



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 28, 2017

Dennis Woltering (videographer) interviewing Peter Leibold:

Peter: Did you bring all this stuff up from New Orleans?

Dennis: Yeah.

Peter: Did you really? This is great.

Dennis: Well, I drove because I had all this stuff.

Peter: Oh, you drove it up? Did you really?

Dennis: Yes.

Peter: Are you doing these, are they scheduling, are you doing them all day for three days or something?

Dennis: I'm doing three a day for two days and then I've been traveling around a little bit too.

Peter: Really?

Dennis: Yeah.

Peter: That's great.

Dennis: All right. Let's start talking about you now. Tell us briefly about your background and how you got into health law in the first place.

Peter: All right. Well, my background, I started on the Hill in the late 80's and worked for Senator Jack Danforth from Missouri. He just brought young people in and he gave them whatever was there. Healthcare was there for me. Healthcare and civil rights law and actually civil rights was that reason I went there. We passed significant civil rights legislation in 1991, but I also worked on healthcare issues. When I left the Hill, I went with him to a law firm and I represented the Healthcare Liability Alliance, a group of those healthcare providers and insurers interested in malpractice reform.

From there, I went to the Catholic Health Association as their general council. Then followed that with being the CEO of the American Health Lawyers Association, so my healthcare

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experience deepened with every job that I had. I worked here for 15 years and now I'm at Ascension, which is a healthcare providers, so I am deeply into healthcare. I got in because of civil rights, but now I'm a healthcare lawyer.

Dennis: Well, in a way healthcare is a civil right, isn't it?

Peter: That's right, absolutely. That's a good point.

Dennis: Now, how did you become involved here? How did you become the CEO?

Peter: I became the CEO when I was at the Catholic Health Association, I became a member of one of the predecessor organizations. Each summer at the annual meeting, for one of the predecessors, I gave a Catholic health law update. When my predecessor, Mary Lou King announced that she was retiring, someone brought to my attention the fact that the CEO position was opening up. I knew a couple of people on the board, one of whom, Harvey Tenelbaum, used to serve on the board when I first arrived and I contacted him and asked him if he thought it would be something that I would enjoy. He agreed, thought it would be. There was a guy named Bob Johnson, who was the general counsel at the time Catholic Healthcare West. He agreed and so the two of them kind of nominated me or put me into contention for it. From there, I interviewed and got that job.

Dennis: You mentioned that this is, any great organization has a founder syndrome and then a CEO syndrome after that, someone who moves it forward. Tell me a little bit about that.

Peter: Right. Well ...

Dennis: You were the third, but ...

Peter: I was the third, right. Certainly David Greenburg was the founder. He was the entrepreneur. He understood that there was a need for an organization that represented this new kind of lawyer that was a health lawyer. Health law really came into being with the passage of Medicare and Medicaid in 1965. Then there were a group of lawyers that had kind of represented hospitals, but they did a lot of other stuff. All of a sudden, I think, with the passage of Medicare and Medicaid, there became enough work for a lawyer simply to specialize in healthcare and to do healthcare law.

David recognized that, when he was with the American Hospital Association and later when he founded his own organization. He really had great insight into that. As with a lot of organizations, my guess is what he really enjoyed was the founding of the organization and understanding that there was a need there. He put in amazing service for probably close to 20 years in founding this. Then, when Mary Lou King came in, she was terrific as well. She had budgetary issues when she first got here and was disciplined and strong in solving those budgetary issues and brought one of the predecessor organizations, really strengthened its staff and professionalized it. It became a really strong service provider. She also oversaw the merger of the two predecessor organizations.

When she had done that, I think she thought, "My work here is done. I've strengthened it. I've put it on solid financial footing and now I've brought these two groups together and so it's time for someone new." I think that was when I stepped into it.

Dennis: How would you describe your challenges, your priorities when you came in?

Peter: My greatest challenge was to meld the culture of the two predecessor organizations. One was a staff driven, professionalized organization that Mary Lou had run. The other was a member driven, sub component of the American Hospital Association without a lot of staff. They had different cultures and it was pretty apparent to me that when I interviewed, the interview committee had people from both predecessor organizations on it. It was a really large board that was in the process of shrinking. There was a need to really blend those two cultures into a single culture that would be for the benefit of health lawyers and where members could both enjoy themselves and be given really strong professionalized services.

