



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 23, 2017

Dennis Woltering (videographer) interviewing Donna Fraiche:

Dennis: First of all, I want to start with the beginning and how your career began in healthcare.

Donna: Sure. It's so long ago it's hard to remember but I can tell you that it was serendipity more than anything else, it's being in the right place at the right time and as a young lawyer I was certainly very fortunate. I was with a law firm that really didn't have very much to do with health law or health care and we didn't even know that was a special area of experience and practice at that point, but they were doing large bond transactions, financings for nonprofit health care hospitals around the state of Louisiana and I was in office of that firm.

I was the young kid on the block so they assigned me the responsibility to figure out what Medicare and Medicaid was, and whether or not they were going to get that loan paid back. And so, I didn't know anything about Medicare and Medicaid either. I was married to a physician but he was a resident at the time and didn't understand how health care was financed nor did I need to. So I found out there was an association called the National Health Lawyers Association and they gave great seminars, educational presentations on timely issues having to do with health care law, including Medicare and Medicaid. So I went to my first conference.

Dennis: Go ahead.

Donna: And after that, I recognized while I was at the conference that there was a small group of people and they knew each other and David Greenburg was the executive director of the National Health Lawyers Association and he followed me around. I understand he did that with a number of people because he wanted to get to know more about why I was there. He was very, very interested and so I became friends with him and I talked to him a little bit about my career and he encouraged me to keep coming to other NHLA meetings, I met Tom Fox I believe at that meeting and Tom told me there were other meetings including long-term care and managed care. There were very few at the time, maybe ... I'm sure less than 10 programs that were totally devoted to subject matters and frankly that first year that I decided I wanted to become a health lawyer, I tried to go to every single one. It was not inexpensive but I had a very generous benefactor in the form of the law firm and I got to go to all sorts of health law meetings and presentations.

Dennis: And David Greenburg was a big influence?

Donna: Absolutely. He was a mentor to many of us and if he liked you, he took an interest in you and he encouraged you in a very aggressive way to get involved in NHLA to do programs, to write

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articles and definitely to come to the meetings and get to know other people and volunteer. A lot of success is just showing up. And in my case, and in that time period, it was easier than to just show up because we probably had less than 100 health lawyers in the country.

Dennis: Not a lot of competition.

Donna: Not at all. In fact, I realized that as a young lawyer, I was doing a lot of litigation back then and litigation was sort of whatever someone dropped on your lap as a dispute, you ended up needing to become an expert, not only in the facts, but in the law of whatever that situation was. I thought, "There's a lot of competition for doing this kind of work in court. I would much prefer to look at an area or an industry where I could learn as much as I could and keep up with the developments and know more than anybody else," because I wasn't really all that smart and I figured that I could be much smarter if I knew something that other people didn't know much about. It turned out to be a very complex area and I was lucky to fall into it when I did.

Dennis: You're very humble. I know you're very smart actually. And you were involved in drafting bylaws for hospitals and things like that, which is-

Donna: Well, as a result of working with hospitals, which were my first clients as a result of some of the bond work that I did, I also represented health care management companies and those management companies put me into arenas where I had to defend expenditures and reimbursement issues for the then Medicare-driven health care system because it was really pretty new. Medicare was 1965, this was in the slight mid-70s to late 70s but I found my way as a result of being with hospital administrators and administration, being in an environment where disputes would happen and unfortunately, they were happening by and between medical staff members that maybe had fallen out of compliance with bylaws and with the hospital. So I began to handle those disputes and then after that I started drafting the bylaws to try to find what was the best practices for hospitals at that point in time, to really drive the behavior and the conduct and the quality in hospitals, which is self-governance type of situation. Very different, in terms of how the laws applied in that area.

Dennis: Tell me a little bit more about your involvement with the National Health Lawyers Association and your eventual rise in the 80s I believe to become president, the first woman president of the organization.

