



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.

Conversations between AHLA leaders were conducted via audio interview as part of the Association's History Project. More than 60 of AHLA's Fellows and Past Presidents were interviewed. In addition, several were also videotaped. A documentary was prepared using content from the audio and video interviews and debuted on June 26 during AHLA's 2017 Annual Meeting in San Francisco, CA. This transcript is from a video interview conducted on x date.

March 22, 2017

Dennis Woltering (videographer) interviewing Brent Henry:

Dennis: Tell us how you got into health care law. I believe you started before it was really recognized as a specialty.

Brent: I did, yes.

Dennis: Tell us about that.

Brent: I was about 30 years old. I was an antitrust associate at Jones Day in Cleveland. I got a phone call from someone who helped to get Ed Koch, the mayor of New York back in the '70s, elected. He said they were trying to recruit some new blood into the city and he asked me if I'd be willing to come out and interview for a couple of jobs. I said, "Sure." Since I was from back East. I'd spent four years in Cleveland. They were good training years to be a law firm lawyer but I was itching to do something else.

When interviewed about several job openings with the Koch administration, the one that seemed the most intriguing was the director of the Medicaid program. I ended up getting offered that job so I found myself as a 30 year old antitrust lawyer suddenly becoming a Medicaid administrator with about 500 people under me.

During that time I learned that what I really liked about government or managing people was the legal aspects. That's what convinced me that I did really want to be a lawyer but that health care was a fascinating industry. That's how I got my start.

Dennis: Then you went to work for Jones Day I believe. Is that right?

Brent: Yeah. What happened is Jones Day gave me a leave of absence to work in New York City government. At the end of a close to two year leave of absence they asked me to return to the Washington office. I happily did so with the hope that I could help develop a health care practice. But this was in the late '70s and the notion of a health care practice at a Fortune 500 law firm really was a bit foreign. They gave it a try for a little while and then basically said, "We don't see the field growing in a way that works for us." So I began to explore other opportunities and ended up talking to David Greenberg. I can go on if you want.

Dennis: Yeah.

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- Brent: In my decision to look outside the firm people began to recommend talking to David Greenberg who had started something called the National Health Lawyers Association at that time. I remember meeting in David's apartment. As I recall his apartment was the headquarters of the National Health Lawyers Association. This was back in the late '70s. He was so welcoming. Gave me lots of advice. Gave me lots of contacts and said, "If you really want to be a health care lawyer, you need to join the organization. I can introduce you to a lot of people that will help your career." And he did just that. That's what got me involved in Health Lawyers.
- Dennis: Tell us about your personal journey in health care law.
- Brent: Aside from getting the start or the bug in the health care industry in New York City government, I did a few things when I came back to Jones Day. Represented a psychiatry organization but it wasn't all that fulfilling, which is why I really wanted to get into the industry. Once I came back to Jones Day in Washington and after having met David I began exploring in detail the possibility of joining either a provider organization or health plan.
- Decided to go with an organization called Greater Southeast Community Hospital System. Met with the CEO. He said to me, "I don't really need a lawyer but you can be my chief of staff. Once I teach you the ropes on how to deal with health care CEOs than you'll get hired away." Literally two years to the month that I was hired to work at Greater Southeast I was hired away to become general counsel of what was then, and I think still is, the biggest health system in the D.C. area. Now known as MedStar Health.
- I stayed there for 17 years through a lot of changes. We started out as a two hospital system and grew to a four hospital system. Then acquired and merged with a hospital system in Baltimore and grew into eight hospital system. Then back in 2002 I got lured away to come up here to Partners. Here I am after 15 years. Just about ready to retire. It's been a great journey.
- Dennis: I would imagine as an African-American you had a lot of breakthroughs. You've been the first in a lot of the places, a lot of categories. Can you tell us a little bit about that?
- Brent: Actually it started, I was not just the first African-American, it started in college. I was not just the first African-American but the first young alumni trustee at Princeton. 1969, after there were a lot of student protests the board decided that it wanted to have a student voice on the board. My graduating year they decided to elect a graduating senior. That is still the case today. Every year a graduating senior gets elected to the board. In '69 I was the first graduating senior to be elected. That's a first, not in health care.
- I was also the first African-American President of the National Health Lawyers Association, now the American Health Lawyers Association. That was back in the mid-90s. Lots of other firsts but I guess those are two examples.
- Dennis: Is the American Health Lawyers Association presidency one of the biggest firsts of your career?
- Brent: I would think so. Certainly in terms of a health law career, for an organization that was then a little less than 20 years old. For me, who had by then really committed to having a career in health care it really was a way of catapulting me to some level of visibility. It's worked quite well.
- Dennis: What did it mean to you? What did it mean to your sensibility and that kind of thing?
- Brent: I think what it really meant was a validation of people recognizing that I was a health care lawyer. Back then it wasn't necessarily symbolic to be the first African-American but it was

