



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 24, 2017

Elise Brennan interviewing Michael Roth:

Elise: My name is Elise Brennan. I have the great pleasure to interview Michael Roth. Michael, would you like to tell just a tiny bit about yourself? Then, we'll get into the formal interview.

Michael: I'm a healthcare attorney. I've been a member of the first National Health Lawyers Association, NHLA, and also a member of the American Academy of Healthcare Attorneys, going back to the 70s. In 1977, I got out of law school. By '78, I had joined both organizations. I basically represented healthcare providers across a spectrum over my entire career. Around five to six years ago, I moved in the direction where today I'm mostly serving as arbitrator, mediator and hearing officer in healthcare matters. I continue to be an active member and fellow in NHLA.

Elise: Great. In talking with you, you have an extremely unique and interesting perspective because you happen to have been extremely good friends with David Greenberg, the founder of the NHLA, which is one of two predecessor organizations of the AHLA. Could you tell us a little bit about that friendship and how that happened and a little bit about the formation? Yes?

Michael: Yes, sure, I'd be glad to. When I got out of law school in 1977, there were two organizations on the horizon that health lawyers could join. One was aimed at and served the needs mostly of hospital attorneys, and that was the American Hospital Association, an affiliate organization of the American Academy of Hospital Attorneys, and it was called the Hospital Attorneys at that time.

Then, the other organization was the National Health Lawyers Association. When I got out of law school in 1977, my sister just married a neurosurgeon, and I got interested in healthcare law. That was just before I graduated from law school. When I got out of law school, I was looking for a job in health law. My first job was down in the Washington D.C. area with the Aspen Systems Corporation where I worked for the hospital law manual. I was one of its creators.

Looking for that job, I contacted the National Health Lawyers Association and wound up speaking to David Greenberg. While he had nothing to do with the job I got or the other jobs, I've got to know him. I got to know him really well, while he would come home from work every day. I wound up pretty much ... Call David when I got home on the evening and talk to him, and tell him how my day was, and he would tell me how his day was. We became good friends.

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One thing I remember, for example, was when the microwave was just coming out, and the only thing you'd do with them was make potatoes and they were very expensive. I found an ad similar, saw an ad similar for a microwave which was really relatively inexpensive for that time. My recollection was \$400 or \$500. David liked the idea. We went out together. We both bought the same microwave. I brought it up to his apartment to help him put it in.

What's interesting about that is where the apartment was. The apartment was at 522 21st Street, and I figured out which floor it was on. David lived there for many years. In fact, he was still living there when he passed away. We're talking about 1977. In the lobby of that apartment building was the original headquarters of the National Health Lawyers Association, so that when you dialed 202-833-1100 which, to this day, is the, I believe, the main number of AHLA, when you dialed that number, the phone rang in two places.

It rang, of course, on the ground level in the headquarters or the office of the NHLA, but it also rang in David's apartment. There was a little button on his phone where you could turn to his private line or turn to the NHLA line. I remember picking up that phone up in his apartment for calls coming into the National Health Lawyers Association.

That was ... It's really interesting. It was truly his organization in every way. That's interesting because before David was the one of the co-founders of the National Health Lawyers Association, and there's an interesting feature that I wanted to talk about that too in terms of where it'd fit into the healthcare arena at that time.

When he opened that, he walked into the office downstairs, and the shelves were aligned there, where the bookshelves of the office were aligned with all of the binders from all of the programs. I think that's basically where they stored all of the binders which they had yet sold or still selling after the program. It was cozy. There was a big lobby, a big area in the middle, and five or six rooms, as I recall that went around the circumference of the office.

The way David came to found that organization is interesting; very interesting actually. David was the executive director before NHLA, the National Health Lawyers. He was the executive director of the American Academy of Hospital Attorneys, which I've mentioned a moment ago, the AAHA organization. They were based in Chicago. Excuse me, they were based in Washington.

A point came sometime I think in the early 70s where they were moving to Chicago and David did not want to move to Chicago. He stayed put. The Academy went off to Chicago. David wound up getting together with James Doherty Sr., not Jr., and James Doherty Sr. at that time was the head honcho for the Group Health Association of America. The two of them sat down and they figured out that the Academy represented hospital lawyers in the interest of hospitals. GHAA was at that time more, or not more, was the organization that really represented health plans.

Then, the HRO industry and the healthcare industry in those days was truly in its infancy, until they identified a need for an association for lawyers who were involved in representing the plans. That grew into or became ... It was founded as the American National Health Lawyers Association. Of course, we know over the years, it grew beyond just health plans, but at the beginning, that's where its focus was.

