



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 21, 2017

Bob Leibenluft interviewing Bob Johnson:

Bob L: Hi Bob. This is Bob Leibenluft. As you know, I'm calling you as part of the AHLA history project and we're very pleased that you're willing to talk to us a little bit about your career and your involvement with the American Health Lawyers and it's predecessor organizations. As we'll hear in a few minutes, you have a unique vantage point about a certain point in time in terms of the association's history. Perhaps let me start by asking you what's been your career in a nutshell in terms of your work in health law?

Bob J: I've been practicing law for 54 years and I'm one of those lucky individuals that I claim in 54 years, there've been 11 boring days. Other than that for me, it is and has been a wonderful occupation. I started out in Phoenix, Arizona at Jennings, Strouss & Salmon primarily as a litigator but then my career there evolved into healthcare law. It evolved into healthcare law because I was asked to represent St. Joseph's Hospital in Phoenix on a will contest action.

An eccentric millionaire was uncertain whether he would die before his divorce or not so he left a lot of money to several charities including St. Joe's. The wife of course, contested the will when he passed away and I was asked to represent the hospital. I did and the hospital administrator and I hit it off well and he basically said if you'll make a commitment to healthcare law, I'll teach you about hospitals and he did and we did. My career changed 90 degrees with that conversation and I've never regretted it.

Bob L: When was this? I mean, was there, at that point in time did people really talk about there being a health law discipline?

Bob J: Not really. Not really. In fact, I was in a general business litigation firm and they weren't quite sure what I was doing when it evolved into certificate of need hearings and things like that. It wasn't a separate discipline at that point that it is today.

Bob L: When you started out with the hospital, was it a single hospital or were there several and what happened with that?

Bob J: Well, it was The Sisters of Mercy, Burlingame hospital so they had five hospitals at that time and [crosstalk 00:03:08].

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- Bob L: Did you stay with them throughout the rest of your career?
- Bob J: No, while I was still at Jennings Strouss, I also represented other hospitals. I represented the Lutheran Hospital and Home Society from Fargo. I had an active health law career from '73 to '85 at Jennings Strouss. Then The Sisters of Mercy invited me to be their first general counsel as they were creating a health system, that one's called Mercy Health System. Of course, I had to take the California Bar at that time which was a bit daunting. At that point, 22 years out of law school but they happened to ask the right questions so I passed the bar and moved here in 1985.
- Bob L: You got the right answers I guess.
- Bob J: What's frightening is the pass rate that was 38% but apparently they asked the right questions.
- Bob L: You joined the Mercy System and were there, were you the only inside lawyer at that point?
- Bob J: Yes.
- Bob L: How did that change over time, both the system and your job responsibilities?
- Bob J: Well, there were two Mercy Systems in California. One headquartered in Burlingame, the one I joined. There was one in Sacramento that was also Sisters of Mercy and they had I think, five hospitals also. They had, I was in the process of trying to recruit Larry Garcia from the Diepenbrock firm to come and join me here. Well, the Sisters in Sacramento beat me to it and hired him as their general council. At the time we merged the two Mercy organizations in order to create Catholic Healthcare West, it was just Larry and myself.
- Bob L: Wow and you stayed with the merged entity for how long?
- Bob J: For seventeen years until I retired in 2002.
- Bob L: By the time you retired, how many hospitals were in the system?
- Bob J: Yeah. We went from five hospitals when I joined up to 40 hospitals when I retired. I think they, today it's called Dignity Health and I think their complement of hospitals is still about forty but they've now branched into a lot of other entities that are healthcare related also.
- Bob L: I assume, more than two lawyers?
- Bob J: Oh, yeah. We had 20 lawyers in the department by the time I retired and that's about what they have now.
- Bob L: You've been particularly focusing on health law certainly for a long chunk of time. What involvement did you have in any health lawyer association?
- Bob J: Well, I joined the American Academy of Health Lawyers. I think it was actually the American Academy of Hospital Attorneys when I first joined in the mid seventies. Then, went to the meetings and seminars and didn't really take an active role until I moved over here to California and became general counsel here. At that point took a more active role and as you know, it's

kind of like going through the chairs. You make presentations and then someday somebody says we'd like to nominate you for an office and they did. Then I went through the process.

Bob L: You're fading in and out. I want to make sure get a good recording so be sure to speak close to the phone there. You got involved in leadership at AAHA and I gather in the mid nineties you were president?

Bob J: I was president in '95 to '96 but the interesting part of the merger occurred the year before that when I was president elect.

Bob L: You were president elect back then in the mid nineties. From your vantage point, if you recall, what was the, there's something out there called also the National Health Lawyers Association, right?

Bob J: Yeah. Let me spend a minute on that. Jerry Peters who was at Latham and Watkins at the time, and I were friends and he did work for us. He and I had a lunch in the mid nineties and the lunch evolved into a discussion of why is that there are two organization that are essentially the same? Probably have the same members, the members are probably paying dues twice, we're competing for the same speakers and the same hotels at the same time. Why do we do this? We couldn't come up with a good answer as to why there were two separate organizations. There were differences but they in our view, weren't monumental.

