



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.

March 9, 2017

Tom Hyatt interviewing Stephen Blaes:

Tom: This is Tom Hyatt. I'm a partner in the Washington, D.C. office of Denton's, and it's my great pleasure today to interview my colleague and friend, Stephen Blaes, for the AHLA Oral History Project, so, Steve, welcome.

Stephen: Thank you. Thank you, Tom.

Tom: Steve, we'd love to chat with you a bit about the early years of our predecessor organizations, and in particular, you served as president of the American Academy of Health Care Attorneys. I wonder if you might share with us some of your recollections about the early days of that association and how it came to be a part of AHLA.

Stephen: I'd be happy to do it, Tom. When I was a young lawyer, I began with representing [inaudible 00:03:01] Medical Center, and as my interest in working with hospitals grew and added more hospital clients, I began to develop relationships with other attorneys around the country who had similar practices. I went to annual meetings of the Catholic Health Association and met young lawyers like Danny Purtell and others. We chatted about the possibility of getting together with other attorneys that he knew and I knew and others around the country who were also representing hospitals.

We put together a meeting. Tom, this would have been ... You see, I was the fourteenth president of the academy, so this would have been about 1970 or 71. It was in the early 70s. My recollection, Tom, is that we met in Chicago. I believe there were 56 lawyers there. Some names from the past that are really stellar in the health law practice early on ...

Tom: [crosstalk 00:04:18], Steve?

Stephen: The one that I remember very well was Jim Ludla, who was from Los Angeles with the [Fairamount 00:04:27] Music [inaudible 00:04:28] Murick Peele. He was, in my judgment, he was sort of a dean of hospital counsel at that time. Others included Jay [Hudspeth 00:04:39], who went on to become general counsel for [inaudible 00:04:45]. Nathan Hersey 00:04:47] and Ross [Stromberg 00:04:49] from California and Jack Wood, of course, from Houston, and Nathan was a professor at the School of Public Health at the University of Pittsburgh and a remarkable contributor to health law practice at that time and has been ever since.

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We got together, 56 lawyers I think was the exact number, and talked about the formation of an organization that would bring lawyers together of common backgrounds in terms of health care practice for the opportunity to share ideas and [inaudible 00:05:32], and we had developed a relationship with a young lawyer from AHA, someone by the name of Mark Olson. From that relationship, we were able to develop an organization that at the time was known as the American Hospital Lawyers Association. It was later changed because we developed a relationship with AHA, and at the AHA, which was based in Chicago, their array of subspecialty positions, practitioners, legal, medical, nursing, and so forth, were all known as societies, so we became the American Society of Hospital Attorneys due to that relationship. I believe it was with Mark Olson.

We started out in Washington, D.C. We had a marvelous executive director who came aboard, a fellow by the name of ... Oh, how am I forgetting that? He later became National Health Lawyers executive director.

Tom: Was it David Greenburg?

Stephen: Oh, Alan Greenburg, of course, yeah.

Tom: David Greenburg.

Stephen: He did a great job for us. He was a friend to many of us, and a good friend, and also a really capable leader. As the relationship with AHA matured, it became apparent that for us to access additional resources, it would be prudent for the association to relocate to Chicago. I don't recall, Tom, the year in which that occurred, but it was fairly early on. The bitter pill in that move was the loss of Mr. Greenburg and his help that he had provided.

We went over to Chicago and continued on with Mark Olson. The thing continued to grow and mature, and we had increasing numbers of lawyers who were working with hospitals coming aboard as members. We arranged it then for annual meetings. We made it a point to always try to choose nice places in order to attract lawyers and their families. We lived in such places as the Camelback Inn in Arizona and the Broadmoor Hotel in Colorado Springs and Williamsburg. The organization continued to prosper.

That's kind of a sketch of how it all came about. I was, as I said, privileged to serve in the fourteenth year of the academy, and it's been a great ride. I really enjoyed the professional association with all of my friends and colleagues in the academy, as well as now continuing on so strongly with the American Health Lawyers Association.

Tom: Sure. Steve, when you talk about those early years and that group of lawyers who started to think of themselves as health lawyers, of course, the health law bar barely existed at that point in time, it was just in formation. In those years, obviously, the Stark Law, HIPAA Law, things of that nature, weren't even on the books yet. What was health law practice like at that time?

