



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.

Conversations between AHLA leaders were conducted via audio interview as part of the Association's History Project. More than 60 of AHLA's Fellows and Past Presidents were interviewed. In addition, several were also videotaped. A documentary was prepared using content from the audio and video interviews and debuted on June 26 during AHLA's 2017 Annual Meeting in San Francisco, CA. This transcript is from a video interview conducted on x date.

March 27, 2017

Dennis Woltering (videographer) interviewing Alice Gosfield:

Dennis: How did you get into health law?

Alice: I had a roommate in law school who had gone to Antioch as an undergrad, which is a work study school where everybody has to work each of the ... One of the trimesters each year. She came back from her spring break and said, "I found the perfect job for you. There's something called the Health Law Project at the University of Pennsylvania." I said, "That's great. There is no such thing. What could that be about?" And she said, "I don't know, but it's in Philadelphia, so I think you should check it out."

And I did, and it was a program that was funded by the Office of Economic Opportunity, otherwise known as the war on poverty, that was pretty unique. There was a community based board, actually, that ran the operation. It was run by a guy who was a professor at Penn. The idea behind it was to create a curriculum around health law, which didn't exist as a discipline, and then to develop policy positions under the law that could be used by the people who were working in the corporation for legal services, which is today in play as about to be defunded, which was the organization that provided lawyers for poor people.

We did analysis of laws and application of laws as they affected poor people. One of the very first things I worked on was a provision of the law that had been adopted as part of the 1972 Social Security Act Amendments, called the PSRO law. That stood for Professional Standards Review Organizations. That set up fifty-four contracts around the country with physician groups, even the medical societies, but not all of them, that were charged with the responsibility of evaluating the quality and utilization, meaning were the services necessary, were they provided the most economic environment in which they could be provided? It had authority to deny payment for services that didn't meet those standards, as well as take action against doctors who acted in egregiously bad ways.

Dennis: Just to backtrack a little bit, one reason your roommate thought this would be perfect for you was because of your father.

Alice: I grew up in a household of a cardiologist. I worked in his office from the time I was nine. I answered phones, I did transcription. I couldn't wait to wear one of those hideous uniforms and be a candy striper and carry bed pans around. I worked in the hospital laboratory when I was a teenager. That was work that where it was complete chaos first thing in the morning and complete chaos late in the afternoon, and in the middle of the day, there wasn't that much to

American Health Lawyers Association

1620 Eye Street, NW, 6th Floor • Washington, DC 20006-4010
(202) 833-1100 • Fax (202) 833-1105 • www.healthlawyers.org

do, so I wandered around the hospital and I learned how ICUs worked and I learned how the emergency department worked. I learned a lot about what hospitals were.

So, there was a big argument to be made that when I graduated law school, I knew way more about the practice of medicine than I did about the practice of law.

Dennis: But health law is a perfect area for you.

Alice: It was perfect for me.

Dennis: Now, you and your husband, I guess, wrote a lot of regulations early on in your-

Alice: We did. We were first contacted by a then very progressive administration under Governor Milton Shapp, who actually ran for president at one point amazingly enough, to write the hospital licensing regulations for the commonwealth of Pennsylvania. Those regulations, which we wrote amazingly enough, remain the regulations for the hospitals of the Commonwealth of Pennsylvania even today, to these hundreds of years later.

Dennis: It must've been pretty well done.

Alice: I don't know if they were well done or if the bureaucracy is lazy or they decided to defer to the joint commission to do all the work or what, but they're still there.

Dennis: Okay, one last thing before we move on to new material.

Alice: Okay.

Dennis: The NHLA, you went to the first meeting in 1974.

Alice: I did. I actually even remember what I was wearing. I had no money. I had found this designer pantsuit that was a beige pantsuit. I thought, well it will look like I'm not this starving lawyer working for poor people if I show up in Washington wearing this beige pantsuit, that had also a cheap ... I found a designer scarf, a Ted Lapidus scarf, that I wore.

Dennis: And you met David Greenberg?

Alice: I met David Greenberg. I can't remember who else I met. It wasn't a very big meeting, because the topic was pretty arcane. It was this PSRO thing that nobody really understood or knew how it was gonna work. There were no regulations at that point, which is a lot of what goes on around the health lawyers, and still goes on today, where a law gets passed and then people sit around and go, "Oh my God. What are the regulations gonna look like?"

