



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 23, 2017

Ann Bittinger interviewing Marilou King:

Marilou: Hello?

Ann: Hi, this is Ann.

Marilou: Hi Ann, this is Marilou.

Ann: Hi, can you hear me okay now?

Marilou: Yes.

Ann: Okay, how are you?

Marilou: I am well and you?

Ann: I'm doing just fine, thanks. Thanks for taking the time to participate in our history project.

Marilou: Yes, it's an adventuresome project, hard to pull off I would say.

Ann: That it is. Yes, there's been some interesting stories shared today.

Marilou: Who else have you been interviewing today?

Ann: Yesterday, I interviewed Alan Bloom.

Marilou: Oh ... Well, had you known that Alan before you interviewed him?

Ann: I have never met him. Of course, everyone kind of knows of Alan, right? Between his history and the moderating the listserves and that sort of thing.

Marilou: How long have you been on the board, Ann?

Ann: I have just finished my third year. I'm about to finish my third year, so the first term. Before that I was vice chair and then chair of the physicians practice group for 10 years, so I have been around the AHLA for a little while definitely as a servant for many years.

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- Marilou: Oh good, good. Well, how would you like to proceed?
- Ann: Well, we have this little summary that they have given us to use, but really I'd like to get to the essence of AHLA. What we really want to take away it has meant to you and why do you think AHLA continues to be relevant and those kind of themes come out or they can be illustrated in some stories. One of the things I asked Alan was is your most cherished or clear memory of your time working with AHLA? Is there a highlight or two that you could share?
- Marilou: Well, my experience with AHLA really falls into two kinds of categories. The first one was when I was a young lawyer and I was going to the conferences and invited to speak and then was invited to be on the board. Then the second category is I was employed by the organization for nine years as the executive vice president, so I was the same as Peter Leibold, now David Cade.
- When you're employed it's really a very different kind of experience than the experience as a volunteer, but I remember in the mid-to late 80s when I was a volunteer, being a young lawyer and what at that time the NHLA did for me was help me see the forest for the trees.
- As a young lawyer you have a project and you have a client that you're trying to do the best for, but you struggle to understand the context in which their legal problem is presented and that's what NHLA did for me was allow me to see the industry and government regulation of the industry in a much larger context than any particular client or project allowed me to do.
- I was very grateful for that opportunity because I don't think there was anything else that would have given me that broad a perspective and luckily, I was in law firms that encouraged me to go to meetings and to volunteer and participate and try and get that broader understanding.
- Ann: Absolutely, very lucky, nowadays it seems like people are tightening down on continuing education budgets and explain the continued relevance of the AHLA. It seems to be a little more difficult?
- Marilou: Yes, I would think that that's really a lost opportunity, especially for the younger lawyers and I know it's the younger lawyers that generally get more scrutiny of their participation than actually these like the AHLA, but that's where I think it's really most valuable. It's for the younger lawyers.
- Ann: Absolutely, could you tell me a little bit about your ... any insights or reflections on the transition from NHLA to AHLA?
- Marilou: Well, yeah, I think it was a very important and momentous development in the field of health lawyering ... Both organizations existed in a very competitive industry. There was a good deal of talk about market position and who was going to academy meetings and who was going to NHLA meetings and who was going to American Bar Association Health Law Section meetings?
- The greatest asset of all of those organizations really was and remains the dedication and the time that the volunteers devote to those organizations and they only have so much time to do it. If you want to get the best speakers devoting their best amount of time, the best people writing, the best people devoting themselves to board activities and leadership, to have them split in three different ways for a small field and a growing field and a rapidly changing field was not doing the most good.

I think the combination of NHLA and the academy allowed us to consolidate really top-notch volunteer leadership, both board leadership as well as leadership in speaking and writing and all of those things so that the members at large were able to not keep being distracted by "Oh, what meetings should I go to now?" They knew if they went to an AHLA meeting they were going to get the best educational information that was available.

That's really I think what I and the volunteer leadership on the board and in NHLA was trying to do was make sure that NHLA was a respected, non-partisan educational association and not just a club for people to get together and share war stories but a real serious, respected non-partisan association.

During that time we started the public interest group. We had our first strategic planning. We had the first website. We had the magazine, we started the magazine. There was a real dedication in the early 90s for the National Health Lawyers Association to be respected and provide real benefits for the membership.

Ann: Tell me a little bit about the formation of the public interest group? That organization was clearly a 501(c)(3), but was there this bubbling sort of give back and make more of this public interest?

