



Thanks to the extraordinary commitment and expertise of AHLA leaders, the American Health Lawyers Association continues to thrive and serve as the essential health law resource in the nation. The Association's strong foundation reflects a history that is vibrant, meaningful and worth sharing. Finding a way to preserve AHLA's history was especially relevant in light of the Association's 50th Anniversary, which was celebrated throughout 2017.

This transcript reflects a conversation between AHLA leaders that was conducted via audio interview as part of the Association's History Project. More than 60 of AHLA's Fellows and Past Presidents were interviewed. A video documentary was also prepared and debuted on June 26 during AHLA's 2017 Annual Meeting in San Francisco, CA.

February 15, 2017

Gary Eiland interviewing Peter Pavarini:

Gary: Good afternoon. This is Gary. This afternoon I am interviewing Peter of Squire Patton Boggs as part of the American Health Lawyers Association History Project Audio Interview Series. Peter is a past president of the American Health Lawyers Association, having served as president in fiscal year 2014 through 2015 of the American Health Lawyers Association. Peter has also served multiple other roles for AHLA that we'll likely touch on this afternoon. Welcome Peter.

Peter: Welcome Gary for having me. I'm happy to share my memories.

Gary: Thank you. I know that you have a special interest in discussing the AHLA as a collegial community of like-minded health professionals and the AHLA's public interest mission. Before we go there, let's discuss certain background information concerning yourself and your career, especially let's begin with a bit of back ground information concerning your career in health law since you graduated from law school at Boston College in 1977. Why don't you briefly describe that for us?

Peter: My first job was directly in healthcare, because I went to work for what was then the Department of Health, Education and Welfare. It soon thereafter became Health and Human Services in the Office of General Counsel, where I worked for four years, roughly the same four years that Jimmy Carter was president.

I did a variety of things in government as a cub lawyer, not having any industry background, but I would say that was the grounding that really set me in the course that I ... Then on, in my entire career. I got to do some first of its kind type of things. I got to run a hospital down in Douglas, Arizona for three weeks when it defaulted on its [inaudible 00:03:37] obligations. I was involved in the first swine flu epidemic, the Three Mile Island incident, and a variety of things, but I came out with I have to say a good understanding of healthcare policy, but not a very practical understanding of how private practitioners approached healthcare. That's why I left government, wound up joining a predecessor of the firm that I'm with now in 1981.

Gary: Certainly you've indicated that you've had some interesting involvement and some challenging situations involving healthcare industry clients and health law matters. A number of those certainly piqued my interest, as you indicate you were involved directly in the operations of a hospital for about three weeks. How did that experience go?

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Peter: I think I was all of 27 years old and I was really filling in for the county attorney, who knew nothing about healthcare operations. We were basically a SWAT team sent by HHS to take over a hospital right on the Mexican border which had lost its management overnight. The nurses and doctors were still there, but there was essentially no one running the place, so someone ... I can't remember the part of the department that came with me, but I was their lawyer for that three week period.

Very interesting case, and it's kind of a foreshadowing of what we still see today, where a lot of rural hospitals are struggling, still trying to make ends meet. Many of those hospitals are gone. It was a great indoctrination.

I had some other really interesting things. The Valley Forge Army Hospital, which somehow fell into the hands of HHS, was treated as surplus property and essentially given to a Bible College. That case was litigated right to the Supreme Court. It was Sandra Day O'Connor's first opinion that she wrote. I got to represent the government, at least in the District Court, and probably assisted at the appellate level. Again, it was interesting because it was a hospital, a government hospital that was being used for a different purposes that raised some of the First Amendment issues that are still very much alive and well today.

Gary: I know we could probably go on quite a bit with anecdotal information on some of your challenges, but why don't you at least speak just for a moment of your role in the Three Mile Island nuclear accident and the followup?

Peter: Again, another inter-agency SWAT team was put together during that period which was the first of its kind, and hopefully the last of its kind. HHS had a role in monitoring the public health fallout. Sorry to use that word, but the consequences in that part of Pennsylvania. I was there dealing with the confluence of Federal Law and State Law, giving advice on what the proper role of the Federal Agency would be in a nuclear accident.