Dennis: What were your impressions of David Greenberg? I understand he was sort of a character.

Alice: Oh, that would be an understatement. My very first impression was that I was intrigued that anybody thought that there were enough people that were interested in this area of the law that you could actually form an association of them. I mean, I couldn't imagine filling a bus, let alone an association. That was a little startling to me, and kind of reassuring on a certain level. My husband and I weren't just wandering around in the wilderness with no resources available.

Dennis: You mentioned in your audio interview that finding information about health law was difficult, and that's one reason the NHLA was such a great resource for you.

Alice: That's true. The CCH Medicare Medicaid guide, which was sort of the bible of the regulatory world, consisted in those days of two, two and half inch ring binders and one little pamphlet supplement. Now, if you keep it in paper form, it takes up seven or eight shelves of a book case, in terms of what's there.

The health lawyers began with things like handouts that Joel Lerner did, that David published from his living room, which is where the headquarters of the organization was. They sent out digests of cases that they had gathered from all around the country. There was no other way that you would... There was no mechanism, an organized mechanism by which information was available. Everything was hunt and peck. There were no computers. The stuff that the national health lawyers did became really important to virtually every aspect of regulatory health law, which is the major focus of what the organization has been about.

Dennis: Hard to imagine such an informal beginning, that meetings were held in his living room?

Alice: No, no. There were no meetings held in his living room. He ran the place out of his living room. There were no meetings. I remember when I got on the executive committee, which was years later, that one of my big problems was ... And everybody had their things that they paid attention to, but I kept saying, "What kind of a membership organization can we possibly be? We don't even have membership cards." Now, nobody has membership cards for anything, but in those days, you know, "Where are our membership cards?"

Dennis: What did the association do for you as a young attorney, and as a woman practicing law?

Alice: Well, it made my career, on a certain level. I was working in this tiny little practice in Philadelphia in 1986. Began probably in 1984. Consultants started telling the big law firms that health and environmental were the two areas that they wanted to get into. My husband and I were hustled by many, many major firms about whether we would join them. I had made this decision long before that I didn't want to be in one of those places. He had a different kind of practice, where he needed access to people who did real estate and bond work and tax work, and I represented physicians so that wasn't really necessary to me. He went off and joined one of those firms, and I stayed by myself.

So, here I was in my own tiny little environment in 1986, which coincides with when I went on to the board of the health lawyers. I spoke about topics that other people didn't pay a lot of attention to. It gave me a kind of credibility and validation I never would have been able to have had otherwise. From a networking perspective, it was absolutely extraordinary, not just from the folks at the health lawyers who were colleagues with whom you could share information and ask them questions, but I ended up having a public policy life which sustained me for 30 years that came out of connections out of people who heard me speak at health lawyers meetings. I ended up sitting on four committees of the Institute of Medicine of the National Academy of Sciences as a results of somebody hearing me do a presentation on something. That ended up connecting me with the National Committee for Quality Assurance, which accredits manage care organizations. I was on the board of that for twelve years, and chairman for five. It all goes back to the health lawyers.

Dennis: You describe it as intellectually fascinating. Tell me why? Smartest people in the country.

Alice: The challenges of creating a system that both finances and delivers decent healthcare to Americans, as we've heard very recently, is complicated and remains complicated. The problems that motivated me in the very beginning, which were how do you use legal mechanisms to improve clinical decision making to make health care better for people, are still what motivates me today. The stuff that I worked on a public policy since ... My life is having a harmonic

convergence right now, because the stuff that I did on the public policy side of the street now is the way in which physicians are being asked to be paid, which is measuring their performance on metrics that have to do with efficiency and value and quality and patient-centered care, which was all the stuff that I started out doing many, many years ago.

Dennis: You said your interest was in the regulatory environment, how you could use legal mechanisms to improve clinical decision-making?

Alice: Yes.

Dennis: Is that what you're talking about?

Alice: Yes.

Dennis: Okay.

Alice: That's very much what I'm talking about. It was one of the committees that I sat on at the Institute of Medicine was one that examined the use of clinical practice guidelines. Most people think about the legal connection with clinical practice guidelines as only being related to whether they create or diffuse malpractice liability by establishing what lawyers call a standard of care. I've never been interested in malpractice. I've never done it on either side of the table. I am more interested in preventing malpractice than fighting about it. The use of clinical practice guidelines, now referred to as the evidence base, meaning what does science tell us people need for their conditions, is what's being brought in to these new payment models that turn on what should we be paying for when we are going to be providing healthcare to people that is publicly funded and it's also going on the commercial side of the street.

