and we'd like to hear from you. Now you were a member of the Academy of Hospital attorney's, is that right? Before it became a National Health Lawyers and then American Health Lawyers. Tell us just maybe one or two words or sentences about that. You have so much to say and I'd like to make sure we can cover all the really interesting points.

Tim: Sure. I'll try to cover succinctly and not talk too fast.

Katherine: Okay.

Tim: You're correct, I joined both organizations, both the National Health Lawyers Association and the American Academy of Hospitals Attorney's. Just as I right ... Immediately when I started practice, which was in 1986, and while I was trying to figure out like I think most younger lawyers do, how best to get involved in these organizations. National American Health Lawyers it turns out, appeared to provide greater speaking opportunities or easier to get speaking opportunities then appeared the case in the Academy. At the same time though what's interesting is that the Academy was working at that time on expanding its leadership development opportunities through what it called SISLC. We'll talk a little bit more about that I think. Special interest in substantive law committees is what those were, were called.

Katherine: Did you remember what that stood for, because I remember the SISLC for days. You're right, but I couldn't remember what the initials were for. Go ahead.

Tim: That's one of the things that started out on the Academy side. We can come back to that. For me though, while there were two organizations, the most important thing to my practice and my development really was actually a joint program of the AAHA and now of course.

Katherine: The HNLA was National Health Lawyers, right?

American Health Lawyers Association

1620 Eye Street, NW, 6th Floor • Washington, DC 20006-4010
(202) 833-1100 • Fax (202) 833-1105 • www.healthlawyers.org

Tim: Right, the National Health Lawyers and the Academy had a joint program which is and was the annual institute on Medicare and Medicaid payment issues or the Medicare Medicaid Institute which happens each spring in Baltimore. Anyone who's anyone for the most part anyway and reimbursement payment and now increasingly compliance and related issues is there. To me, that was what the association was for the first part of my involvement in it. It was the earliest ... The best opportunity, the earliest opportunity to get a big speaking spot in the ... I want to say the Association, since this was a joint program from the beginning with joint Chairs. It had Len Homer from the National Health Lawyers Association and J.D. Epstein was the Program Chair from the Academy side. Together, they put together what was then and still is the premiere program in this area.

I was lucky very early on in 1991 to get the opportunity to speak at the Medicare Medicaid Institute, and to me this was critically important. My goal was to make sure I could attend the Medicare Medicaid Institute every year. One way to do that and to assure my law firm that this was a sound proposition and didn't offend any internal policies regarding continuing education and those sorts of things, was to be a speaker. That's how I got my foot in the door there. Then, this sort of amazing opportunity came to me a few years later when I got the opportunity to give the plenary session early in the morning or first day on Part B Fundamentals.

This was a ... Well, I have to say I was a tad nervous because it's a session that's always been done by Len Homer. J.D. Epstein did the Part A side. I got my slides together and yes at that time it was slides, not a PowerPoint and gave that presentation. I think it went pretty well. The funniest thing later in the day was J.D. came up and told me that he was hearing a number of people telling him how young Len Homer looked that year. I wasn't quite sure how that cut, but I took it as a compliment. That's how I got started on the AHLA side.

Katherine: NHLA became AHLA, right?

Tim: Right, the NHLA became ... Well, the NHLA and the American Academy of Hospital Attorneys merged and became the American Health Lawyers Association.

Katherine: American Health Lawyers, yeah.

Tim: Yeah. That's what I was doing on the NHLA side. At the same time on the AAHA side, in the Academy, I had become one of the early on vice-chairs of a SISLC which ultimately became the RAP SISLC, the regulation, accreditation and payment SISLC, which then became the RAP practice group after the merger, and was there for some interesting times because it was during that point that we recognized that there was some significant overlap in the coverage because the RAP group was very interested or becoming interested as healthcare law evolved from a reimbursement, which is what we originally started talking about, to payment issues and then compliance issues, which of course has an overlap with fraud and abuse issues. At that point was when we got the separation of the RAP practice ... Well, what became the practice group, the RAP SISLC, like from the fraud and abuse SISLC. I'm not sure what it's name was at that time though, on the AAHA side. Anyway, those groups became the RAP Practice Group and the fraud and compliance or fraud abuse practice group.

Katherine: What year was that, Tim?

Tim: Oh, this was fairly early on. This was ... I was, well let me see. On the Academy side, I was a vice-chair of that SISLC. '94 to '96 and then '96 to '98, I was the chair of the RAP Practice group. That's back when this was being done. It was just designed there.

Katherine: Almost 20 years ago.

Tim: Yeah. This was the very beginning of what's become the practice group. I have to say it was very interesting putting that together and thinking it through and the space and how to make that work and adjusting to some of the challenges we had. One of the biggest ones was trying to figure out how to extend our public resource and education missions of the association, and then the Academy too at that time, to governments persons and to weigh in a little bit, provide our insight on things like the original safe harbors. Without it becoming partisan. Either politically or because of an industry provider focus, which was the largest component of the AAHI were hospital lawyers and NHLA had the physician side and non-physician provider types covered as well. Not as much on the payer side as we have today, so we had to figure out how to do those things without running afoul of any of those types of issues.

