



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.

December 1, 2017

Joel Hamme interviewing Lee Voorhees

Joel: It is Friday, December 1st, 2017. I'm Joel Hamme, senior counsel with the Washington, DC law firm of Powers Pyles Sutter & Verville. I have the pleasure today of interviewing Lee Voorhees, who was, I believe, the 20th president of the American Academy of Hospital Attorneys, and served in that capacity in 1987 and 1988. Lee, welcome, and thank you for doing this interview as part of the AHLA History Project.

Lee: Pleasure to be aboard!

Joel: Lee, tell us how and when you first became involved in health law.

Lee: After college, law school, and four years on active duty as a Naval Officer, in October of 1966, I joined a fine old Seattle law firm, Roberts, Shefelman, Lawrence, Gay, and Moch. The first day the managing partner told me I was going to be Bob Moch's associate. Yes, the Bob Moch portrayed in Daniel James Brown's book, *The Boys in the Boat*. I could not have had a better mentor.

I was aware that our firm was one of only two in the state that had a municipal bond counsel practice, and that we had approved a number of tax exempt bondages to finance hospital facilities. This caught my attention. When I told firm management about my interest, I was put under the tutelage of an experienced bond lawyer in our finance group. I also was told I was to be the firm's principal contact with the new suburban hospital, constructed with bonds we had approved.

There I learned about how medicine, surgery, and diagnostics are practiced in a modern hospital. I also learned about practitioner credentialing, hospital finances, and health care planning. In time, I found myself doing similar things at additional hospitals in Seattle and around the state. During this period, I also was serving as bond counsel to hospitals and local governments.

In 1981, my short treatise entitled *Taxable and Tax Exempt Financing of Hospital Facilities* was published in the *Practicing Law Institute*. In 1984 I argued a case in the Washington Supreme Court, *Coburn v Seda*, 101 Wash. 2d 270 (1984), upholding the olivia statutes protecting the confidentiality of quality assurance records from discovery.

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Over the years I was counsel of the Association of Washington Public Hospital Districts, the Seattle Hospital council, and the Washington State Hospital Association on various matters. In 1987, my firm merged with Foster Pepper, bringing together about 140 lawyers. And in the organization that followed, I turned my general hospital practice over to Brad Bird, a younger partner with an advanced degree in health law and a health lawyer.

It was a rewarding career and I enjoyed it immensely. In 1974, I attended my first annual meeting of the American Society of Hospital Attorneys in Scottsdale. It was a revelation and a great time. I was impressed with the scope and quality of the presentations, the materials, and the cordiality of the accessible speakers. Over the next 30 years, I attended annual meetings. I began speaking at society annual meetings in tandem with Larry McLeod. I spoke at many more hospital society and academy annual meetings on the subject of medical staff bylaws, confidentiality information, and tax exempt financing of facilities and equipment.

I organized and presided at a hospital law institute in the Society in Seattle in 1980. I went on the Society board on a meeting in Toronto in 1981. I had heard before of developing issues and problems between the Society and the American Hospital Association, AHA, but quickly learned more about real differences over control, finances, and autonomy and programs and activities.

In 1983, Society president Larry McCloud asked me to prepare a new set of bylaws for an American Academy of Hospital Attorneys, AAHA, which was to succeed and replace the Society within AHA. Richard Epstein, AHA general counsel, had suggested that revised and updated bylaws might be useful in convincing AHA management that the new Academy should be treated differently in a number of material ways from other professional membership groups at AHA.

The new bylaws were approved by our Board at the meeting in Cancun in 1984. It subsequently became clear that the AHA board of management had no intention of honoring provisions in the new Academy bylaws regarding providing greater discretion and autonomy to the Academy.

In a series of meetings between Academy board members, including Tom Shields, J.D. Epstein, Tom Collins, and me, a close ... but with AAHA management we achieved no accord. I became president of the Academy from 1987-1988 at a large annual meeting in Boston. It was at Bob Miller's meeting on Mali the following year that I gave my state of the Academy address describing the existing differences between the academy and AHA, and the problems they created.

In spite of this, probably by dumb luck, we had a seemingly normal, productive, and successful year during my tenure. But the AAHA imbroglio was always in the background. With the passage of time many Academy members were convinced that the break with AAHA was becoming inevitable. It did not happen on my watch. It was left to our able successors to make the arrangements permitting the Academy to fall out of bed at AHA and into the arms of the Health Lawyers. This was a good outcome.