Marilou: Yes and that was definitely board generated. One of the great leaders of the National Health Lawyers Association was Jim Hall and he is no longer with us. He died in I think it was about 1999. Jim was a real visionary. He, I think helped focus the NHLA on seeing the necessity to invest in Internet technology and providing the products and services online, but he also was very much involved in his own community in Oklahoma City in charitable work and he thought NHLA should be giving back.

We were feeling our way. We didn't really know what that meant to give back, but to start doing things that would take the knowledge we had as lawyers and help it be available to members of the public, to parts of the health care industry that maybe couldn't afford lawyers and to give back.

Some of those efforts were very hard to get off the ground initially and I'm just delighted to see that it's still going much stronger and seems to know its way now within the association and it isn't something that just faded away. It's an important part of the association now. Jim would be very proud.

Ann: He would be. Yeah, I'm actually on that committee on the board now. We're doing some great stuff.

Marilou: Oh, I wish you could have known Jim Hall. He was just a wonderful guy.

Ann: It strikes me that of all of our ... Over the course of the years, tens of thousands of members, and you and I think only David because I don't think Peter was on the board before he was hired as an executive, I think you are the only two people to have actually served on the board and been the EVP?

Marilou: Well, there have only been four EVPs. Yes, I was on the board for about two years before I became the EVP.

Ann: It's a very unique perspective to have come up through speaking and writing and then serving on the board and then actually be an employee and the head honcho for all intents and purposes, reflect on that for me a little bit. That's an interesting perspective. You were the young lawyer who said "This is great value for me. I like to get the speaking and writing opportunities and to listen and learn from my peers." You have gone that the full circle then, no longer being EVP but still participating, right?

Of all the tens of thousands of people in the organization, I think there are only two that have done that, really only one has gone full circle because I think David is still employed. Of course, he still is. But really I think you are the only person who has gone that full circle?

Marilou: Yeah and then went back and became a member because after perhaps I guess ... That I think helped bring a focus on serving the member, the rank and file member so that they got value out of going to a meeting in terms of something that they could really use to help them advise their clients.

The mission statement about helping lawyers serve their clients and give them the best legal advice was really done. We did that mission statement, leaving out [inaudible 00:22:59] was back in I guess the first strategic plan for NHLA was done in 1993 or 1994 and I came on board in 1991. I had been on the board of some health care organizations that were undergoing strategic planning and saw the value of it. As soon as we were able to put NHLA on a sound financial footing ... When I first came in we were about three months away from not being able to make payroll ...

Ann: Wow and that was in 1991?

Marilou: ... and so it took a while to straighten things out financially, but as soon as we did the board was very interested in doing strategic planning and sticking to that plan. We had a wonderful board who gave all their attention and effort to doing that first strategic plan and then making sure that the plan got put in place in terms of operations and it wasn't something that sat on the shelf. Public interest was part of what that plan. I think the website and things like that. I see all the technological advances now. In 1991 we just were barely getting personal computers on our desks.

Ann: How does your career story fit lock and step with the expansion and the development and growth of AHLA?

Marilou: Well, I think it's that in terms of how the healthcare industry is changing and has changed in large part because of government policy over healthcare and keeping track of and helping our organizations change to both take advantage of, but really to effectuate the goals, the policy goals that the government has enunciated for the healthcare system. Those have changed right on top ... 25 years.

When I started out as a house lawyer, we were in cost reimbursement mode for hospitals at least and physicians were getting reasonable customary charges. Now you look at the Affordable Care Act and what will happen to that and the whole industry is changing quite a lot and it needs its lawyers to stay current to help it change. I think that's the cutting edge of where NHLA always was and now AHLA continues to be is on the cutting edge of those government changes and those policy changes for the health industry.

