



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 22, 2017

JD Epstein interviewing Elise Brennan:

JD: This is JD Epstein, of counsel to Greer Herz & Adams, and I am interviewing Elise Brennan. Elise, would you please introduce yourself?

Elise: Sure. I'm Elise Brennan and I am a partner in the law firm of Connor and Winters.

JD: As we interview, it was kind of interesting to note that Elise's background and I think it's important for her to delve into that background because she's unique in that she comes right out of the heartland of America. And there are not a lot of health care specialties that develop out of the heartland of America in what I would call a non-major market. So, Elise, why don't you give us some of your background as to how you got into health care law out of Tulsa, Oklahoma.

Elise: That's right, I have been practicing in Tulsa, Oklahoma in private practice for over 30 years. And I started with a firm at the time I went to law school and graduated in '83. I didn't know anything about health care law, though I have a masters in social work and I had worked in health care settings.

But most relevant maybe is that I had ... My dad and my brother were physicians. I grew up hanging out with my dad around the hospitals and over dinner we'd talk about health care a lot. So I was always interested in that. When I went to the first firm where I worked, I've been at two firms during my practice, so I went to my first law firm. And the firm represented a large hospital at that time. The litigator who was in charge of litigation practice group- I was actually in litigation because that's what interests me, getting out of law school, was to be a litigator.

So the litigator knew that my dad was a doctor. And so he got me involved in a medical staff credentialing case, not knowing anything really about my background in social work or my real interest. I had gone to the University of Michigan for my masters in social work and had taken a lot of courses in the School of Public Health just because I was interested in health care policy. But he didn't know anything about that, he just knew I had a dad who was a doctor and got me involved in medical staff credentialing case in the earlier, mid-80s.

And I liked that, but I was a litigator. Then a few years into my practice, the partner came to me and said ... The American Hospital Association had the Academy of Hospital Attorneys. Which

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was one of the predecessors of the AHLA. They had a situation where if you represented a large hospital, the hospital could have one of its firm members go to the academy meetings. For some reason, the partner didn't want to go and came to me and said, "Would you be interested in going? It happens to be in Hotel del outside of San Diego." And yes, I was interested.

So that's sort of got me started in health care law. I did that in the 80s. I got involved in what I would consider operational issues like credentialing and informed consent and medical records work. That's a lot of what was going on back then from my perspective. Then what happened, because I started specializing in health care law in the 80s and early 90s, managed care came into Oklahoma. Just because I was a hospital lawyer and starting to develop knowledge, I got involved in representing a large managed care system that's provider-owned, and was developed in the early 90s, and has now a full variety of managed care products from HMO to a fully-insured product to a PPO.

So I got involved in some managed care work. Through my hospital experience, one of the vice presidents at the hospital who I'd worked with went over to run a nursing home. Because she knew me and we had worked well together, she got me involved in a certificate of [inaudible 06:16] project, and then in long-term care work. Then, of course, kickback and stark and all those laws were coming about. Since I could talk the health care talk, I got involved in kickback and stark and started doing a lot of joint ventures and a lot more deals. Of course, recently, as the M&A business has been so busy, I do a lot of M&A work in health care.

I think what has been- and, JD, you and I talked about this- I think what's been unique about my career and what ... I don't know if it's possible in the future to have a career like this, but what's been unique is since I am in Oklahoma and there aren't that many large health care systems, nor that many health care attorneys, I have to be a jack-of-all-trades and move between industries. From long-term care to managed care to hospitals, depending on what I get asked to do.

I don't know how many young lawyers will have that opportunity be as broad as I've been, but it's been extremely rewarding and interesting. The thing I've found, I think I've mentioned this to you JD when we talked on the phone, at one point in my career, I was very concerned that I was so broad. And concerned that I wasn't more narrow and more specialized. I found, over the years, that so many issues relate to all these systems and having an overview of the whole health care system has, I think, in many ways- It's certainly been a lot more interesting. Or been very interesting. And has made me, in some ways, I think, a better lawyer. I understand the way things work together. Representing several different segments in different industries.