The bottom line on all of those is that David was the founder of both of the leading health lawyers organizations, the two largest, each one by a great amount; the American Society of Law and Medicine based in Boston, which was much smaller. He founded both of those organizations. It's interesting that he did not only found both but that he eventually was the guy who brought together the hospital and the health plan and the wide spectrum of healthcare providers into one organization for all of their lawyers.

Elise: Yes, that is interesting. One thing you told me that you haven't mentioned yet is that you were such a good friend of David Greenberg that he was actually best man in your wedding.

Michael: Yes, he was. He's probably older than the average person even back then, but we were good friend. He's just a really great guy on a first level. I think a lot of people got to know David; got to know what a good guy he really was. He was interesting. He walked with a limp. It was noticeable. He had developed that when he was in Palestine before it became the State of Israel. In those days, during the British colonial rule, the drinking water was not as safe as it is today, and he got polio. He recovered, and eventually, he came to the States.

He came across the country for my wedding. I was living in Los Angeles when Sharon and I got married. It was a very personal experience. My dad is a rabbi. He performed the ceremony. David, my best friend and colleague at NHLA was my best man.

Elise: That's wonderful. Tell us a little bit about your background on healthcare. Protectively, you told me about, starting with Jim Ludlam at Musick Peeler and how he was one of the very first healthcare lawyers if not the first. Tell us a little bit about that.

Michael: I want to tell you about the history. When I first got out of law school back in '77, and I was interviewing, people didn't really know what health law was. In fact, in law school, I served a ... I was on a clinical program for a semester at Boston College for public interest entities. Now, instead of going to class for a semester, you work in a public interest organization.

I wound up working for a semester at a blue-blood law firm called Powers & Hall which was an old-line main firm. One of their lawyers was doing some work, risk management work for a few hospitals. Since it was a hospital, it was viewed at law school as public interest. I ran [inaudible 00:12:34] there. When I got out of law school, after doing that during law school, I came out to Los Angeles, and I interviewed with ... I met Ashley with Jim Ludlam who was the senior partner at Musick Peeler and Garrett for healthcare.

Jim was basically, I think, can accurately be described as the first health lawyer in the country. I'm not sure if it was the late 40s or maybe sometime in the 50s, but he was on a board of a hospital. He was doing the professional liability work, as I recall. That morphed into their needing more services. That morphed into the Medicare program which really mushroomed things.

Jim Ludlam is the first health lawyer and Musick Peeler started what we call healthcare today. When I got into it in '77, I was at a hospital [inaudible 00:13:32] for a couple of years, but then I worked in and came out here. I worked with Memel, Jacobs, Pierno and Gersh.

I interviewed to live in Los Angeles. They were one of the very first large law firms who specialized in healthcare law, along with Wood, Lucksinger and Epstein in Texas. Both of those

firms shared national practices even in the early days. There were around nine lawyers there when I interviewed with them.

I get sent to the Los Angeles office ... Excuse me, I get sent to the Washington DC office where I was one of the lawyers who was there when they opened the office. We were literally two or three blocks from the White House in Farragut Square. I remember at lunch going over watching the [inaudible 00:14:19] enter the White House grounds with all of the hostages from Iran on President Reagan's first day in office. It was exciting to be in Washington. It was exciting to be with Memel and Jacobs. It's been ...

It's just interesting how those firms, and with Musick Peeler, and then Wood, Lucksinger, and then with Jacobs, and some others along the way. I could name names and [inaudible 00:14:45] comes to mind. There's just a host of people who were the original health lawyers where it was a specialty at that time that no one knew what it was. I would tell [inaudible 00:14:55] from going into health law. People would scratch their head and didn't know what I was talking about.

Of course, today, we know that it's a bread-and-butter mainstream area of representation that all of the large law firms are heavily involved in and clearly a widely respected and widely known specialty today. Back in the day, it wasn't.

Elise: You were the first chair, as you told me, of the NHLA seminar on medical staff matters. Can you talk a little bit about that, how you came to do that?

Michael: I'd be glad to. Thanks for the prompt. I was, when I was younger, the chair of the Young Lawyers Division's Health Law Committee. Then, there, over a few years later, I became chair in the American Bar Association's Tort and Insurance Practice Section of their Healthcare Committee. As part of my responsibilities there, I took it on myself to chair a number of programs, mostly populated with speakers who were active at that time in the National Health Lawyers Association.