- Ann: Over the years I'm sure people have asked you what you do and you say "I'm a healthcare attorney," and you probably got that puzzled look and people asking questions like you do medical malpractice or that ...? What do you say now when you get that quizzical look and is it different than what you used to say 10 or 20 years ago? How do you explain what it is to be a healthcare lawyer?
- Marilou: Well, I went to law school wanting to be a healthcare lawyer ...
- Ann: You did?
- Marilou: ... and in 1979, but I'll tell you what I thought that meant in 1979. I thought that meant things like right to die and a lot of medical patient rights sorts of things. Then when I went and got a job at a health law firm, I found out that the hospitals wanted to hire lawyers to make sure they got all their Medicare reimbursement, so I ended up doing PARB appeals for hospitals. That's what I started doing. I ended my career because I retired in June of 2015. I ended my career in the [General Counsel of Childhood 00:28:37] at HHS, where I did HIPAA privacy and security enforcement work.
- Ann: The whole spectrum.
- Marilou: It is, but and thrown in between was a lot of fraud abuse work and trying to keep up with all the payment changes, the managed care contracts and everything thrown into the middle of that career. I think that the unifying thing about all of this is trying to keep the health system strong and operating within the law and serving its patients well so that we don't lose the patient focus that the healthcare field has always had. It's got to focus on patients. It needs to be in the soundest legal shape it can be so that it can focus on those patients.
- Ann: Absolutely, get away from all the other distractions.
- Marilou: Right and so where were we starting with this? This is a very long answer. I wandered.
- Ann: Yeah, no, it's wonderful. Yeah, what does it mean to be a healthcare lawyer?
- Marilou: Well, I think when I started out I thought being a healthcare lawyer meant the financial bottom line. I think when I finished I started to think that being a healthcare lawyer meant that patients' rights are protected. I think those two things are related. You have got to have a good bottom line to be able to serve patients or if you're a healthcare provider or a healthcare insurer, and any other participant in the health field. Retiring with an understanding of the necessity for the field to be robust enough so that it can focus on patients and provide the best patient care was a pretty good place to end up.
- Ann: Absolutely, that's perfect. What do you think the future holds for health law, for the AHLA and perhaps your role in those, if any? Is it interesting to be just a member in 2017, and I say just a member. You know what I mean, but in 2017 as we're seeing all of these changes going on?
- Marilou: Well, since I am not practicing any longer I guess I mostly care about the health of the association because it has been so important to me and to so many other lawyers, so I want the association to be very healthy and continue doing what it's doing, which is as important as it ever was, as important as it was for me in the 80s and 90s and the early part of the 2000s.

There are lawyers who need the products and services that the association provides, so I hope the association stays one: focused enough on its mission. Two: financially healthy, which I know is not always a certainty and as a board member you will know that better than I these days.

Focused on its mission, financially healthy and focused on what the members need and not what a certain group of insiders may want to do. That it's really focused on serving the members and being in touch with members and understanding what they need in their daily practices, their health law practices. I think and when it can also to continue with that public interest, those public interest activities, which I'm sure it will.

Ann: What other things haven't we touched on? You have shared a lot of great things. I'm respectful of your time. I know we had initially said "Oh, this will be eight to ten minutes," and then scheduled for 30 minutes, so I don't want to take up too much of your time, but I want to capture everything you would like to share.

Marilou: Well, I didn't jot down ... When I was EVP of NHLA I hired quite a lot of staff people who are still there, so I just wanted to give a shout out to Wayne Miller, Anne Hoover, and Kerry Hoggard, Mary Boutsikaris, Will Harvey, Valerie Eshleman, and Carine Brice. Those folks I hired when I was there and so when I go online and I see that they are busy with all the new activities and projects, I know that the association is really in good hands because these are really wonderful people who have devoted their careers to the association. I know the board appreciates them, but that's just something I just wanted to acknowledge, their contributions.

Ann: Well, I knew that they had had significant lengths of service with the organization, but I didn't think about it being even that long with that many people. We have had some turnover lately in some levels, but gosh, when you think about all those folks are still here ... I mean, they survived Peter and they're still here. I'm kidding, of course. Yeah, that's a long time so that's a tribute to your recruitment and initial training.

Marilou: Well, thank you, but really they trained me. Yeah, I was house lawyer. I was not an association manager. No, they kept me on the straight and narrow. Wayne, oh, I can remember interviewing Wayne going, "Oh, I have got to get this person over here." When I first joined NHLA there were 11 staff people and I went, "We're an individual membership association. We have no membership director," so I hired Kerry as our first membership director. They have been so instrumental in working with the board and the volunteers and effectuating the goals that those board members have set out. I just think they have done a wonderful job.

Ann: That's fantastic. Yes, Kerry is actually, she's not going to say it, but she's running this project, this history project and she's doing a fantastic job amid everything else that she normally has to do.

Marilou: Yeah, she's been really terrific for the association, as have all of the staff people. But they've been there for many, many years every day giving it their all so they are to be commended.

Ann: Absolutely and I think most people don't realize there are so many staff members in Washington making all of this happen?

Marilou: Well, yes, usually that's true in the association world. The staff is relatively anonymous, but I hope that in this history project that their contributions can be acknowledged because they are significant.