Dennis: Tell us about the culture of the NHLA?

Alice: Well, the fact that I'm sitting here, having been the president 25 years ago coming from practice that, for some time was one person and has never been more than two people, it was a culture that was open. It valued performance, in the sense that if you did the work and you were willing to contribute, people acknowledged what it was that you were doing in leadership and other kinds of opportunities that became available.

When the organization merged with the academy, that had ... The academy was an organization that I had spoken for in the past, but the academy was hospital lawyers only. The health lawyers was a broader range of folks who did different kinds of things. The academy was a much more social organization. At their annual meeting, they had what I referred to as a prom. They had a dinner dance. The health lawyers never did anything like that. It was not a social organization in the traditional sense. One of the things that the academy introduced to the culture of the NHLA, now the HLA, was a more social spin on ... There are more cocktail parties. There are more opportunities for people to get together and do things. The old NHLA was not about that.

Dennis: But collegial?

Alice: Very collegial. Even difficult topics. I was a facilitator for one of the earliest public interest colloquial that the organization sponsored that was on the use of clinical practice guidelines, among other things. The whole point of the dialogue was to have people with different points of view sit in a room and have civil discourse around intellectually challenging problems that affected real people in the real world.

Dennis: And some of these people would have been competitors in other circumstances?

Alice: Absolutely.

Dennis: Sharing information over-

Alice: Completely. They were absolutely competitors. Now, I had a national practice. Not everybody has a national practice. So one of the other things that happened is that and it still remains the case, and thank God there's now the member directory so I don't have to remember the names of everybody that I think that I know around the country because that's getting more complicated than it used to be. We now have the ability to find people. We have to refer all the time to local counsel. We, now, can find people that we know will provide the same kind of service that we do to our clients by using the member directory and cross matching which practice groups they're in and what list serves they're on and things like that. I frankly don't take any lawyers seriously as a health lawyer if they're not a member of the organization. That's the first thing I look for. If they're not a member of the HLA, forget it, you're a piker.

Dennis: You were the second woman president of the NHLA, serving 1991 to 1993. How would you describe the challenges, the opportunities, the accomplishments during that time?

Alice: Donna Fresh went first, as the first woman president. People have always said to me, "wouldn't you have wanted to be the first woman president of the organization?" I don't want to be the first woman anything. I grew up with brothers. My take on the world is not through the filter of being a woman. The expectations that my father had for me were exactly the same as the ones for my brothers. I've told the story a million times that when I was in law school consciousness raising groups had just begun as part of the women's movement and the development of feminism and I didn't participate in them, although my roommates did. One of the reasons was that one of the struggles that many of the young women who were in law school with me were going through was their parents were concerned about why they weren't getting married and why they were off getting a profession. That was not issue in my family. I would have been a grease pot if I had not gone to graduate school.

Sheryl Sandberg tells people to lean in. Most people tell me to lean a little bit back. So for me there were challenges and they were things that I did not immediately recognize as sexist behavior because it wasn't my filter on what was going on, but it was there. In many ways I thought a lot of this had been eliminated but one of my colleagues at the health lawyers who I've mentored for years and now she's really appeared is Julie Kass, and she and Vicky Robinson, I can't remember who the third person was, sat in a session, just a couple a years ago, where some yum yum got up and said, "well, it's better if you can hire women because you don't have to pay them as much money." Well, I find these things astonishing. This is 2017. So they formed a women's council and Julie and I had many conversations about it. I said, "isn't this over? Aren't we done with this?" Well apparently we aren't.

I've lived a very privileged existence where I've not had to contend with much of what other women have had to contend with. So, I'm probably the wrong person to ask those questions of, because I made my own environment. I made my environment so it responded to my needs. My standard line to most women is, "if you want to be taken seriously, the best way to do that is to be absolutely excellent at what you do, and then you have to be taken seriously."

Dennis: Major accomplishments during your time as president?

Alice: There'll only two things that I wanted to have happened when I was the president and I knew what they were before I went in and they both happened. The first was the organization had never had any kind of strategic plan. I didn't care what was going to be in the strategic plan but I wanted one that was a real strategic plan. A real strategic plan is one that when you get out on

the other side of it, everybody is just a little bit nauseous because you actually are taking some risks somewhere along the line. A lot of strategic planning goes on in the name of strategic which does not meet that standard as far as I'm concerned. The second thing was that it was very important to me that the word excellence appear in the mission statement of the organization and it remains still there.