Again, not something I've ever had to call upon again, but interestingly I remember more recently when I organized an effort to send volunteers down to Katrina after the hurricane in 2005 a lot of the same questions came back, which was the role of the Federal Government and whether doctors, nurses and others could practice outside their states of licensure in an emergency of that nature. I've had a couple of high profile emergencies in my career. Most of it has been not nearly as exciting, but those are the things that stand out over a long history.

Gary: Thank you for that background information. It's certainly an interesting launch to a health law career, by going directly from law school to Office of General Counsel of HHS. When you left HHS and went to Squire Patton Boggs or its predecessor did you continue in the practice of health law there or did you engage in some other specialty activity?

Peter: You know, Gary, I have to admit I was the most ill-equipped lawyer to be in private practice in 1981, but I had a mentor named Dave Young who believed in me and thought that I would quickly catch up, and hopefully I proved him right. We did a lot of Certificate of Need in the 1980's. Some of the early transactions that came out the introduction of DRGs and hospital restructurings ... I know you were active at that time, so I think we were doing what there was to do in the way of healthcare law, but some days there wasn't enough of that and I did a lot of general business in my first few years. I don't think I crossed over to being 100% healthcare law until about four years into private practice, so around '85.

I knew that's what I wanted. There were very few communities of healthcare lawyers. The only one that I knew of was the National Health Lawyers Association, which I joined while I was still in Washington. I only joined the American Academy ... so I was in both of the predecessor organizations mostly for membership benefits. I was not active. I gave my first speech in 1983 at the request of Alan Goldberg, who was putting on a conference in Arlington, Virginia on healthcare contracts. That was my first speaking opportunity before NHLA.

Gary: From there I know you've indicated that you had involvement in both of the predecessor organizations, the American Academy of Hospital Attorneys and NHLA. What were some of your initial experiences there as you began to move up not only through just giving presentations, but in to kind of a more leadership capacity?

Peter: Yeah. I regretted that I didn't get involved in the committee work sooner. I think I spent my first 20 years or so as a remote member, going to annual meetings and things like that, but not actively involved in the work of the organization until after the merger. Then I, through the introduction of Almeta Cooper, who was the ... I'm not exactly sure what years, but back when I started getting involved, I said, "How does one get involved?" She introduced me to the practice groups, formerly known as SISLC's, and started working both in fraud abuse in hospitals and health systems doing more, involved in the early phases of webinars, when that was a new technology, and eventually got to be a vice-chair.

Had a number of publications and developed a great relationship with Will Harvey over the years, helped him sell a lot of books. I always wanted to be on the Board, but I didn't know whether I would meet the criteria for it, but I got a call I guess around 2004-2005 and was asked if I wanted to be considered and I said, "Absolutely." I think the heaviest involvement has been the 10 years leading up to the year I [inaudible 00:11:55].

Gary: You mentioned your failure to participate in the committee structure at a earlier time in your career and involvement with these organizations. What would your recommendation to younger attorneys with respect to how they may become active in AHLA?

Peter: I've had a lot of practical experience with that now with my mentee, who I was matched up with when she was a second or third year associate with a Charlotte, North Carolina firm. We were matched through the AHLA. I was not yet on the Board and she was just getting her toes wet in healthcare, but I encouraged her throughout my tenure on the Board, and she is now this year's liaison from the Young Professionals Council to the AHLA Board, a real up-and-comer. She's become partner in her firm.

I would say that she's a good example of how a young, enthusiastic lawyer who had a general interest in healthcare but not a really specific focus is now really showing what AHLA can do for someone's career. She as chair of the Young Professionals Council. She was one of the co-editors of the Free Clinic Guide that the Public Interest Committee put out a couple years ago, and single-handedly wrote a very large portion of that publication, which essentially is a handbook to communities that want to form their own free medical clinics, all the legal nuts and bolts.

Here's a young lawyer, not even a partner in her firm, with I would say only minimal support from the firm, took the time to dedicate herself, and I've seen that pay great dividends for her. I think that would be true of most people in the younger generation, that don't wait until you're already well into your career. I think you can get as much from AHLA at the front end of your career as you can in the middle of it.