We also had to find a way to generate membership in the SISLC and practice groups. Actually changing the name to Practice Group itself probably helped a great deal in that respect. I can't take too much ... Well, I can't really take much credit there at all. We were struggling through some early times then, and subsequent leadership of the RAP practice group is really where the credit needs to go for getting the critical mass and beyond that, membership that we have today and the very vibrant practice groups that we have. Early times were ... Well, early times. I was very pleased to be involved in that.

Katherine: This was about the early 2000's, right?

Tim: Right right.

Katherine: Put it in time.

Tim: In time, exactly. That evolution has happened. It was also good for me to have come through both of those processes because shortly after the merger, I got elected to the AHLA Board of Directors. That was exciting, because it was really the first opportunity to look under the hood and see what the full range and scope of the association activities were and how things actually got done, because as I said, to me, the main thing was the Medicare Medicaid Institute. I attended other programs of course. When I was a young lawyer, I attended the Fundamental Program and that was good. I attended physicians and hospital. Early on there was an interesting program on utilization review and those sort of things. I attended many of the programs, at least they were related to my practice area.

Getting on the Board was great and it was terrific to meet folks from other practice areas and really work on matters. I think we should come back, probably come back to it later so that we can keep the flow of our outline. I got to Chair the Public Interest Committee and serve on the Public Interest Committee for most the time I was on the Board, and watch and kind of have my part in that in that as well.

Katherine: You want to talk a little bit about the benefits of AHLA for young lawyers? I guess for experienced lawyers too, how would you describe ... You're describing the organization which is wonderful. How would you just put into words what the benefits are?

Tim: Well, I think ... For me, it all boils back to the ability to interact with colleagues.

Katherine: Mm-hmm (affirmative)-

Tim: The Association now as in the past has a range of great programs, but I could just speak to the one I know best, being the Medicare Medicaid Institute. It's really true of all the meetings. You get the opportunity to in attending those programs to hear really top flight sessions. Whether those sessions are put together as fundamental sessions so that new persons coming into the practice areas can get up to speed quickly and get their bearings. Or whether it's the types of more advanced sessions that are now incorporated in all the programs, so that the more experienced folks can really dig in, in the hour or 90 minutes allotted to a session, be able to get to some of the really stickier or evolving issues is one of the main advantages.

The challenge of a planning committee, and I got to serve on the Medicare Medicaid Planning Committee starting in 2006, which was terrific opportunity and then after that planning committee service, I got to show the program for the term limit period. That's probably the greatest fun I've had in the Association. The ability to follow in the footsteps of Lynn and J.D. and Dennis Baring and Tom Koons who had Chaired the program after them and before me, to take on the challenges, keeping the program with a solid core curriculum and yet additional sessions being filtered in to keep abreast of developments or ahead of developments in some cases, so that we could provide a continuously meaningful experience for attorneys of the full range of experience.

The goal of course is always to make sure that there's a reason for folks to attend that session and to attend on an annual basis really, because I love the opportunity to get to see folks that I have known for well, going on over 30 years now, in professional practice in the Association. It's important for folks to be there because that critical mass and the synergy of my practice with someone else's practice with somebody's else's practice and finding out what's going on for their clients, finding out what's happened to them under a particular regulation, figuring out how a rule that you might not practice, you might not deal with very much in your practice, interfaces with what you do everyday and how that might improve and expand your ability to represent clients.

I'd like to say I've never been to an AHLA program and I believe it's true that I didn't come away with at least one or two meaningful tidbits. That's true even if you attend a session or conference, it's mostly fundamental sessions or sessions that you're primarily in areas that you're familiar with. There's always someone else's take, a new view or a new report of some position that's being taken.

Katherine: I believe you said that the best way to get some of those tidbits is sometime in the hallway conversations. That that's the best way to get your tidbits.

Tim: Well yeah, as a young lawyer attending the conferences, I was torn because I wanted to attend the ... I might have wanted to attend a particular session I had scheduled it down in my calendar that I was going to do that, but you get to talking with somebody and whether it's somebody from government frequently from within HCFA at that time, but now it's CMS or whether it's someone from a peer review organization or from the US Attorney's office somewhere or the Office of Inspector General, you get to chatting with somebody in the hallway and you realize that you are 15 minutes or half-an-hour into the session.

On the one hand you're torn because, gosh I wanted to go to that session. On the other hand, you wouldn't have been standing in the hallways talking to somebody if there wasn't something meaningful happening there. Frequently, the tidbit comes in the hallway or it comes at the cocktail party or one of the informal networking opportunities that are built into the programs.