And at that point I think we've come to some additional items on your list Joel, that have to do with currently ... ancient history.

- Joel: Yeah, I guess one of the things just based upon your recounting of what happened, I've heard so many stories before, but obviously there was a lot of tension between the Academy and the American Hospital Association. Maybe you could describe in a little more detail if you would Lee, the sorts of things that lead to that schism. Was it control over finances, was it -
- Lee: It was finances and it was programming and it was just difficult to live in-house at AHA at 840 North Lake Shore Drive. The Academy and the Society before that were very lucky to have a loyal and capable staff person as the director named Shirley Worthy, and Shirley was usually able to navigate in the environment, AAHA, in ways that were beneficial to the Academy. But that was not always the case, and we were flat turned down on things which I wish I could remember the details of. There might be others with even better memories or closer to it than I, but there was a constant friction between Academy management and the Academy organization itself and Shirley was often caught in between. She was a capable head and thoughtful person who was able usually to navigate, but sometimes things didn't work out.
- I'm trying to think of people who would be on top of that and be more specific than I'm being, but they would probably include Tom Shields and Bob Miller.
- Joel: I believe but I'm not positive that both of them may have been, I'll have to go back and look at the transcripts of their interviews, but both of them I think may have been interviewed and maybe they got into those sort of details.
- Lee: Well I hope so.
- Joel: You mentioned that Shirley Worthy was quite a competent person, but was the Academy really member-driven as being opposed to staff-driven? Sounds like it was a fairly small staff that you had, and that a lot of the work, you mentioned bylaws etc, were really done by the members.
- Lee: Basically, I did the new bylaws. That was a task took probably close to a year, between 1983 and 1984. And Larry McCloud was the president at the time, and he was sort of my elbow through the whole process. I'm trying to think of other personalities that would be helpful ...
- Joel: Yeah, unfortunately Larry is now deceased.
- Lee: Larry left us though with tears about ten years ago, but Tom Shields I'm sure is still around, probably in Chicago.
- Joel: And again, I think he may have been interviewed. I know Bob Miller was, but I may touch base with people who are interviewing either or both of them to do a little bit of follow-up on that.
- Do you have any particular anecdotes or stories about your time with the Academy that sort of highlight the way that the Academy worked back in those days? You don't have to rattle any skeletons in the closet.

- Lee: No, one very real difference in the day ... I was basically involved between 1974 and probably about 1990.
- Joel: What year did you retire?
- Lee: I retired from practice in 2007. But I basically continued to go to Academy meetings and some early health lawyers meetings just out of a desire to get together with old friends. And my wife knew their wives, and that's where it was a really college reunion-like atmosphere. Also, the size of the group was such that we could still get into places like the Del Coronado, Williamsburg, the Broadmoor. After the merger, we just got too big for that and it goes in facilities that hold twice as many people. I think an annual meeting of 600 lawyers was very large in the days of the Academy.
- Joel: Right, and now it's usually over a thousand or very close to it.
- Lee: Yeah, exactly.
- Joel: Well what about notable attributes about the Society or things that continued during a period after the merger between the Academy, Society, and --
- Lee: I belong to a lot of lawyers groups, statewide groups. I belong to two bond counsel organizations, and for example at a bond council lawyers meeting there might be five or six hundred people, but there would be no spouses and no children. And at the end of the day the only thing to do was drink and order large steaks, and I think that just the atmosphere and nature of the health lawyers meetings is much more congenial and better than that. Don't know how else to say it.
- Joel: Well we've heard from a lot of people that the sort of family atmosphere, the fact that there were wives who were prominently involved in the social activities, that wives back in the day when it was mostly men. Obviously today there are a lot of husbands who are health lawyers who come to these meetings.
- Lee: Who were at the meetings.
- Joel: Right, and the kids would show up and grow up and some of them went on to become lawyers and health lawyers. There's stories about that, Jim Doherty who was the first person of NHLA, his son became a health lawyer. So we do have those sorts of stories and I think that is one of the main threads. The other thread that we hear so much about is that most people who talk about the early days of NHLA or of the Academy focus on the fact that unlike a lot of the other groups that they were involved with lawyers, there was just an incredible willingness of people to -
- Lee: To share.
- Joel: - to share information.
- Lee: Yeah. The bond lawyers are not that way, but the health lawyers, there was a very congenial fellowship quality about them. And it wasn't just the presenters at the meetings, it was people who were at the meetings as registered attendees who had had

experiences or learned how to do something that they were very willing to tell other people how to do.