Then Jerry arranged for me to come to a National Health Lawyers meeting in Florida and give a talk but the real reason was so I could meet the officers and some board members from National Health Lawyers. Jim Hall was then president of NHLA and we hit it off very well. We talked more about it, decided we really ought to examine the possibility of joining the two organizations together somehow, not necessarily a merger, it could be a collaborative arrangement. It seemed to be a positive vibe on both sides to pursue it further.

Bob L: Go ahead, I'm sorry.

Bob J: Then, two months later we had a little meeting at the hotel on the grounds of the Dallas Airport and three or four people from the Academy and three or four people from National Health Lawyers met. We discussed it more and decided let's go forward with this. It makes sense. It was a complicated process because the academy didn't really exist. It was what was termed a personal membership group of the American Hospital Association but it wasn't separately incorporated. We had no staff. The staff was employed by the hospital association. It was a bit of an involved process but we thought there was good reason to pursue it and we did.

Bob L: Can you recall, what do you think were the biggest challenges back then to putting together, first was there opposition to doing it?

Bob J: There was some.

Bob L: When you think back or pretty much everybody in favor?

Bob J: No, after the Dallas Airport meeting, I then presented it in a more structured way to the Academy board of directors at their mid-winter meeting which was probably January or February of '96. It was a divided opinion. There were some who felt the relationship with AHA was positive enough that we should continue to stay there. There were others who and I would

say the majority, felt there was an advantage in trying to combine the two organizations. At the end of that meeting, we decided to move forward.

By then, I was pretty close to the end of my term and Gary Eiland was the president after me and Gary and Glenn Reed picked up the effort and they did all the hard work. I got it started. They picked it up from there and went through the merger, two sets of negotiations. First of all, the negotiations with NHLA as to what would the organization look like after a merger but the more complicated negotiation was with American Hospital Association because we were leaving their organization. We had such issues as who's money is it. We had a fairly nice bank account but of course, it was an AHA bank account. Anyway, Glenn Reed and Gary Allen worked their way through the process and I think the, well I know the merger agreement was signed July 1 of '97. It took a year and half to do all this.

Bob L: Wow. In looking back do you recall, was there any as you mentioned, you got together and thought why do we have two organizations that are doing kind of the same kind of thing? Were there differences in how culture, how the different associations looked at things or was it?

Bob J: Yeah. Yeah. There were differences. First of all, the academy at that point, membership was only open to lawyers. When I first joined, it was only open to hospital lawyers then they branched it out to lawyers representing healthcare organizations including physicians. NHLA had no such limitation. They openly invited anybody who was seriously engaged in the healthcare law business including CPAs, so that was a difference that had to be dealt with.

Bob L: Mm-hmm (affirmative).

Bob J: Basically, we went to the NHLA system of making it open to anyone with a serious interest. Of course, NHLA had a staff in Washington DC. Mary Lou King was the Chief Executive Officer and we had no staff to take with us. The annual meetings looked a lot alike but the one thing that kind of drove me toward wanting this merger is when I looked at the Medicare program. For years, Len Homer and J. D. Epstein, Len Homer from National Health Lawyers, J.D. Epstein from the Academy, had conducted a Medicare law conference and it was a wonderful success. It showed, to me at least, that the two organizations could put something together, make it very successful and provide tools to our members that were extremely valuable. That's the way we [crosstalk 00:13:24].

Bob L: Yeah, that's the conference is Baltimore. My recollection, also there was a difference in, my recollection is the academy had a lot of golfing or socializing at least or one of the days in their annual meeting and the NHLA was not used to that so there had to be a melding of the socializing and the core course program.

Bob J: Well, I wasn't going to admit all that right off the bat but yeah, the academy was a little more socially oriented. We call it networking and I actually believe networking is important. NHLA was a little more serious but we helped the NHLA people lighten up and have fun.

Bob L: How do you think the combination has done since the mid nineties?

Bob J: I'm immensely proud of it. I think it is a wonderful organization. I think it provides essential tools for a healthcare lawyer to keep him competent and what I measured it by was the guy in the 800 person law firm in New York City on an equal footing with a sole practitioner in De Moines. We want to give the tools to both of 'em so they're on equal footing. I think the organization

does, the publications, the seminars and technology was just getting started when we merged. We knew we had to seize on the new world and the internet and digital communications. I think the academy's done a superb job of that.

Bob L: Great. Bob, I gather you're still, you're not entirely retired, you're still practicing some health law?

Bob J: Yeah. I retired from Catholic Healthcare West in 2002 but since then, I've been keeping myself somewhat busy in doing, serving as a hearing officer for medical staff matters in hospitals and I enjoy that.

Bob L: Great. Just in terms of wrapping up, any thoughts you'd want to share with the, you've been around a long time and have quite a history both with the profession and the professional associations. Any advice to look to younger lawyers?

Bob J: My advice is participate. Go to the meetings. Offer yourself up for writing the papers and giving the speeches. Don't be just a wallflower, participate. You'll get out of it more than you put into it. As I've told you, Robert, I was a such strong believer in the educational value of the health lawyers that when I was still at Catholic Healthcare West, we provided for every one of the lawyers to go to this meeting, in our budget and our timing. I felt it was essential and I still feel that way today. I am delighted with what I see.

Bob L: I think that's great, that's great advice. Well, I we think we'll wrap it up now. Thanks very much for agreeing to participate and I look forward to hearing this and hopefully you do too as this gets posted.