The programs were successful. One of the most successful programs we did, two times at least, or it may have been three times, I can't recall, was a program on medical staff law. I think only recently did I have to throw the binder out or move it off site because of the space limitations. That program was successful. Actually, I don't have the ABA programs. I have the ... What happened was no programs were successful. I [inaudible 00:16:36] with David, and David heard how successful it was. He said, "You know what? We should do that program too?"

I've put the program together and chaired that program for at least the first couple of years, which was a medical staff program. That program continued for many years. I think it has now morphed into the portion or is part of the Physician, Hospital and Institute program.

That was the origin of that program. I'm always proud to say that I was the first chair of the program because, hey, I'm proud of it, and I think it's one of those little known footnotes of not very much importance in any sense, or remembered much by anyone, but I'm glad to tell you about it.

Elise: That is fascinating and wonderful. Having been a person who attended that program several times early in my career, it's really fun knowing how it got started and that you were the one that got it going. I think a lot of lawyers who started healthcare back then as I did, started a lot

with medical staff credentialing work because that was an area where there was a need early in the 80s and that period of time. I want to ...

Michael: Thank you for attending. I also wanted to say, I want to thank you for attending that program, but also to share one of my earliest memories where I really started getting involved with AHLA was in 1979. I spoke on the issue of informed consent at the Health Law Update, now the annual meeting, but it's called the Health Law Update. That was in 1979. The presentation went really well.

What I remember most about it, it was at the Vista Hotel, just a few months before the Vista Hotel, just a few months after the Vista Hotel had opened. David got a really good rate because it was still a little bit under construction. It was still having its opening growing pains, and he booked it before it actually opened. He got a really good rate on it. That Vista Hotel, sadly, very sadly became the Marriott, the hotel that was in the World Trade Center that was destroyed on 9/11. AHLA actually has a history in that sense as being part of our sad remembrance of 9/11.

Elise: Interesting. Michael, with your experience and your background, I think it would really be interesting to hear from you about where you see the future of health law going.

Michael: That's a very interesting question. I'm not going to try to predict with any sense of accuracy the future of health care law because that's a difficult position to make, especially these days where we may be seeing changes both expected and unexpected. The bigger picture, I think, is that the one thing that I am absolutely certain about healthcare is that, going forward is that people are going to need healthcare services. Access, availability, affordability of healthcare, that will all directly impact on the quality of people's lives or lack thereof, of the lens of people's lives or shortness of their lives. It is literally life and death.

The other thing, and this is all very important, and the other thing that's related to this is what we understand to be healthcare is growing because whether health is determined and very large measured by what our genes are, by our DNA composition, or very much determined to a lesser extent but still determined by our lifestyles and where we live, literally where we live, which neighborhoods we live in, and the environment. Is it clean? Is it dirty? There are so many things that affect health.

Healthcare is really becoming much more than just of the sense of going in and seeing a doctor or a health care provider, and then getting a service. It's much more than that. As it evolves and becomes broader and serves the needs of populations, both in the United States and, in particular, elsewhere, there will be like in any other human endeavor, especially where money is involved, there will be the need for lawyers to help structure it, operate it and help make it work. I think the future for lawyers who are involved in the field is both exciting, promising and will grow over time. It will not diminish.

As the GNPs of, the percentage of domestic growth national product is consumed by healthcare, the more the lawyers will be needed. [inaudible 00:22:10] even they said that we're able to drive down the cost of healthcare, I think lawyers will be playing a very important role in that endeavor as well, so I'm very proud to be a member of AHLA.

I think the one thing that I would want to conclude by saying, or unless you have other questions, is that the camaraderie of my AHLA fellows is just tremendous. There is a certain sense of helping others to do what they do well, amongst AHLA members. In the very early

years, there were [inaudible 00:22:50] occasionally who would try out just as much, so that you'd go out and hire them and nothing more.

In recent years, I think most of the members have been really good about sharing information and helping one another. I certainly try to do that. I'm just proud to be a member of an organization where people come together who would otherwise be competitors. We don't call each other competitors. We call each other colleagues and friends. That's a very wonderful quality that AHLA has, that I think is probably not duplicated in the same way in most professional associations.

Elise: I would concur that's an extremely wonderful ending to what's been a fascinating interview. I thank you so much, Michael. This has been terrific. It's been a pleasure.

Michael: Elise, it's been absolutely my pleasure. Thank you so much for taking the time to do this.