- Joel: Yeah, it's interesting. I had an interview the other day where somebody described it in terms of saying that people did not consider any of this stuff business confidential. It wasn't.
- Lee: No, no.
- Joel: It wasn't client confidential to begin with, but just that they didn't view it as some kind of a key thing that they needed to keep under their vest or whatever, up their sleeve. There was no secret sauce type, you know. These are the only ingredients; we can't let the rest of you know about that.
- Lee: Another feature of the Academy Society meetings that was becoming anachronistic even before the merger was the prom. And that was on the last night before anybody went home, and there was actually a dinner dance and there was a lot of camaraderie and collegiality in those groups. And there was also good-natured kidding around. John Devine, who was an early Society president, Harvard Law School graduate, whenever you ran into him he always had something to say about the Yale Law School. And one night at the prom, Ed Zingman and Bob Miller and I wear our Yale Law School ties. And we confronted John and asked him to join us in a photo op. And he thought about that for about a millisecond, and then we did it. But those are the kinds of things that just made it a lot like a college reunion, it was just a lot of fun.
- Joel: Well, you know one of the stories that I heard about John Devine, I think it was from Arthur Bernstein, was the fact that -
- Lee: Yeah, Arthur.
- Joel: - and he had a lot of tremendous stories because he was really there pretty much -
- Lee: He was an AHA guy!
- Joel: Correct.
- Lee: He knew how things were done at the mother house.
- Joel: Correct, and he was one of the people instructed to really start the original Society, but he mentioned that John Devine's wife was Joe Kennedy's sister.
- Lee: Yes, there was a connection.
- Joel: Yeah, and there were a lot of interesting stories that were told about that and apparently I think her name may have been Marnee or something like that.
- Lee: Yes, Marnee Devine.

- Joel: She apparently thought it was really important early on to have a lot of these social events, which I assume led to things like the prom, and even though we no longer have the dinner dance we still do have events that feature sort of family-oriented activities.
- Lee: Yeah, yeah.
- Joel: But let me ask you what advice do you ... Based on your career, it sounds like you had a very interesting career. I guess one of the things I would say is we heard that in the early days of health law – before it really emerged as a specialty – a lot of the work that got done was the type of things you were doing: bond counsels, etc., and obviously you had an interesting career in terms of working with people like Bob Moch about whom I've read. So what advice would you have for younger attorneys who are thinking about getting involved in health care law? Maybe a little more consciously than you and I became health lawyers?
- Lee: The person who inherited my general health law practice in the firm, whose been at this firm now for 25 years was Brad Burg. And Brad came with a master's degree in health law from Northwestern University. And that put him in many ways way ahead of any other new associate in the office who could have wanted to get in the door. Now that doesn't mean that everybody has a year and the means to do that before they go to the law firm, but it sure didn't hurt, I don't think.
- You know, in every county seat town, there's somebody who represents the local hospital. And I think we used to get more of those people at the Society and Academy meetings then probably come now to the health lawyers meetings because the health lawyers are more of ... Specifically qualified, trained specialists in their field. The people out in the county seat towns are representing a hospital, and we also represent the school district, and maybe they represent a bank.
- Joel: Yes, they have a very diverse practice.
- Lee: They do. There were generalists, now they're all specialists.
- Also, there was a time when there were no women and now there are more women than men. And there was a time when there were legal stenographers who were manual typewriters would make carbon copies. Long ago word processing was developed.
- The same is true of legal research. Legal research used to be done at a law library with some books. The practice has changed so much, and I don't know how a young lawyer just graduating from law school who is to have the standard curriculum and maybe taken a single course in health care finance or health care regulation, I don't know how they could process or benefit themselves, prepare themselves to jump into the 200 lawyer firm milieu, and get into the health care practice.
- My timing in this life was always pretty good, and I hit Roberts, Shefelman, Lawrence, Gay, and Moch at a very good time because we had hospitals. The lawyers in the firm would represent hospital clients of the firm and things like real estate acquisitions, or the sale or the purchase or lease of diagnostic equipment. But there wasn't anybody

who did medical staff relationships and certificate of need. I think you know what I'm getting at. The world has really come round in a different way in the last half a century.