JD: It seems that your knowledge of the health care industry as a whole has been very helpful to your practice.

Elise: Well, yeah. And one thing I mentioned to you, one of my jobs is a social worker. One of my first jobs as a social worker back in the late 70s was ... I worked at Henry Ford HMO, which was in Detroit in the Tuxedo Clinic. I did that when Henry Ford HMO was the second HMO after Kaiser to be established in the country. I was working as a social worker, not as an attorney, but I had an early experience, an early exposure, to the whole HMO concept. Things made sense, then, when I got a managed care client.

JD: It's such a broad practice that you have, Elise. Did the education that you needed to basically get yourself across this wide spectrum of almost multiple health care specialties ... Was a lot of it

self-taught? Did you utilize first the academy and then the AHLA programs as an educational tool?

Elise: I would definitely attribute all of my education to my participation in the academy and then in the AHLA. I was very happy to go to those academy meetings as a young associate because they were in such fabulous places. But the bottom line, what was happening is I was able to go and get education from national experts like you, JD. I would be at your seminars and listen to you and bring all that back to Oklahoma. Information I just could not get in Oklahoma. I was very fortunate that I've had supportive firms at both my prior firm and now this firm that allows me to go to these national seminars and hear from people like you.

I do not think there's any way I could've had the practice I have had without the education from the AHLA and its predecessor organizations. I wanted to mention one thing about my earlier involvement in the AHLA which was actually with the academy, and another way I sort of had education since I was going to the seminars, I got involved very early on with the academy with the very beginning of the practice group formation. I got involved in the medical staff and credentialing practice group just when it started.

Jack Schroeder was the first chair and I signed up and got on the committee. We were looking for project. One thing we did back then- And I'm not great with dates, so I can't remember exactly when this happened- But we came up with an idea to have ... It was the predecessor of the chatrooms, actually. Of the AHLA charooms. So we came up with this idea that we would send out a topic, like maybe confidentiality of peer-review records, and we would send out a topic and a date and time, when people could just get on the phone and talk about this topic and learn from one another. We would set a time and people would send their names in. I remember, I was involved in placing people in groups. We might have May 2nd at 10 a.m. eastern. We would have an hour to talk about confidentiality of peer-review records and anybody who wanted to talk about that could send in their name and we would group people.

So there was about six people on a call. These were people that didn't know each other. That was sort of intentional. We tried to mix people up from different regions and help ensure they weren't competing for the same clients and that they had different perspectives from different areas of the country. Then they would call in at 10:00 eastern on May 2nd, and for an hour, could dialogue with other members about legal issues on confidentiality of peer-review records.

That was a very early way that I could talk to some true experts from around the country to help me out with whatever problem I might be dealing with. It was the predecessor of what we now have all our chatrooms and everything that goes on electronically with the AHLA. All of that type of education in the programs and the materials, that truly was what allowed me to have the practice I have had here in Oklahoma.

JD: I know, through the years of your practice, you have morphed in from a student at times to a teacher at times. How important has been that part of what you've done with AHLA has been actually making presentations and ... In my days, I always thought that having to make a presentation was very difficult because you had to become a student first, learn what your presentation was, and then present your presentation. Did you [crosstalk 13:37]

Elise: Yeah, I agree. 100%. I always tell young lawyers I think the best reason to speak is because it really helps you master a topic. That's the reason to speak. I never forget my first presentation that I made. It was actually at an AHLA seminar. Being one of the early health care attorneys in

Oklahoma, I got asked to speak a lot to trade associations and different groups all the time. I spoke a lot here in Oklahoma.

The first time I was asked to speak at an AHLA meeting and speak to my peers and speak to the people who I had learned from, I will never forget. I've never been that nervous. Although I speak all the time, I have never been that nervous as I was the first time that I did that. I think that truly does refine your skills and your knowledge, when you're speaking to your incredibly bright colleagues at the American Health Lawyers Association.

JD: I guess that one of the last things would be to talk about your career at AHLA and how, from the early days with Jack Schroeder, you have provided leadership through the AHLA. You might just give us a little bit of that career path as well.