Ann: Absolutely, that's for sure. Well, could I close with one more question?

Marilou: Sure.

Ann: Is there anything that you reflect back on and wish that either you or the association had done differently?

Marilou: Oh wow, oh gee, that's a tough one.

Ann: And it might not necessarily be a criticism, but I don't know? I didn't mean to stir up some dirt or anything like that but sometimes we have thoughts about ... You know hindsight is 50/50. Hindsight is 20/20 I mean. You can tell I was just at the eye doctor. Hindsight is 50/50, 20/20 and you know I wonder if there's anything that stands out as "Gosh, I wish we would have taken that to turn," or "I thought that that was wrong, but it turned out to be okay."

Marilou: I will tell you one thing that I initially thought was not going to work out as well I think it has worked out and that is the formation of membership practice groups. NHLA didn't have that focus. We concentrated on the ... I think by the time I left there were 9000 members at that time. We had different programs and different books. You joined as a member and there were no different interest groups that you could join. But the academy, which you know was part of the American Hospital Association, right?

Ann: Right and the academy ... It was called the ... What was the full name just so we have it on the record? The Academy of ...?

Marilou: The American Academy of HealthCare Attorneys. It was a membership group within the American Hospital Association. They were not a freestanding organization. They were not an incorporated group. They had started within their membership to start forming membership interest groups. If you were interested in medical stuff, issues or if you were interested in fraud abuse or if you are interested in antitrust, there were different sub-groups that you could become members of.

When the organizations combined, those membership kinds of things were brought over from the academy. I was initially, because I was the EVP then, and I didn't know if we had the financial resources to maintain those groups and all the work that would go into those groups. I didn't know if we had staff to staff them and I was very skeptical if they were going to work out in those combined organizations.

But I think in retrospect it worked out spectacularly and it has allowed the association, I think, to focus down more on the particular segments within the membership and make sure their needs are being served. Again, it keeps the association in touch with individual members and they get to say, "I really need help in my practice in understanding X or understanding Y or training my associates about Z."

I think that that's a wonderful development. I hope that that's true from the board members' point of view. I'm making speculations here. But sort of needing to take financial resources and move them into an area that you're not completely sure it's going to work out is something that does need to happen every once in a while. I think that has become a strength of the association. I guess also I would like to hope that I see the association did a strategic plan in

2016 and that the board's dedication to continuing the strategic planning process I hope continues as well because I think it really results in a vibrant organization.

- Ann: Yeah, you have a lot of attorneys around the table, wherever we have our mid-year or annual meeting as you know, spending a lot of time on strategic planning and it's somewhat painful at times, just from the three years that I have been doing it, but it's a good pain. It's almost like a workout exercise pain, where we got to stretch and pull and see where we are so that's a really good perspective that you're sharing, yeah. I think that's something a lot of boards don't do.
- Marilou: Well and I hope that AHLA never becomes one of those because I do think it does in order to do the benefit of the future of the board and it stretches people to be thinking about not just what we are now more but what do we want to become? For AHLA what do our members want to become and what are our members becoming? I think it is an exercise that while it is very burdensome sometimes, believe me the first time we did it, I can't even imagine telling you. Most board members had never been through a strategic planning process and they weren't very convinced of its value. But I think it really does have value for an association.
- Ann: You have raised an interesting perspective about the transition in thinking and in roles from being a lawyer to being a board member and then you had said that the staff had trained you. You had never been an executive director before. The many hats that we wear in the service to the organization is really interesting, isn't it?
- Marilou: Yes, but it's also really fascinating. You just learn so much. I remember when the Clintons came into the presidency and Hillary headed up the house reform group. NHLA got invited to come to a couple of meetings of some working groups and to draft some background papers. We drafted a paper on the impact of state rules on the corporate practice medicine because the working groups had no idea what the corporate practice in medicine was or wasn't. We were just so excited about that opportunity. Now I see the association participating in Washington and it's just a part of who the association is now and it didn't used to be that way at all.
- Ann: Interesting, yeah, I was actually at American as an undergraduate when the Clintons came to power and that was an interesting time and you think about the contrast? Gosh, I don't think that the Trump administration is inviting the AHLA to opine on things or to write papers are they?
- Marilou: Well, but there will be opportunities to participate and that's why ... And to even keep up with all of these changes, it's just going to be a challenge for our members and for AHLA I think, a very important challenge that to just keep up with all of these changes and help our organizations that we provide legal services to thrive and not to be negatively impacted to the point that they can't do what they need to do.
- Ann: Anything else that we didn't touch on that you wanted to share?
- Marilou: Let me just see? I don't think so. I hope that the association is doing as well as it appears to and just a member to be doing. Can I ask you that? Is it doing well?
- Ann: Yeah, I think that it's as robust as it has ever been. I don't have the perspective that you have. I went to my first AHLA meeting in October of 1993, fundamentals, maybe it was November actually and within about six years or so, was a vice chair of the physicians practice group after

speaking. I did a ton of work with practice groups, so it was really interesting to hear what you had to say about the development initially of the practice groups.