Joel: Health care costs.

Lee: I think part of it is there's a lot of slicing and dicing of specialty areas within health law too.

Lee: Exactly!

Joel: If you're representing a hospital, in the old days that may have meant you were a bond counselor or whatever and maybe you'd do some physician staff relationship agreements or something like that. Nowadays you're in the certificate of need, Medicare and Medicaid reimbursement, not just tax issues or bond issues, you get into antitrust questions, etc. So there's a whole wide array.

Lee: You need five different people in the same office to do those, whereas once upon a time there was one person who did it themselves or they called J.D. Epstein.

Joel: I think part of it is the bigger firms that have a large number of health lawyers who do practice in those different discrete areas are able then to market themselves to hospitals, and particularly hospital systems where there's more than one hospital in the system, as being able to represent them soup to nuts on any kind of issue or problem that comes up. And that's part of what's happened to the practice of law in terms of trying to get clients and law firms trying to stand out and distinguish themselves.

I know you've been retired since 2007, but can you -

Lee: Ten years!

Joel: Yeah! What sorts of challenges do you see facing health lawyers?

Lee: Well other than dealing with the requirements of regulatory agencies of all kinds after practice, I think that just getting into a part of a health care practice in a large firm is probably hard to do. That's why I say that if they have the time and means to get a degree, a master's degree, it's probably a good thing to do. The growth of the health care industry in the American economy is also something that has created all of these opportunities for specialization and a creation of groups and lawyers in places where there's sort of multipurpose for health care clients.

Joel: I think that part of the point you're making here is just that the sheer amount of volume of regulations is sort of a tidal wave.

Lee: State and federal.

Joel: Right. So if you're going to practice in this area you have to stay up-to-date and that means a lot of extra time spent not building clients but just keeping up on the daily developments in the case law, in the changes in regulations and statutes. It can be a very daunting task.

Lee: A funny thing happened in Washington back in the 1970s and 1980s, and I didn't mention this earlier in putting my thoughts together in response to what we were going to do today, but the state legislator literally copied verbatim the Maryland statute dealing with hospital budget review and regulation. They then unleashed it on the 100 or so hospitals in the state, none of which are for-profit as are the specialty hospitals like rehab and alcohol and so forth. But all of the general hospitals in the state are either non-profits or they're owned by a public hospital district, which are special purpose, they aren't charity hospitals, they're special purpose municipal corporations that own and operate hospitals. But this system of regulation was plumped down, and it's been around for 12 or 15 years. I don't believe, and I never have seen any evidence of the fact that it reduced health care costs. But it's certainly a lot of good in the unity of work for lawyers and accountants, and the accounting profession in Washington and probably in the Seattle legal milieu, probably 10 or a dozen lawyers of which I was one, were certainly happy to participate in this task he pulled because it was very good quality work and nobody else could do it.

And that, I think for a while began to get hospitals, rather law firms to bring in lawyers who knew something about rate regulation. But it wasn't anything that a new law graduate, who had just finished studying for the bar exam, could hope to cope with.

Joel: Yeah, it's a little different than being there when Medicare and Medicaid were created, when there were no rules and things just sort of made up. And people like J.D. Epstein were involved early on, and they developed rules about administrative procedures, and then those became the basis for a later set of rules or whatever, the evolution occurred, but you have certain people who were sort of like the framers and the draftsmen of what amounted to the basis for health law. At least in those areas that involve things like reimbursement.

Well Lee, what sort of challenges do you see for the American Health Lawyers Association itself? I mean you've obviously saw a lot of challenges with the Academy in terms of its relationship with the American Hospital Association, and then ultimately it's a decision to partner with and join and merge with the National Health Lawyers Association, but what do you think the Association has to do to be relevant to its members, especially since as you pointed out many of the members are people who are specialists in health law, not so much as many generalists as there were perhaps twenty years ago?

Lee: I think the hallmarks of health lawyers and of the Academy are organizational, educational needs, programs, and also publications. And over the years I think that both organizations have been very good at having good material to put out and understand. For those who could take the time and have the means to go to the meetings, more information was provided and absorbed at the educational programs than by the publications. But the publications also were very important for the people in Keokuk, Iowa who are never going to come to a meeting. And the quality of those materials and the currency of both those materials has to be maintained. The excellence and the timeliness of what is put out at meetings and in publications.