Stephen: It was so different from what it is today. The regulations and complexities of today are far beyond what we were dealing with early on. In health law practice at the time, I would say the focus was on risk management. It was all about avoiding law suits. It was all about avoiding workers' compensation claims, all those things that the traditional general practitioner of the law could practice and practice well. It wasn't until years later, as the ...

See, in the early days, when I was a young lawyer in that capacity of working with hospitals, government hospitals were exempt. Many states had exemptions for charitable institutions, including hospitals. There was an immunity out there that began to fade quickly. The whole concept of responsibility to the community for earning your charitable status began to evolve because people began to recognize that hospitals made a ton of money and were not taxable for neither the income or the property taxes.

The whole idea of community responsibility and accountability ... Community accountability was the term that developed, and that was in large measure developed through the association with the Catholic Health Association, which began to recognize that that was a pressure coming from the attorneys general of the various states, that here's a major employer earning a great income in all of these communities, and it was not doing its part, unless it could ... or there were many that felt that they were not doing their, so the notion of community accountability emerged, and hospitals began to keep a record of how they were serving the underserved communities, the poor, and that sort of thing.

At the time when I was early in my practice, there was no such thing as Pete Stark and the regulatory introduction of rules and regulations that he brought about and really complicated things in health care. It's been continuing [inaudible 00:12:20] ever since. There were no advanced degrees in health law, no health law teachers in our law schools. It was simply malpractice, medical staff management, contractual work, financings, and that sort of thing that was just bread and butter for many lawyers who were really general practitioners. There was no recognition of health law as a specialty. It was simply the operation of hospitals and tending to their needs as they related to general practice requirements. Most were liability and contractual matters and management issues involving employees in terms of unionization or legal matters, workers' comp, all the other traditional aspects of general practice.

- Tom: Often, Steve, I remember in the very earliest years of health care law practice, it was often that if you told someone you were a health care lawyer, you often associate it with informed consent, medical ethics issues, even still medical malpractice. Those were the early health law practices, weren't they?
- Stephen: Oh, you are so right. That Kansas case of Natanson versus Kline introduced the whole notion of informed consent, and that was revolutionary. Attorneys began writing informed consent documents to be sure that there was a realization and understanding by the patient and their family of what they were about to undergo and that sort of thing so that they could not later claim that they were not informed. The document had to be thorough to be certain that that was done, and then when it was done, the patient signed off. That, of course, is still the case today. In those days, informed consent, and all those forms that go along with it, were not even thought of.
- Tom: Right. You bet. Well, Steve, as we near the end of our time, I always think we could spend days having this conversation, and perhaps we'll do that if we can get someone to listen some time. You might just wrap up, Steve, with your thoughts on the health care bar. I know you've been blessed with a good, long law practice, and as you said, there weren't really health lawyers in the early part of that. What's your sense of the health care laws as an area of practice?
- Stephen: It is extraordinary. There is extraordinary opportunity for well educated lawyers to exercise their skills and bring their contributions to health care practice for institutions and for health care systems and physician groups and health plans. When I was a young lawyer, health plans were

not heard of, but today, there's so much that can be shared with other attorneys throughout the country on the whole area of health regulation and that sort of thing. Tom, I have to tell you, I have been so impressed with the ways in which the members of the academy, and now the members of the American Health Association, have given generously of themselves to their organizations, and far more importantly in my judgment, to the entire membership of the health law bar, as its constituent members and all of the related professions and practitioners, including nurses, physicians, science, and accountants.

Perhaps the most remarkable aspect of my association with the American Health Lawyers Association and academy is the way in which our members continue to share their experiences, their insights, their practice tips, and they are profoundly helpful to the young lawyers coming aboard. I just don't know what those guys would do and those young women would do without the assistance of an organization like the Association. Those insights that the members bring offer real guidance to our professional sisters and brothers, whether they are representing one rural hospital or whether they are involved as counsel for a major national system.

I think there's a very bright future for health law practitioners throughout this country. They need to stay close to the Association because they're going to find very good advice for a lifetime of practice. All I can say to the American Health Lawyers Association is to keep on keeping on. I think that they're doing a splendid job of educating the health care bar.