My goal was to do that. In truth, Mary Lou had absolutely stabilized the finance of the organization, but as within any merger, the finances, the expenses had risen more than the revenues at the time. They had budgeted for a deficit in the year I got there and I hadn't really recognized it as I was interviewing for it, but it had been simply called, "We have our challenges", so there was a financial challenge right when I got here. We stabilized that. We moved it into the black in the year that I was there thanks to Wayne Miller, who works here. He's the COO and excellent financial guy. Together we put it on solid footing, but most importantly, we found a way to blend those cultures. Now there's just a single American Health Lawyers Association culture. That was the biggest challenge I had.

Dennis: Well, to start with, how would you describe that culture that emerged?

Peter: I think the culture that emerged is, recognizes member service as the primary goal of the organization. I hope people would say we are member driven and professionally served. The members, they have the expertise. They define what they need to know to be successful health lawyers. We want them in the driver's seat, but once the direction is pointed out, once the services are defined, the members then are very open to allowing staff to provide the best possible service they can.

We also, I think we, there's a sense of enjoyment and fun and the fact that this is a professional organization that people enjoy and that was emphasized to me. We have to keep that notion of professional camaraderie in the organization. I hope that members feel like they really do get a lot of fun and camaraderie, at the same time they're getting served well by a staff, toward issues and priorities that they've defined. I would say that's the culture.

Dennis: More than the blending the culture, you talk about the financial challenges. How did you overcome those financial challenges?

Peter: Well, initially we had to find new services. We had to find new sources of revenue. Lucky for us at that time was right when distance learning was beginning to emerge. We really did that through the promotion of webinars for our members because previously and still, we have a phenomenally strong in-person educational set of programs. They bring in a great deal of revenue for the organization and they provide great expertise and learning for the members, but it was not going to be enough. Our membership dues and our in-person programs were not going to be enough to financially steward the organization. We developed these sets of webinars. Those webinars really helped us, especially in the first few years and after 9/11. When people were extremely concerned about getting on airplanes and going to in-person programs, those webinars saved us that year and allowed us to continue to have net revenue and continue to add to our reserves at a time when, after 9/11, we were extremely nervous about the implications of that for our in-person programs.

I'd say we basically diversified our revenue streams. Now, I'm two years out, but membership dues is a more significant, because our membership has grown, a more significant amount of our revenue. Programs is still strong, but we're not as dependent on it, in-person programs.

Then webinar revenue provided a really strong additional revenue stream, along with very solid revenue from publications.

Dennis: Okay, hold on just a second. I just want to adjust something a little bit.

Peter: Okay.

Dennis: It's a little bit bright on top here. ... Okay. We'll make it a little bit better.

Peter: When you were reading the news, did you have lights like this all in your eyes?

Dennis: Pretty much.

Peter: Oh my gosh.

Dennis: You get used to that. I want to continue with that aspect of when you were talking about and that is a little bit better, it was good before, but it's just a little stronger. You brought in sponsorship, right? Wasn't that something? Tell me about that.

Peter: I did. Absolutely. No, no, no. Really Dick Cowart, who's with Baker Donelson down in Nashville, gets the credit for that. I'm glad you raised that. That, around 2002, 2003, again we needed additional revenue sources because we were growing a professionalized staff and we needed additional revenue sources. Dick Cowart, who ultimately became the president and I don't know if he was chair of the finance committee, he's a very savvy guy on transactions and financial issues. He said, "You guys do a lot of events, but I don't see any, there's no sponsorship. Any other meeting I go to, you see sponsors that are promoting some of the services that you're giving. Why aren't you doing that?" A light bulb went off in my head like, "Oh my gosh, he's right. We need to develop that."

He not only made the suggestion, he got us our first couple of sponsors because he knew it. We rely on our members for those connections because our sponsors are those that provide services to help lawyers. Our connections with them, again, come through our members. I feel like it's a hallmark of AHLA that member and staff collaboration results in the organization being more effective and being more successful. That was a perfect example of member and staff collaboration and Dick really was the idea person behind it, got us our first couple of sponsors. We then pivoted and now we have staff that works on sponsorship, but she works specifically with members to try to create the relationships that will advantage both our members, the sponsor and the organization.

Valerie Eschelman is the staff member. She does a great job on it, but Dick Cowart and others, once Dick had suggested it, other members made the connections for us that created the sponsorships that, you're right, are a great solid revenue stream for the organization that has really emerged in 2002 and continued and grown incrementally since then. You could really say the margins of the organization, they had a strong basis on membership and in-person programs, but all of the growth that we've needed, over those several years, as come from sponsorship, webinars and some additional services that we've provided.

Dennis: No longer surviving on a shoe string?

Peter: Right.

Dennis: Pretty much in good financial shape.