Donna: That's right. At the same time that I became president of the National Health Lawyers Association, I believe that Kay Felt was also rising within the, what we called AAHA, which was the American Academy of Hospital Attorneys, and lawyers could be in both but if you were NHLA, David Greenburg made sure that you were loyal to NHLA and so, if you were going to advance and succeed in a leadership track at NHLA, he made it his business to make sure that you did the things you needed to do to politically be accepted on that leadership track. So I was pretty fortunate and there were other women, I wasn't the only one, but of course in those days there were few women in the legal profession as compared to men. That changed very quickly as law schools began to open their doors and welcome more women and women realized that this was a career opportunity that was something that they could excel in, so we saw more women. But when I was there, again, I didn't have as much competition, which is probably why I got to be the president when I did.

Dennis: Well, but you also say that the Catholic Church and the nuns had a lot to do with women advancing in health law?

Donna: That's right. And I think that there were not as many barricades frankly or perceived barricades or glass ceilings so to speak, for women in law in the health law arena because women had

already broken that barrier long before that. In fact, going back over a century of time of women being in the religious ... and part of their mission was to care for the sick and opening hospitals in the United States so there were women, particularly in the Catholic health arena, who were role models frankly to me. And so I never felt that health law wasn't anything but welcoming and open to women.

Dennis: It was in law school that you felt a disadvantage maybe?

Donna: I never felt disadvantaged being a woman. I always felt that I could turn that to my advantage rather than to my disadvantage because I think that there are qualities and characteristics that men have and I think they're different qualities and characteristics, especially from a leadership perspective than women have. And AHLA, NHLA then became AHLA, were places where you could really learn to become a leader, whether male or female. And of course because I was one of the first women and there were other women that were equally designed to come up in those ranks shortly thereafter, I think that we found a place where we could find the kind of camaraderie with men, frankly, because I've always felt that's essential to get ahead. That you have to be able to be friends with man and not feel that they're your adversary or have to be so overly aggressive that it could be put off to men. And so, I was able to use some of the resources that the NHLA, then NHLA now AHLA to make great friends, men and women. I find that because of that I was able to integrate my family into the relationships that were formed.

Dennis: Well I'll ask you about that in a moment but first, what role did the NHLA and the AHLA play in helping you build your career would you say?

Donna: Well absolutely I wouldn't be where I am today. And I'm sure that anybody and everybody that you would interview after 50 years of AHLA success, will tell you the same thing. There are no better resources for the substance of health law, the developments of health law, the teaching of health law and the camaraderie that goes along with it. Because from that experience you're able to not just help your existing clients but develop additional clients and develop a network of attorneys that referred to you because they believe you know what you're doing because they've seen you in action at the NHLA and at the programs and they feel like you've got the confidence and skills necessary to help them with their clients, whether it's as local counsel ... because I was here in Louisiana and I met lawyers from all over the United States and since our clients are national and they're also local, that also helped with the interrelationship of referrals.

Dennis: The networking capability.

Donna: That's right. And the network wasn't a cartel. It wasn't, "I'm not going to send you business unless you're a member of the NHLA," but it didn't hurt to know people and have a trust factor there that your work was going to be handled well and that you had these resources and experts upon which to rely. One thing that the experience at the NHLA and AHLA, now AHLA, taught us was that ... we didn't have to do this alone.

We didn't have to just figure it out from a book, that this was new and developing areas of law and practice and that there were others that know just a little bit more than we did about it and then had sort of ... we can't use sub-specialization unless there's a special bar designation for it but frankly, from an experience level, they were sub-specialized, and whether it was health care antitrust or some other areas of healthcare, it could be people who knew about certificate of need. These esoteric concepts that are so complex in the delivery of the health care system, that you really didn't have to read about it in a book or go pull the regulations, which AHLA always had at your fingertips via its resources. You pick up the phone and call another member because you were identified as a member in that area of practice.

Dennis: Is that still important?

Donna: Absolutely. And now I think that ... not so much when I was at AHLA, but then, we would just know from the programs. But now there are special interest groups, where they really do focus on and communicate with each other, whether electronically or otherwise, on these subject matters. Instead of having one bulletin where all of these different subjects have a special place in the bulletin, now they have their own practice groups and their own sets of materials and people and networks from which to gain information and knowledge.

Dennis: Talk to me about the history of NHLA and the American Health Lawyers Association. What are some of the key developments?