Dennis: Why a strategic plan? What does that give you?

Alice: One of the problems in a volunteer organization where the intellectual capital of the organization comes from people who step up and say, "well I'm volunteering," is that people have their own little pet projects and their own directions that they want to move in. When you have a new president every year the notion that everybody is ... they rose up to be the president was going to say, "oh now we're going to have an international focus or we're really going to do a whole different thing, we're moving into the malpractice arena in a very big way." One of the things that a strategic plan does is it not only tells you what business you are in, it tells you what business you are not in. So that when somebody comes up and says, "I want to do this thing." You go. "sorry that's not the business that we're in. We already did that work."

Dennis: You had some involvement with the academy. You talked about that and more social. What were some of things that led to the merger? Some of the factors that led to merger of the two associations?

Alice: I don't know that I'm the right person to answer that question. I think that it was apparent that there was a larger cadre of folks who were engaged around this economic sector of our country that became increasingly important in terms of gross national product. As hospital lawyers had to deal in a broader frame of reference from what it meant to be the local council to who sat on the board of the local community hospital the kind of things that the HLA did became more and more important to the folks who had already moved in that direction at the academy and when they invited me to speak. They invited me to speak about the kinds of topics I talked about which was not being the local council for the local hospital and sitting on the community board. I think that's part of what the motivation was. Plus it made it bigger. People like bigger. I don't like bigger but people like bigger.

Dennis: How would you describe the merger? How it changed the culture or altered the culture? How is the culture-

Alice: Well one of things to me that's remarkable is that there has been a really ... an explosion from my perspective by comparison with it was like in the olden days back in the early nineties of avenues and vehicles for people to participate with the health lawyers. I don't know that that comes from the academy at all. I think it comes from the organization being much bigger and so I think that they the result has been that I still struggle with what an affinity group is. I know the difference between a list serve and a practice group but only sort of. For people like me, these designations are not the culture that we came from but they have become very important in the ways in which people rise up in the organization. I was president twenty-five years ago. My husband who had no interest in it when I was involved in it, ultimately got involved and was on the board and the executive committee and he's just retired. Now our son is in the leadership of the physician organization practice group. The beat goes on.

Dennis: You have been an advocate for inclusiveness, getting women involved, and you've been concerned about stagnation, about clique-ish ness, how has the association dealt with those issues?

- Alice: Back in the time when I was sitting on the executive committee, so we're talking the late eighties, early nineties, one of the big issues was dominance by firms that were bigger than other firms so we developed policies and said, "you couldn't have anymore than two people from a firm speaking on a program." It was the beginning of the idea that the chairs of programs would sunset. I mean Glen Homer and JD Epstein ran the medicare, medicaid institute for twenty-two years. They did a really good job but they ran the program for a really long time and so that got changed. There's been some more that. I have to say from my perspective, there's been some backsliding as well. I think there are people who go off the board and can't let go and so they end up chairing programs and I personally don't think that's the right direction for things to be moving but there's certainly many more opportunities for people to get involved.
- Dennis: Fresh ideas enrich the organization.
- Alice: I think it's important for young people to realize that it's not going to be an eighteen year process by which they can move up in the organization and have some impact in the way in which it operates.
- Dennis: I don't want to leave that without having you expand and maybe explain a little bit. There's been some backsliding. Is that a challenge the association faces as it moves into the future?
- Alice: I think it is a challenge that it faces. I think that new blood is important for all organizations. Bringing along young lawyers especially with the challenges of the way law practice has changed. As an example there are many firms who got a lot of their work from the in-house counsel and in-house counsel offices have expanded dramatically. My three favorite lawyers in the state of New Jersey all went in-house. The sophistication of the in-house offices is far different from what it was thirty years ago or twenty years ago. That creates challenges for independent practitioners who are out in the field looking for work. It's a much different environment. And people say to me, "I want to do what you did." I have several answers for them.
- The first is, I don't think you can do what I did anymore. The second is, you probably weren't willing to undertake the financial insecurity that I was for the first ten years of my practice. Where I didn't have a client base, I had to make my client base, then I had to market my client base. Then I had to make them believe that they needed lawyers. Doctors didn't think they needed lawyers in those days. Maybe to set up their corporation but that was about it. What I did I think really could not be done very easily today. I think that's a manifestation of the many in which health law practice as changed.
- Dennis: You've spent your entire career as a solo practitioner.
- Alice: Well, no. I have since 1988, I've had one associate. I've never had more than one associate.
- Dennis: What perspective does that give you? What do you bring to the association with that perspective?
- Alice: I think that that's an interesting question. I think that ... because I live in a frame of reference where all of my income depends on what I'm able to generate. I don't have other partners who are cross subsidizing me with the other work that they're doing. I bring a kind of intensity, a focus to both how you distinguish yourself by being excellent, how you market, that is different from what it means to work in a firm. The mega, mega firms that now have international offices and claim they have 200 health lawyers, that just blows my mind.