Gary: Peter, once one is invited to become a member of the Board of AHLA, and especially someone who thereafter advances through the ranks until they become President of AHLA ... I know that you have served on multiple of the AHLA committees and sub-committees and the like, I want to just comment for a moment if there is any specific activity for AHLA that you were involved in prior to the time that you became president that might be insightful for those that may follow.

Peter: Two things come to mind, and they really have the same kind ... They both deal with the collegiality of the organization. I have to say without reservation my closest adult friends in my adult life have come through the AHLA. I don't know how many people can say that in AHLA, I never really asked, but I can say unequivocally the people that I have drawn close to ... Not only to them, but to their spouses, their families, people who I've vacationed with and done a lot of extracurricular activity with, have been AHLA members, so that's one part of it.

The other part of it is membership. I think my involvement with the Membership Committee was probably the most satisfying part of my Board service, because I saw the organization struggling to break through that 10,000 member ceiling. We had been bouncing around that for quite a few years and I knew we could do better. Then with the wind at our back, with the passage of the ACA, we went to around 14,000.

That 40% uptick in the last say six or seven years has had an enormous impact on our programs, our publications, the depth of what we can do. I'd like to see that continue. I think we're really an organization that should have 20,000 to 30,000 members, given the importance of health carers in American society.

Gary: Peter, why don't you comment also concerning your both involvement with and interest in the AHLA's public interest mission?

Peter: I think that was something that pre-existed AHLA. I've always been a volunteer. Going back to childhood, I always did community service kind of things and I always wanted to be a part of a professional organization that valued that, so it was immediately important to me that we were a 501c3, that we gave back and we weren't all about ourselves as lawyers. I think the community service projects we do as board members at our mid-year meeting, going into the communities, working with kids, painting schools that had flood damage, helping landscape a federally qualified health center in Miami, and the list goes on and on ... Those are very simple things, but they are great team building exercises and I think they say something to the people outside the organization about who we are and what we really stand for.

That part of public interest is extremely important to me. I mentioned the Free Clinic Guide. About 10 years ago my wife and I were approached by two physicians who just happened to be twins. One is an ER doc and the other is a pediatrician, and they had been going on mission trips to Central America and elsewhere, but kept coming back to their home community here in central Ohio, and said, "We really need a clinic here that would reach the unserved. Will you help us start it? You're a healthcare lawyer."

My wife was in public health, and I think we said, "What? We don't know anything about free clinics." But we quickly learned and pulled together the resources, and that eventually gave birth to the idea that there may be other communities around the country that need a resource guide for setting up free clinics, addressing questions of liability, dealing with whether licensure and certification issues were properly addressed, certainly HIPAA and all the rest.

What came out of that, and I think it was published in 2014, is an online resource which is free to anyone who wants it, paid for by the Public Interest Committee and also by the American Medical Association Foundation. They made a significant grant to the project. That makes me so proud of AHLA, that we did something that really serves not our paying clients ... We have them too and we love them dearly, but to serve the ones who don't have the ability to hire most of our members, but are getting quality healthcare through organizations that were properly set up and in compliance with applicable law. That I think is a credit to us.

Gary: With your background in public service not only with AHLA, but elsewhere, what would you tell current and future leaders of AHLA as to where their focus should possibly be?

Peter: First and foremost, they should listen to our members. There never should be an organization where the leadership is detached from the average member, the ones who may come to one of our programs, might listen in on a webinar, but is not actively engaged in steering the organization. We should find more ways to reach those people, get their input, because they are the lifeblood. They are the organization's dues paying members and we really are here to serve them, so listening is key.

Secondly, I think we undersell what we are about. I think AHLA should be better known. It should be more of a resource to the general public than it has been. It shouldn't be just for educating lawyers. I think we could certainly communicate our knowledge of health law in other ways that reach non-lawyers, or at least those who are interested in healthcare issues.