Donna: Well I think that the key developments in health care in the industry itself in public policy also were reflected in the growth at AHLA. And that goes back to, as we said, the 1960s or '65 where the Great Society, Medicare and Medicaid was developed and passed by Congress, every year there would be budgetary considerations and changes in policy that we had to learn about as health care lawyers because it not only affected the budget, but it affected our clients and many of our members were also with the government so we could work with them. They could come to our meetings and we could converse about issues and developments in law and I can give you examples over time. There were landmark decisions in the Supreme Court, there were changes in everything going up to and through the passage of the Affordable Care Act and even today and during this time that these interviews are taking place just before our 50th anniversary, we are yet debating ... once again, whether or not, all Americans are going to be able to have access to health care and keep their healthcare coverage. And so, it constantly changes but AHLA reacts to those changes. Not just with programming but also with ways in which these milestones in health law can be developed along the lines that I've described.

Dennis: Tell me about your perspective on the merger. When the merger took place, how did that work out?

Donna: The merger happened after I was president so I wasn't there but I heard the seeds back then. When I was president and during the period of time just before and just after, there were discussions about all sorts of initiatives that were going on at AHLA, as well as initiatives that were going on at NHLA because we said we've got more in common than we have differently, we probably should begin these discussions. And I know there was a lot of pushback and pullback because there were leaders on both sides of that table that felt very loyal to, as it were, those organizations. And of course David, in his wisdom, felt that in order to ... it used to be an A-H ... A-H ... an AHAA before it was a NHLA and created NHLA. So I mean he had his own thoughts about whether or not we needed to be all about hospital, law, or whether we needed to be broader than hospital law, which is really what NHLA is because it takes in lawyers from other industries that do work in health care and the government lawyers as well.

So at some point there was a decision that was made. But I'm glad that you asked me about some of those days that, when I was involved in the executive committee and we were trying to create some interesting developments for the NHLA, that then succeeded to the merger, one of them was that we believed that we should look at the work that an individual volunteers to do in an association because it's all voluntary. None of us are paid for our time and contributions to this so some people were singled out over the years for their tremendous work and effort. And so, back when I was president, we developed the concepts for awards to be given and the first David Greenburg award was given after those strategic efforts were determined while we were sitting in a room together figuring out what's the next thing to do at NHLA that was then merged into AAHA ... AAHA, don't make me do those acronyms.

Dennis: What about health care law? What do you consider the milestones and the way it evolved over the years?

Donna: Well as I said, Congress really helped to spur the changes in health law. And then those, by design, were adopted in different states and different state legislatures and in courts over time. Some of the milestones were everything from antitrust merger issues to whether or not medical staffs would be integrated, whether or not bylaws constitutes contract for example, that was a really big deal in my world that we subsequently, depending on which side you were on, learned to live with. Those are esoteric examples of big milestones but I think from my perspective, the most important thing about the milestones in health care and health care law, was the ways in which we were asked in our respective communities to contribute to the development of health care industries in our communities. And so, because of what I learned from the leadership opportunities ... and really one of the first leadership opportunities frankly I got, was to advance at the NHLA. How brave were they to allow me to do this? But to get back to your question, that was a way for me to get back in my community and to contribute in terms of the milestones and developments of health care in my community. And so from that I got this courage to do more and I talked a little bit about some of the, shall I say, nuns in my life.

One was Sister Mary Rose McPhee, who was the executive director and president of the Hotel Dieu system in New Orleans, which was part of the Daughters of Charity. Her incredible leadership showed me that New Orleans was a place where I could use some of the leadership characteristics that I had learned at NHLA and contribute to what was going on in New Orleans at the time, which was to try to merge our health care communities in the form of a downtown Regional Medical Center, which now, 20 years, 30 years hence ... we see as a developing burgeoning medical center that is world-class, in terms of her work, Sister Mary Rose McPhee and Hotel Dieu, LSU, to laying ... now Louisiana Children's Medical Center, LCMC or Children's Hospital, which are all now part of a large and burgeoning health care industry in downtown New Orleans. So from that milestones and differences that were happening around the country, that we were sharing at the meetings we were going to together, to the leadership opportunities that I was given through participation at NHLA, I was able to take that and to translate it into my own life experiences here in New Orleans where I could donate my time and volunteer on different corporate boards and well, particularly nonprofit boards in the health care arena.