symbolic I think, to me, to have come through the ranks the way I came through the ranks. Having been a health care lawyer, having made the switch to become a health care lawyer about 15 years before and recognizing that I really did have something to contribute.

Dennis: How would you describe the challenges and the opportunities during that time for the American Health Lawyers Association?

Brent: Back then we had grown. I think we were just under 10,. Every year, each new president was tasked with the goal of growing the membership but we didn't have a lot of the technology advantages that the organization has now. We would have seminars that were all in-person seminars. In order to handle those seminars it took a lot of resources.

Back then again, there were a handful of law firms that had committed to health care but not in as widespread a way that law firms have now. Certainly the number of in-house lawyers was very small. I think in terms of breakthroughs, well there had been other in-house counsel at the American Health Lawyers before the late '90s and early 2000s, National Health Lawyers had been primarily in association to private counsel. The American ... I can't remember the name so you'll have to edit this out.

Dennis: American Academy of-

Brent: Yeah. The American Academy was primarily the in-house lawyers. So for me to be an in-house counsel but to become president of the National Health Lawyers I think, sent a signal that began to start the notion of maybe if we were able to combine these organizations it could really be a powerful force. That happened several years after my presidency but it was nice to see the beginning of those ideas take hold.

Dennis: What would you say was the biggest accomplishment during your presidency?

Brent: I've thought about this. It's been so long ago that I can't think of any singular accomplishment. I can tell you that there are a couple of things that were just getting off the ground when I did become president. That was the public interest forums that began a couple of years before. They had convened I think the second one under my presidency. That was significant. But I got to be honest, I really can't think of any one big accomplishment that happened in the one year that I was president. It was more of a transition.

Dennis: How would you describe the culture of the National Health Lawyers Association and now the AHLA? How would you describe the culture?

Brent: I think NHLA and now AHLA was always dedicated to trying to figure out where health care was going. What I liked about the philosophy was that it was really a partnership of private counsel, in-house counsel, and government counsel. We always thought that given the fact that health care is so heavily regulated, it was going to always be important to include government counsel in our deliberations. So the board had a good mix of all three. Whenever we had programs we wanted to make sure that we had government input.

Dennis: What about the notion of collegiality? I understand, reading some of the audio interviews that sometimes people who would normally be competing were sharing ideas and talking about issues they were facing.

Brent: I think that was somewhat unique to the NHLA in the sense that these were all private practitioners. The field itself, the client-base was not all that large so the competition for clients was pretty heavy, but when it came time to sitting down in the Association, it was really all

about, "How do we best advance the education of our fellow lawyers in a way that makes us all better?" The collaboration that went around the seminars that we put on, some of the public interest programs that we put together, truly did reflect that collaboration.

Dennis: A sense of inclusiveness as well? How would you-

Brent: Yes. No question about that. Inclusiveness not only based on where you came from in terms of law firm versus in-house but also a sense that in order to be a real force, we needed to be a more diverse organization.