Joel: I think you've hit the nail on the head. One of the issues that confronts the Association today, and again I'm a little removed from this now too since I'm no longer in the leadership and my activism in the Association is less than it once was, but for a long time

one of the key learning vehicles became the webinars. And now I think the Association is facing the fact that a lot of the prominent health law firms in the country, and there are many across the country, some are regional in nature many are national in nature. But many of them put on free webinars for anybody, for clients, for anybody that wants to call in and hear about the most recent development that relates to whatever aspect of health law is under consideration. And it's sort of hard in some ways to compete with free. I think there are ways to do that, because AHLA has many voices and many perspectives. In most law firms, if you're going to have a person speak on antitrust issues for example, they're coming from a perspective of somebody defending health providers against allegations of some sort of an antitrust violation.

If you have that same development that AHLA would deal with in a webinar, you would probably have somebody from the Federal Trade Commission, somebody from the Justice department, some private practitioners, maybe some health administrators who all could lend their perspectives, which are different, than just one single perspective from a single law firm. I'm not critical of law firms, but inevitably the practice tends to make you a little bit more parochial. And so one of the things that AHLA can offer in those circumstances is a lot of different voices and perspectives. And that I think is unique, but you are asking people, say, paying a little bit for that is worth it because you are getting a much more.

Lee: Yes, you're getting it custom made.

Joel: Correct, correct.

Well, Lee, thank you very much for talking with us today. Any other thoughts or comments you have about the days of the Academy, the merger, or the current circumstances in health law?

Lee: I think the health law organizations have been the best lawyers' professional associations that I have been associated with. There are others in different specialties, public utilities, public education, they all have their groups of professional lawyers who are experts in handling problems. And they all involve people who need help, and I'm not sure that an organization like the Academy or like AHLA can really help the county seat law firm practitioner because he or she has never seen anything like this before and will probably never see it again, and left to their own devices they have a good chance of screwing it up. Maybe the answer for the clients in that situation is to go to the statewide or national law firm and get expert advice. Life has become a lot more complex than it was once upon a time. And it's not going to become any less complex any time soon.

Lee: I really respect and admire your taking this kind of time at this point in your life to do this. It's almost like being active in the leadership of the organization again, and it's sort of reminiscent. I've discovered that as I was putting in remarks about the issues that you asked a question. The Academy and the Society were, as I said before, they were the best lawyers, topical practice area meetings that I've ever gone to. And the other people who were doing the same thing at the same time are friends and associates long afterward. I think of people like Tom Shields and Bob Miller that I spend a lot of time with once upon a time, talking about health law, talking about the Academy, and talking about how to get out of the Academy going.

- Joel: Well, all of this materialized because the AHLA having its 50th anniversary and so we decided that we wanted to start a history project. There was a video that was put together and then was shown a couple times at the Annual Meeting last year in San Francisco. We think it's important to get the reflections of people who have been the past leaders, particularly people in the early years because time goes by, memories fade, people unfortunately pass away, and to get the sort of stories that you've told about John Devine and his fanaticism for Harvard Law School is something I think that hopefully people who listen to these interviews will find helpful and very endearing about what the Association represents.
- Lee: Is the annual meeting in San Diego again this year?
- Joel: No, it is in Chicago this year.
- Lee: I haven't been to one since there was one here in Seattle about four or five years ago.
- Joel: There was one in Seattle, it's actually, I think it may have been longer again than that.
- Lee: Time slows when you're retired.
- Joel: Yeah, exactly. I think it was in Seattle in probably around 2010 or so.
- Lee: Who was the president then? Do you remember that?
- Joel: The incoming president was Rick Shackleford at that time.
- Lee: Yes, from Atlanta!
- Joel: Correct. He was a colleague of Bob Miller's, who was a cohort. And the outgoing president was I believe ... I think it was Elizabeth Carder Thompson was the outgoing president at that time.
- And she was my immediate predecessor, so I was no longer on the Board at that point. You stay on for one year after you are president nowadays, so it was after I had gotten off the Board entirely but I was still going to the Annual Meetings and still am, and probably will be for the foreseeable future even though I'm not really practicing as much as I was then.
- Well Lee, again thank you!
- Lee: Thank you too.