Elise: Sure. As I mentioned, I got involved with the practice group. And again, when I would go back in the early days to these meetings, I didn't really know many people because there weren't many people at that time coming from Oklahoma. I got myself involved with the medical staff credentialing practice group that Jack chaired. Soon after that, Mark Kadjielski chaired it. Then I believe Al Adleman was the chair. I'm not sure I'm getting the order right.

Then I ended up chairing the medical staff credentialing practice group. I was very involved with that, and through that and through opportunities to speak, I was asked to serve on the board. I served on the board after the merger. I was not one of the merged entities, but I came in after the academy and the NHLA had merged. And served on the board, and got involved on the board in the alternative dispute resolution service that the AHLA has, by chairing the alternative dispute resolution service committee.

I was very interested in that because it had- The alternative dispute resolution service of AHLA was originally formed by an attorney from Oklahoma named Jim Hall who, at one point, was a president of the NHLA. Jim has died. Jim was wonderful man and a terrific mentor to me. Although we weren't with the same law firm, but because we were in Oklahoma, he was always there to be helpful and to give advice. Because he had formed this alternative dispute resolution service, it sort of felt to me like something I wanted to involve myself in. I got involved in chairing that group subcommittee of the board, helping the service decide to become a dispute resolver myself. Have been an AHLA dispute resolver for many years. Through that experience, and expertise, I've gotten involved- I'm now a AAA arbitrator and arbitrate a lot of health law disputes. That's been a very rewarding part of my career.

Again, I have to attribute that to my involvement on the board and my involvement in the AHLA dispute resolution service. Now I do a lot of training for the American Health Lawyers Association on alternative dispute resolution. And help them work with Jeff Drucker and others at the AHLA to put on some of these training sessions. And serve as a fellow and do fun stuff like this, get to talk to you, JD.

JD: What do you think the next ten years offers for you and for this industry? For our health law practice industry?

Elise: Notwithstanding what's going on right now with our politics, I think health care will continue to be an opportunity for a lot of lawyers. I think there's so much out there for opportunities for provider direct contracting with plans. I think we're going to see just a lot more opportunities. There's going to be a lot more consolidation in the health care industry than there's already

been. There's going to be a lot more quality review and metrics. I think all of these things require lawyers to help.

I do wonder if a young lawyer will be able to have a broad practice as I've had in the future. I just don't think that's going to be possible. I know even in the firm where I am now and we have six full-time health care attorneys, which isn't huge, but it's big for our area of the country. We tend to all sort of start- Now we're specializing in different areas. I don't think any of the younger lawyers are going to be able to have as broad an area of practice as I feel very lucky to have.

But I don't think the opportunities are going away for young lawyers. I still think there's going to be a lot of future opportunities to help in our health care system as it morphs into different variations.

JD: Have you, and how have you utilized the AHLA education programs for your younger lawyers? Any of the program like fundamentals or other types of programs that you have urged them to attend? Or have actually sent them to attend?

Elise: Yeah. We mandate here, first of all, in our firm, that anybody who's a member of our health law practice group needs to be a member of AHLA. They all have attended the fundamental programs. Then as their practice morphs in a particular direction, we have some who go to the long-term care program, some who've gone Medicare, Medicaid program. So depending on which way they go, they select different programs to go to. We all utilize the resources online all the time for education.

I speak once a year to the University of Tulsa law school to a group of students. They have me come every year and speak on being a health care lawyer. The number one thing I always do is I tell all of them, and I bring handouts, and I say, "The best thing you need to do if you want to be involved in this business is to sign up, and it's dirt cheap to sign up as a student member. You sign up for the American Health Lawyers Association." I think it is the number one thing anybody needs to develop a career in health care law.

JD: I know we've covered a lot of territory. Is there anything that I haven't asked you that I should've asked you?

Elise: The only thing you maybe should've let me talk about, JD, was absolutely how thrilled I was to have the opportunity to visit with you before this interview, and to be interviewed by you. I do consider you one of the, if not the founders of this profession. There are so many of us out there who have looked up to you over the years and learned from you. To have the opportunity to talk to you as a peer like this has been really thrilling.