Yeah, I think that we are doing really well. I think that we are looking into some things that perhaps are not core healthcare issues, but that might help us serve members better. I'm touching on diversity, some diversity issues there and some themes that go to what you were touching on with the organization not being a special interest group for a few law firms. It's to avoid the cliquishness that some organizations have become. I think that area of emphasis is alive and well.

Marilou: Oh good.

Ann: Yes, I think that continuing to be relevant with products and services that are in demand by our members is an ever-changing challenge. We're seeing in-person attendance at some meetings going down. We're seeing attendance for participation in webinars going down, but I think what's interesting is it's like what you said with strategic planning and how we have to shake it out. We're trying to figure out what that is and be responsive to it. I don't think it's a failure of the organization by any means.

Marilou: Right, well time pressures are only going to continue to get worse and worse. Quite frankly that was a theme that I was hearing back in the 90s "Oh, people aren't coming to meetings as great in as the numbers that we want," and it's because it's expensive and they don't have a [inaudible 00:53:55].

Ann: Absolutely and now even more so, you could get it online, its on-demand. A lot of things are easier to get without having to travel. One of the things that people are talking about is that with more and more healthcare attorneys being in-house and more and more of our membership being in-house I think that's true. I think there are a lot more healthcare lawyers in-house than there used to be. That in-house legal departments are requiring outside counsel as part of their engagement to give free continuing education and then maybe if that has gotten more competitive, maybe the firms are just doing it.

I do an e-newsletter and e-blast that are similar to what AHLA does, so I wonder if maybe law firms are putting out more free stuff as things have gotten more competitive in order to maintain and get new clients? It's an interesting dynamic, what it is that we do in that service and that sort of thing.

My personal goal I think is that we maintain the collegiality. That's always been so much a part of the organization. The ability to call someone up who spoke and say, "You touched on this. I have got this little quirk. What do you think of this?" and you have a 10 minute phone call and an aha moment and you can go on, but you never would have had had you not met this person at an in-person meeting or listened to a webinar. I like the Christmas cards that are on my refrigerator from all the people I know through AHLA. You know what I mean? Even that softer side I think is really important.

Marilou: Right, yeah, well, I'm glad to hear that things are going well. Who's the next president?

Ann: Eric Zimmerman.

Marilou: Oh, Eric.

Ann: Are you familiar with Eric?

Marilou: Oh yes, I know Eric well.

Ann: Yeah, then Marilyn Lamar is the president-elect designate or the next President. Yeah, she's a fantastic, Midwestern, cool, calm and collected person, so I like her a lot.

Marilou: Yes and a HIPAA privacy and security person, too.

Ann: Absolutely, you know her ID that's for sure. Well, I can't tell you what a pleasure this has been. I have been a groupie for a long time and when they put up the list of interviewees, I said, "Can I call Marilou?" I have kind of been a groupie like I said, ever since I joined back in 1993.

My first job was actually at Siegfried-Bingham in Kansas City and I knew I was going to be a healthcare lawyer when I got hired. Siegfried was the firm that employed Mark Thompson, who was indicted [crosstalk 00:57:11] into my healthcare career. Mark recruited me. He did the on-campus interview. He was my mentor for my summer clerkship. I had the unique position of baptism by fire by seeing the person who hired you be indicted for kickbacks.

I remember your leadership back at that time and so this has just been such a pleasure, such a pleasure. I appreciate you taking the time out to talk with me and my guess is that they'll probably follow up. The next phase is to try and have a video, not to try, we're going to make a video. The audio that we're doing now will be used on the video, but we need to get some human beings on the video. I know you're in Delaware. You're not in DC, but I wonder if they're going to ask if you could be on camera?

Marilou: Well, I'd be happy to come to DC. My sister still lives outside of Washington, so I can always come up and bunk with her and run into the city for a day. If that happens I would be happy to and I appreciate your time. I know that this is time away from your practice and it's precious time so thank you for your time and your thoughts on this. It's been very fun.