Katherine: You had mentioned also, you're talking primarily about attending the in-person programs, but you had mentioned also that one of great resources of AHLA is written material, for some reason the outlines that enable lawyers to keep up with all the changes in the law. You want to talk about that? We have ...

Tim: Sure.

Katherine: We talked about how healthcare law is always changing and it's a challenge to keep up with all those changes.

Tim: Well it is. Even more so today than it even was early on, because when I started as a reimbursement lawyer in the mid '80's, Medicare had adopted the DRG payment system and the in-patient prospective payment system at that time covered operating costs. Didn't cover capital costs yet. We had a range of new things. Now we know that we've got in-patient prospective payment system, PPS. We've got out-patient PPS. We've got the perspective payment for nursing facilities and home health and now ESRD and just a range ... Not to mention the, I guess I will mention it, the physician fee schedule and the RBRVS, the resource space with all the value scale.

All of those exciting developments that roll down the pipe, but what it means is that today we've got more than half a dozen sick proposed rules and final rules that come out in the Medicare program every year to keep up with. It's very useful to be able to rely on the quality outline prepared by a colleague that provides you with the citations, so that you can use it as a place to catch up quickly and then do your own research to followup and look at the source documents. One of the things that is different in terms of quality of the materials that are produced for each program. Aside from programs, there's also the range of other materials that AHLA now produces in terms of books and practice guides.

Katherine: Webinars.

Tim: Yeah, well seminars and webinars too keep things current. I still like to get folks together in one place, but hearing someone live is certainly an advantage. The webinar concept takes a little bit getting use to from a presenters perspective. Then you realize having attended some that it works really very well.

Katherine: Yeah, it works pretty well, yeah. [crosstalk 00:24:04]. Go ahead.

Tim: I was just going to mention that the synergy between things, because frequently if you have identified and put together a presentation on a topic that's of great interest and relevance to people, that can become, that can turn into a publication or can provide the seed of a publication. I admit, I didn't do much speaking for AAHA, but I did do one presentation awhile back. At one point there was a new take on a topic, disclosures, self-disclosures and corrective action obligations, and that turned into one of the early AHLA monographs. In that case it was on a false claims act. Things evolved a lot since I put that original thing together. It just shows how activity within the organization doesn't have to be viewed or shouldn't be viewed, I think,

as an extra thing, it's just an out-growth of practice, because the Association and participation certainly helps you with your practice. Then it's almost second nature to turn that around and feed that back into the system.

Katherine: I guess that you've also talked about the talks are really good for networking opportunities. I mean that's really what you're talking about here also, right?

Tim: Right.

Katherine: I just want to ask you because we're getting near ... We're actually probably a little bit over our time, but what you have to say is so interesting. Can you talk a little bit about what you see as the future for AHLA? What are the challenges?

Tim: Well I think, I see a couple of challenges to be wrestled with, but I also see that we've got a pretty long history in thinking about this in connection with this project of evolving. One example I can give is, is the public interest activity, the public interest committee of the Board. Early on, we were talking from public interest perspective, we did conversations with policy makers, which was essentially a webinar followed up with a publication, talking with somebody from government or other policy making. That was useful. That didn't turn into, in some cases larger colloquiums, such as on medical errors reductions or medical necessity policy or some of the ones I've worked on. Of course there've been others since then.

To have been involved more consumer focus, more "What can we do for the public?" That's a series of pamphlets and FAQ's and information sheets designed to help consumers address issues that they're addressing. Should they participate in clinical trials, for example. End of life decision making, things like that. Which is come out of the public interest committee. Now actually, promoting real on, normal pro-bono type activity and always looking for those types of programs. One piece of it. From an internal perspective, the biggest challenges I see are keeping up with the technology so that it's easy for lawyers to get into the website, find the information they need, get access to the materials from their practice groups, get access to past materials that are available through the archive and other things. Just keep up to date without hassle.

I guess the other's always going to be in an organization as vibrant and growing as the American Health Lawyers, is maintain the transparency. Have lots of folks in the practice group structure right now, doing a great job of generating for future leaders, but you still wind up with a bottleneck at the top, at the Board level and so forth. Making sure that there's transparency's to how that works, so that folks understand what's going on and making sure we've got opportunities for folks in other areas. I'm thinking there of HLA fellows and life members and other opportunities since not everyone can serve on the Board or not everyone can be President. Everyone can have an ongoing lifelong career long interaction with the American Health Lawyers Association.

I can't really see ... Well I guess what I've said in other places is could you practice healthcare law without the American Health Lawyers Association or being a member or active in the American Health Lawyers Association. Now I guess the answer to that is, yeah I guess you could, but I can't imagine why you'd want to.

Katherine: Well, it's certainly enhances the practices you and I both know having both been lifelong members of the AHLA. I want to thank you very very much because I think you've given us tremendous insight in some of the changes over the years and some of the advantages. It's just

really great talking to you. I look forward to seeing you soon at the next Medicare Medicaid Institute in Baltimore.