I've been after David Cade, and before him Peter Leibold to not be bashful. Get out there and give interviews. We don't have to take positions on anything that would be viewed as partisan, but we can certainly provide technical expertise on the things that our members know a lot about.

Gary: Peter, from the standpoint of looking forward, what are your thoughts as to what the future may hold for, first, health law, and then for AHLA?

Peter: I've struggled with that question, Gary, for quite a few years. How healthcare is served by a law firm, how it is categorized by bar associations and others has always been sort of a mystery. Because it's multidisciplinary, it doesn't fit neatly into the classic legal disciplines, and I think it's going to stay that way. I think it does well to have a big tent approach.

You may only do healthcare labor and employment, but I think you're still a healthcare lawyer. You may be an antitrust lawyer who only works in healthcare. I think you're still a healthcare lawyer. As soon as we start saying there's a core number of skills you need to have to be a healthcare lawyer, we'll lose the diversity of thought and people that we now have.

I think it's critical that as we move into the future we stay loose and look at unserved markets for what we can provide, and there are so many of those. I think we could expand our membership largely by reaching those many professionals in the healthcare industry, one-fifth of our economy, who many of them know more about health law than we give them credit for. Many of our clients would do well to come to our programs. I think we should encourage that. I think we have some non-lawyer membership, but not nearly as much as we could have.

I think the organization also needs to be more deeply rooted in the law schools. I think our footprint there is a little shallow. I'm doing some things in my post-presidency to work on that.

I'm working with Case Western Reserve in doing a co-sponsored program on precision medicine in the law in April, to get academic health lawyers and practicing health lawyers together and discuss what I think is a cutting edge issue.

I think we can do a lot more to broaden our focus without losing the DNA that has made us a 50 year old organization and a very excellent one.

Gary: Peter, in addition to what the future may hold for AHLA and health law, what might the future hold for you?

Peter: That's a great question. I've had to think about that a lot the past year since I've moved into a different status with my firm. I'm still a partner in the firm, but I actually am moving out of practice group management as we speak, so there will be less administrative responsibility and hopefully a lot more lawyering. I'd like to teach more. I'd like to teach as I have at the AHLA meetings for sure, but also at the university and graduate school level. I've been teaching at Ohio State and Case Western the last few years. I want to do more of that.

I'm also writing not only health law, I'm writing novels now. I'm on my second novel and would like to be a better storyteller. I love listening to other people tell stories and I'm learning how to tell them in an entertaining way. There's a thread of law that runs through my books without being John Grisham like, but a little bit more mystery/suspense type of books, but I always try to teach a little bit about the law in my stories.

That's something I'll be doing more of, and volunteering. I think ... We're with another organization now called Three Strands. I went to Africa, the Central African Republic, a few years ago to help set up a clinic there. I hope to go to Haiti later this year and do the same. There's a lot we can do even outside the US. I think health lawyers are incredibly talented people and very giving people. My impression is that I've had very few people refuse a reasonable request to help on a project and get the word out as to what we do and what we know.

Gary: We certainly wish you the best in your novel writing ability. I hope you have the success that another former attorney, Grisham, has had.

Peter: Well, that would be a dream come true. I'm just hoping to entertain a few people who want to read my books. The nice thing about the publication world is you're not limited to the big houses anymore. There's a lot of independents and self-publishing, ways to get the word out that don't require any fame or fortune.

Gary: Peter, are there any other comments that you would like to place on the audio interview record for us this afternoon?

Peter: Well, I sincerely doubt whether I'm going to be around for the next 50th milestone, but I just have the greatest hope for this organization, and to anyone who listens to this 50 year history, that we are one of the best corners of the legal profession. The legal profession is a very noble, very prestigious organization. It sometimes lacks the collegiality and kind of the human factor that I think we have in AHLA. We are a home to a lot of people, good people, who are made better by being together. We sharpen each other, and I would like to see the organization continue in that tradition for another 50 years.

Gary: Peter, thank you for your participation this afternoon in the AHLA History Project Audio Interview Series and for sharing your insight regarding the practice of health law and the American Health Lawyers historical and continuing role in supporting of health law practitioners. Again, thanks very much for being available this afternoon.