- Dennis: Looking back over the past fifty years what are the major, what are the milestones in health law?
- Alice: Well, I think that the first law that I ever worked on the social security amendments of 1972 was the really first big expansion. Medicare had been enacted in '66. This was the first, "gee, now we really oughta be taking a look at what it is that we did," and expanded medicaid. That was a big change. I think that the advent of information technology and the laws that have grown up, HIPAA and the security laws and high tech act, and all of that and the subsidization of pushing the healthcare to become more electronic, I think that's been a major change and is still going on. The fraud and abuse laws are far more a driver of corporate behavior, individual executive behavior, and deal making than ever before in the history of the program, I think of any of the public programs.
- Dennis: How has the association responded? What role has it played in all of these changes?
- Alice: The best thing that it does is make information available about what these changes mean by drawing on folks who are actually actively engaged in working on those issues. One of the issues that we struggled with in the strategic plan when I was the president was were we ever going to be able to go toe to toe in terms of competition with organizations like the BNA, which is a publishing house, that then was only barely into health law and now is seriously into health law. Now it's Bloomberg BNA. What was the strength of the organization, was it first to market? We concluded then and I believe that this remains the case although it's not always reflected in the way in which information is provided. I believe that the strength of the organization lies in the depth and insight and analytic finesse that sophisticated health lawyers can bring to bear on these issues rather than first to market.
- Dennis: On the fiftieth anniversary, how would you characterize role of the association? The challenges the host concerns ...
- Alice: I think that the future of the organization should be solid. I think that the area of health law with all of the challenges that are emerging from vast consolidation in the healthcare industry, in places where I think some of the wheels are going to come off of some of that consolidation. I think that the organization is in a good position to continue to be the resource that people who self identify as health lawyers look to as a trusted place where they can find accurate valid information about what's going on and what it means.
- Dennis: What are your thoughts about the future about health law?
- Alice: The baby boomers are now the consumers of the system. That's a challenge to the people who come behind them. That's a challenge to congress as we've seen. All of these challenges mean changes in the law. All of those things are good for business when it comes to the health lawyer so I think the health lawyer's future is just fine. I used to worry with a stroke of a pen that congress could eliminate my livelihood. I gave up on that twenty-five years ago. I'm not concerned and I don't think that health lawyers need to be concerned. They need to be on the alert but I don't think they need to look at the current environment as one that spells gloom and doom. I see quite the opposite.
- Dennis: You touched on something about accuracy, truthfulness, in a time when those are things that we're discovering are not the ... something we can count on all the time.
- Alice: Yes, that would be true. I think this organization has had a reputation and has actually manifested by being apolitical, nonpartisan, not bipartisan, nonpartisan. While people might have different views on various things and they're often paneled discussions and various

meetings where political points of view get expressed. That's not the core of what the organization is about. The core of the organization is about providing educational resources to people who self identify as health lawyers to help them do what they do better. That's the essence of what the organization exists for. It's essential that that go on in a way in which the information that's made available is completely trustworthy. I think they're mechanisms of accountability that have been gradually introduced over time. I think there could be more mechanisms of accountability, frankly, put into the evaluation of the programs and the writings and the journals and all of that. Stuff doesn't get published around here just because somebody sent it in. Somebody else has to look at it. Somebody else has to evaluate it. There are checks and balances in the information even on the stuff that goes out on the daily emails that come through for whatever practice group you're in. I think that's good and important.

Dennis: That's all I have. Is there anything you want to add?

Alice: This is a fun thing.

Dennis: Well, you're awesome. You're a great interview. Man.