Dennis: You also talked about the Emergency Medical Treatment and Labor Act, EMTALA.

Donna: That's right, EMTALA was one of the milestone acts that helped to frankly form my career as well because I was able to give advice in an area that was changing, where EMTALA was the precursor to universal health care for the uninsured. It was something we were talking about but we weren't even close to, in terms of policy differences that were going to be forthcoming as a result of the election of Obama and pushing it through. At that time, really, EMTALA as the Emergency Medical Treatment and Active Labor Act, was one of those milestones where anybody that came to the emergency room could not be turned away just because of their ability or inability to pay.

Emergency rooms were safe harbors for people and the what the law did, was to protect them to be able to go in, have a screen done to see whether they were in an emergent condition and then be stabilized and treated. That was something ... or transferred ... That was an area of law that I felt very strongly about because of my conviction about, and belief, that people should have access to health care in the United States as they do in most of the world's industrialized countries. At that time we didn't. It depended on your ability to pay as to whether or not you could actually go to a hospital or a particular physician or not. You couldn't choose if you

couldn't pay. So this was one of those first really big developments I think and I was glad to have been able to focus on that as part of my practice.

Dennis: What's your advice to young lawyers considering a career in health care law?

Donna: Well I suggest that they don't do as I do but do as I say, which is to find something that you absolutely love in the practice of law because the law is very, very broad. It's also a very jealous mistress and so ... or master as it were, and it can possess your time and it can possess your talent. But if you find something in the law that you really, really are interested in and you want to latch on to and learn more about, find an organization, and I suggest that if it's health law, it's got to be AHLA. And you go to the program. So you find the people that are at those programs and don't just fiddle around with your email or text. Actually call them on the phone, talk to them. Let them become your mentors, which is something that we advocate greatly, in real time.

Then you can become, as it were, a friend to that industry of law ... that a body of law that you're trying so hard to develop a practice in. I know that it's hard because you may be a member of a law firm and you may have billable hour or quotas that you have to meet, or you may be employed by the district attorney's office or by the government and you don't have time to just take off and go to a seminar or a program that AHLA does. You don't have time to write an article or to become an expert. But look around your environment. Every time you pick up a newspaper there are going to be articles about health care that will force you to learn more about it and therefore learn to love it and understand it and become your own expert and an expert to others in it.

Dennis: In addition to helping you develop leadership skills and being involved in health care, you mentioned your family and how important AHLA has been to having your family involved.

Donna: And there's no doubt about it, that AHLA is as social a network as you're going to get in the practice of law and in the profession. It's a place where you can come, you can bring your family, you can go to the events and family is always going to be welcomed at those events. And you grow up, as will your family, with the same families and you'll watch their children grow up as yours did or your significant others and they'll be part of the AHLA experience. My own children, for example, I came when they were very small and wherever I go now to an AHLA meeting, they'll ask me, "How is little Coco?" or "How is Jeff?" And they're Dr. Coco and Dr. Jeff now. It's hard for them to believe that these children and in the case of my son, have children of their own and that I'm a grandmother. Now I want to start taking my grandchildren to AHLA and to pass them off as my children and see if that'll work.

Dennis: It's pretty special for a professional organization to have that culture, really.

Donna: Always have. Both of the organizations that have merged have that culture and really do believe in the social aspect and being warm and welcoming to families. If you don't have a lot of time with your family because you're working day in and day out, when you're going away overnight, you're going to a meeting, it's really important that your family will feel welcomed at that meeting and be able to attend the functions.

Dennis: Balance. You mentioned balance.

Donna: Absolutely. Balance is essential I think in any profession, not just the legal profession, but it's what keeps us sane and keeps us going. And I have examples of families like the late Michael Bromberg and his amazing family and his wonderful wife. We traveled together, we've been to Europe together and where do we meet? Of course, at NHLA. He directly preceded me as

president of NHLA and at the time and until his death, was considered the foremost health care lobbyist in Washington DC. He was the first name that anybody called upon in terms of his ability to understand both sides of the aisle and to get health care policy passed.