Dennis: Health care law has seen dramatic change as it is evolved over the years during your career. What have been the most important milestones in your view?

Brent: I remember way back when Medicare first came out with, this was in the late '70s, some of their early rules. Learning how to, and I'm drawing a blank on the name so you'll have to edit this out.

Dennis: That's okay.

Brent: There was a payment rule that came out that was really-

Dennis: Reimbursement rule.

Brent: Yeah, reimbursement rules but there was a name for them that I'll have to remember. That was the first reimbursement rule that really began to remind folks that it was important for the industry itself to be more proactive in a focus on patient quality and care and curing disease, as opposed to simply billing for procedures.

The second thing I think was HIPPA. The privacy act. That was the legislative act that gave us some real concerns about how to protect, how to go about protecting privacy. Those concerns still linger today, particularly as privacy becomes much more related to data security. In some ways I would think the HIPAA rules tend to still be a challenge for all of us lawyers.

I was going to say, the third thing was really, particularly here in Massachusetts, the whole notion of movement toward manage care. Obviously the Affordable Care Act that was enacted seven years ago, to the day actually, ObamaCare was a development that came out of RomneyCare here in Massachusetts three or four years earlier. Having been here for the development of RomneyCare really had the most significant impact on my career because it really did shape the way that we here in Massachusetts organize our health care.

Dennis: Where do you see this going now?

Brent: That's a tough one to judge. I'm saddened by the notion there are some folks that want to repeal and replace the Affordable Care Act. I think the Affordable Care Act has a lot of very forward thinking and important aspects to it, particularly in terms of expanding coverage but equally as important as in terms of making sure that we as providers are being held accountable for the kind of quality that we provide. Keeping people out of hospitals rather than continuing to bill on a procedure basis. My hope is that ObamaCare or the Affordable Care Act does survive in some form.

Dennis: Some of the other developments, you mentioned Medicare, Medicaid, anti-kickback provisions, Health Maintenance Organization which you talked about. How has the American Health Lawyers Association, what has that organization's role been in these changes? How have they responded or been involved in those changes would you say?

- Brent: Because of our philosophy, as I said, with always including government attorneys and getting input not just from attorneys but also from some of the leaders of the government health care organizations. There was always, in our view, a two-way street in terms of sharing information and sharing ideas. The AHLA would from time to time be sought after by CMS and by HHS to give input. Having been able to give that input has meant that when some of the rules were proposed to be changed, our views would be sought or the views of some of our members would be sought to test out how practical those changes might be in terms of real application.
- Dennis: I know HHS. I'm not sure about CMS, what is that? CMS?
- Brent: CMS, it's actually the Center for Medicaid and Medicare Services. It's literally CMMS but it's shortened to be CMS.
- Dennis: You're someone who's known as someone who sets an example. Likes to get out and give back to the community. Tell me about that philosophy, why that's important to you and some of the things you've done to be active.
- Brent: I think it's important to give back both to the local community where one lives but also to the professional community. On the professional side, for me that began pretty early on. When I first got into law practice at Jones Day in Cleveland I was asked to help develop what was back then the first public defender program in Cuyahoga County. I think its origins really sit with my dad who was the local NAACP leader in my hometown. He had me on a picket line when I was 10 years old protesting fair housing. That led to going to college in the '60s and protesting things at my university. So I've always had a sense of people who are able to have privileged opportunities like myself have an obligation to make life better for others, so I've continued that.
- Tried to continue that in my own professional career both as a lawyer joining organizations that allow lawyers to give back and have an impact on the community, but also as a non-lawyer. Giving back to organizations that have helped me. For example my service on the Board of Princeton continues. I'm also here involved in the arts community the Boston Symphony Board as well. Also, equal justice. I am a member of something called the Massachusetts Equal Justice fund because I am a firm believer that there has to be access at all levels to the courts, not just criminal access.
- Dennis: As a general counselor for one of the most prestigious hospital systems in America, how would you describe your perspective on what's happening with health care in America?
- Brent: Health care continues to be a challenge. It continues to be a challenge because of the varying ways in which it's being funded. A lot of that's historical but in my view it would make a lot more sense for us to look at health care the way a lot of countries look at health care. That is, thinking about becoming a single payer system. We flirted with that with the ACA, that didn't pass. I'm expressing my own personal philosophy, I don't think it's ever going to happen.
- One of the reasons that I support the continuance of the Affordable Care Act is because it does begin to start putting organizations like my own here at Partners into the mindset of making sure that people get well and stay well and get their health care managed so that they don't have to be hospitalized. If we can get paid for keeping people out of the hospital, health care costs across the board will go down.
- Dennis: What's your advice for young attorneys considering a future in health care alone?