Dennis: We talked a little bit about some aspects of the culture but what about the collegial aspect, the inclusive aspect, diversity, that sort of thing?

Donna: I think diversity has become an important initial theme at AHLA. We had one of the first diversity task forces that I can recall of any industry-based association. We embraced diversity at AHLA, an example is that I got to be one of the first women presidents when it was still a fairly young organization and I think thereafter, immediately thereafter pretty much, there was an African-American president. I think that sends a very, very strong message that you can come from any world, any background and you can become a leader at AHLA, that it is that open, warm and welcoming. And that we really fight hard for justice issues at AHLA as they apply to our membership.

Dennis: You mentioned that one of your big moments when you were president of the NHLA was introducing Senator Ted Kennedy at the annual conference. Tell us about that.

Donna: That's right. And I think that at our annual conference, which is in Washington DC most of the time, every other year we try to make it in DC because we can bring everybody together in the nation's capital, where frankly, health law was born and born of policies like Medicare and Medicaid. So it's really important to go back to Washington, but while we do, let's take advantage of who may be around on the hill and that can advise us and tell us the inside story of what's going on. The year that I was incoming president Teddy Kennedy, the late Senator Kennedy, was very, very much committed to health care for all. He believed in universal health care then and did so until his death, which was just before Obamacare was passed. So he fought very hard for that principle and when I was president I was so fortunate to have him accept the invitation to come and be our keynote speaker and I got to introduce him, which was a highlight in my life and to my father-in-law, who came and listened to his keynote.

Whether or not he was politically on the same side, we may never know. He took that probably to his grave but he was there and listening to every word that Senator Kennedy uttered at that meeting. I think that's the other thing I want to say about AHLA. We're in a time in our country where we've never been more divided. We've never been more split. You are either on the right or you are on the left. You go to an AHLA meeting and you don't really feel that. You feel that everybody has a sense of worth in whatever it is that they believe and so when we welcome a speaker, whether there's a "D" or an "R" behind his or her name, we're going to listen to what they have to say and take seriously ... agree to disagree at times, but I think that it's part of our culture at AHLA and the example of course is how welcoming we were then and would be today to, shall we say, a partisan advocate like the late Senator Kennedy.

Dennis: I want to do one more thing before I ask a couple more questions, and that is, I see something here that could be a little bit better. That's not you ...

Donna: I'll be better.

Dennis: No, you're great, you're awesome.

Donna: Thank you.

Dennis: You were fantastic actually. Let me just do that a little bit more. I just want to get that picture in a little bit better ... okay. Yes. Okay. No you're extraordinary actually.

- Donna: I don't know about that. Once you get to these other people, I mean they are so much more substantive than I am.
- Dennis: Oh no. I don't think so.
- Donna: Oh God, they'll talk your ear off about some milestone and you'll go, "Oh my God, enough here."
- Dennis: What I want to ask you about is, when you were president what were some of the challenges, the opportunities, the accomplishments for the NHLA when you were president?
- Donna: I think the challenge then and the challenge now is always going to be how you finance the ongoing operations of an organization that continues to grow. And even back then ... I mean we were not in the rut, we were in the black financially, we had funds and of course one of the ideas that one of our board members was very consistent in bringing up at every single board meeting was that, we're not here to make profit. We're here to give back because we're a nonprofit educational organization. And from that I think the seeds were born to create the public interest efforts at the AHLA and to be able to give back to the public through the public interest programs.
- The first one I think, and those seeds I will never take credit for because it wasn't because of me, but because of these discussions that we were having even then about tight finances and when we did make a profit it was important that we pile that money right back in to the nonprofit causes that the AHLA is all about. And of course because public interest was important, there was identified the death and dying issues, which were new to health law in terms of a milestone and developments where everybody in the United States needed to look at death and dying in their own right and what it meant to have advanced directives and the like. So that was one of the first public interest projects that was done.
- Dennis: Medical staff program. What was that? Medical staff programs that became practice groups?
- Donna: The Medical Staff Legal Issues program was the program that I got to first chair. We had not had a Medical Staff Legal Issues program at NHLA at that point in time and we decided to try it out to see if there was enough audience and participation. That seemed to be in the bailiwick of the American Hospital attorneys rather than an NHLA, which NHLA tended to be more in the financial, Medicare and Medicaid, antitrust and skilled nursing facilities and that sort of thing. Was when it came to medical staffs and how they operate within the hospital environment, there was a whole legal construct that applied there. So we brought for the first time, a program where we brought in the experts from all over the United States to speak and it was in Miami. I was fortunate enough to chair that program at that time.
- Dennis: You have also talked about the People magazine aspect of this. And why that's important ... the fun, the social aspect.
- Donna: Right. We would sit around at the dinner tables or were at the cocktail hour and I'm sure we talked about things that would now not exactly be politically correct. It would be all just in fun but we did get to know each other on such a personal basis. At some point in time we thought as the AHLA developed its materials, it's publications, that we always needed to reserve a members' corner to talk about who was doing what. Whether they were advancing in their careers, became a partner, whether they announced a marriage or the birth of a child, that it was very important that we had connection to each other as people. So we referred to it back then and I don't know what they refer to it today, as the People magazine section of the AHLA.
- Dennis: Almost like the glue that held you together sort of thing?

Donna: I would agree that ... It's an organization that's so much about the people. It's of course about the substantive quality of the programming but if you can overlay that with the determination of people to want to work together to achieve the mission, you're going to get friendships out of that. There's no doubt about it. And those friendships will begin to extend. An example of giving is that I wouldn't be where I am today at Baker Donelson, Ober or Baker Ober we call it today if it hadn't been for the AHLA.

I met most of the partners in health care that I'm with today because of the AHLA, believe it or not. I joined firms along the career lines. I loved every firm that I was with but I would advance my career by changing law firms to broaden the base of operations to better my clients at the time. So that is an example of the social side of AHLA, where I got to know people and I ended up practicing law with them, which is a great story. I think that story probably you can find in other places within the AHLA. The example that I owe that relationship to with the current firm that I am is of course Dick Howard, who was also a former president and a very, very profound leader at the AHLA.

Dennis: So finally, on this-

Donna: And I want to say Sandy Teplitzky. I'm sorry, but I have to correct myself. There were two. And now that we've got Ober, I think we were born of the AHLA spirit and the relationships that were formed at AHLA. So it was Dick Howard and then fast-forward 20-something years and now it's the relationship with Ober that I think had a lot to do with the relationship that we shared with Sandy Teplitzky, another former president of AHLA.

Dennis: So finally, on this 50th anniversary, what would you say the AHLA has meant to health care law in America?

Donna: I think that AHLA was responsible for the development of health law in this country as an academic curriculum as it were. I think that law schools here and there were picking up health law curricula but it was] in a silo. What AHLA was doing the whole time was creating syllabi all over the country as a deposit for the magnitude of health law that was being developed throughout the 50 states and nationally. Whether it was regulations, whether it was case law, there was a place that you could go to get the latest and greatest information on the subject. There had been other publications that have developed along those lines but nothing like what AHLA did, which was devoted totally at that time to health lawyers in developing what they needed to best serve their clients. And in my case, also serve my community and the other boards on which I was a member.

Dennis: All right. That's awesome. Is there anything you want to add?

Donna: Except thanks. I thank you, all of the members and the leadership of AHLA for frankly, giving me the life that I have today. I want to thank the association for surviving and thriving and succeeding over 50 years. It's just remarkable. There aren't many that have done that and I think that you all deserve the praise and the congratulations that goes with this major birthday.

Dennis: What about the future?

Donna: The future. Who knows the future? If you had a magic wand right now that you could wave and look at the future, the future is technology. But also the future will be people because I think that no matter how much technology the AHLA has to adopt as its core to contain and to disseminate content in as quickly and reasonably and truthfully a fashion so too to the people who are giving you that content. Their integrity is important and I think the future is going to depend on AHLA withstanding what I think would be the threat to truth and dissemination of

information in the new world of instantaneous ... everything from what you see and hear on your iPad and your phone, to let's check it out and make sure that it's correct. I think that AHLA's future has to depend on that. I look forward to that future because I know I can depend on the truth and veracity of the information that they're putting out.

Dennis: Wow.