- Brent: Couple of pieces of advice. Number one, I think you need to be open to new challenges. To be open to serendipity is what I say. I go back to when I was at Jones Day and got the phone call from the people in the mayor's office in New York. I didn't really have any plans to come back East or to leave the firm, but when new ideas get put in front of you, you shouldn't be afraid to embrace what's the unknown.
- Also when you're making career decisions, I think it's important to make them in a way that continues to optimize your options. Or maximize your options. What I'm saying with that is if you're offered an opportunity, look beyond that opportunity to say, "Where is it that if I take this opportunity, where will it lead me? Will it open doors beyond what I'm doing or will it close doors?" My advice is always to take the opportunity that leads to more open doors.
- Dennis: In believe in taking a risk.
- Brent: Yes. A risk both personally and professionally. I think the New York opportunity is what I was talking about. I also have to say that personally I've been really blessed with having a life partner that shares the same values that I do. My wife was a pharmacist who later in life decided to go to law school. She took a risk by switching careers. When she graduated from law school, she went to work at the FDA. Then nine years out of the FDA, she was recruited by Johnson and Johnson. So we had to make a choice.
- I was still general counseling at MedStar in Washington and she had to decide whether she wanted to move to New Jersey to work for Johnson and Johnson. So we had a commuter marriage for much of the next decade. That was a personal risk that I think, as we both look back on it ended up rewarding both of us. I think both of us have much more fulfilled careers as a result of taking that risk.
- Dennis: On this 50th anniversary how would you describe the key milestones and contributions, accomplishment of the American Health Lawyers Association?
- Brent: First of all I think they are the single, back then they were the single most influential educational resource for health care lawyers. Clearly now that they're combined, National Health Lawyers has combined with the American Health Lawyers, it's become even much more significant. Other organizations like the ABA have tried to, I guess follow in our wake so to speak and I don't think they've really succeeded as effectively as the now combined American Health Lawyers has. Whenever I look at a list of who's who in health care, they more likely than not have been speakers or board members or program chairs of AHLA programs.
- I'd like to think that because of that philosophy of combining private practitioners with in-house practitioners with government practitioners we're able to bring lots of different perspectives on, not just the current health care situation but where health care is going. I'm very optimistic that AHLA will continue to be a leading force in, not jus health care education but also health care policy going forward.
- Dennis: Finally, what are your keys to your success? How have you managed to accomplish all that you've done in your career? Which has been spectacular.
- Brent: I think a lot of it has to do with being a good listener. Trying to be as good a communicator as I can. I think back on that first interview that I had with the CEO who said, "I don't need another lawyer but I do want to teach you how to communicate with health care CEOs." Coming out of a law firm, you're really taught to write like a lawyer but to be a general counsel frankly, you have to be able to write in ways that communicate the business. To break things down in very simple terms. So communication is really key, both verbal and written, but it all starts with being a

good listener. If you don't understand what your client wants or needs, you can't get them there.

Dennis: That's all I have. Do you have anything you'd like to add?

Brent: I really don't.

Dennis: Thank you so much.

Brent: Sure.