- Peter: It's in strong financial shape. We have to continue to develop the services that our members need. I'm sure that that remains an issue for David Cade. Yes, with the help of members, we developed revenue streams so that we had a little margin to work with.
- Dennis: You recognized the need for a reserve fund, right?
- Peter: Yes, very much so. That reserve fund grew. When I arrived, I think it was below 50% of one year's annual revenue and the goal, I think although there's always a debate on the board, I think the goal for a good solid non-profit organization is to have between a year and a year and a half's expense, actually I said revenue, expenses as reserves, so that if you have a 9/11. Luckily that year because of the development of webinars, we didn't have to dip into our reserves, but it was very important that we have reserves in case you have a 9/11 or you have something that really could threaten your revenue sources. You need that base of expenses so that you can continue to provide services and have the wherewithal to pivot and find the additional revenue streams that you may need to go into the future.
- Dennis: I want to ask you about 9/11. I was going to do that in a moment, but maybe I should do it right now. You faced a series of challenges. I guess 9/11 was the first big one, right?
- Peter: Right.
- Dennis: Tell us about that. What happened?
- Peter: 9/11, it was, it was a terrible ... I'm sure everyone remembers where they were on 9/11. I was at a conference with Alice Gosfield, who's a past president of our organization, a Philadelphian. We were both speaking at a conference in Kansas City. 9/11 happened and she and I both took a bus back from Kansas City to, it took me to the outskirts of Washington. It took her to Philadelphia on the way to New York.
- After 9/11, there was a serious issue with people getting on planes to go to educational programs. We had a fraud and abuse program scheduled two weeks after 9/11 in Washington, D.C. I remember meeting with Doug Hastings at the time and others that were on our board and saying, "What do we do? Should we cancel it?" I've always loved the fact that they were like, "No way are we canceling it. That is exactly what terrorists would want us to do." We held this meeting at the Downtown Hilton at Dupont Circle here in D.C. When you walked into the hotel, there was exactly one person behind the desk because nobody was staying at the hotel. There were so few guests that they ... but every staff member looked at us with gratitude, like, "Thank you for holding this program. Thank you for continuing on as you should."
- Members came, not as many as had signed up, but members came. I think we had a strong program. It didn't make money that year. In the weeks after that, we had to strategize, "What do we do if the rest of our programs suffer from the same lack of attendance that this one did?" They did, but they gradually picked up. Throughout that year, by the spring, we were at strong attendance again. It was in that time and Doug was absolutely committed to it. He was like, "Ramp up these webinars." They were really new at the time. It was a new thing to get on the phone and have someone talk to you about a health law issue. It was great. He just, he might have been chair of the finance committee at the time. He just said, "Pivot to that. Go to that. Ramp them up. Let's just start giving our members webinars if they're not going to get on planes to come to our in-person programs."
- Just miraculously that year, we had net revenue. I did not think we would. I thought ... but that's why you need a reserve. In case we didn't, we could have dipped into the reserve. We didn't have to, but that was through a ton of effort by this staff, by board members, everybody was

out looking out for the organization to make sure that we wouldn't have a failing financial year. Obviously, it was a terrible moment for the country, for tons of businesses throughout the organization, but our members rallied to us, when we needed them after 9/11. It just, I think, shows the resilience of the organization and of its members.

Dennis: Tell me a little bit about the webinars. Members paid you to take part?

Peter: Members would pay and they still do, but now everyone's doing webinars.

Dennis: Say it again because I stepped on you a little bit.

Peter: Oh, that's all right. Members, for webinars, members pay an admission fee that's a lot less than going to a program. It's a lot less than getting on a plane, getting a hotel room. They can access the webinar and you have members that talk about a specific issue. You might have facilitators on the webinar. The facilitator then facilitates questions and answers after someone has done their presentation. The cost is a lot less than going to an in-person program. It's not the same experience. I love our in-person programs. We want all of our members to go to our in-person programs, but webinars are a good way to supplement that. The provision of CLE credits, Continuing Legal Education credits really helps to make webinars successful.

Back then, 2001, we didn't have CLE credits for webinars, they were so new. Now we do and they're a way that members can continue to get those CLE credits and continue adult education about issues that are important to them. AHLA survives on a really strong balance of in-person programs, webinars, membership dues and publications. Webinars are a good way for a members to get education.

Dennis: 2008, you faced another big challenge, the great recession.

Peter: Right. That was another big, a big financial challenge. 2008 and 2009 was a recession that hit lawyers harder than most. I don't know how many people know that, but when you looked at the numbers of lawyers that were let go from law firms and the number of new health lawyers, just coming out of law schools, that were not hired, that were deferred, law firms simply stopped hiring.

In many ways, the law firm economy is a lot like the healthcare economy. You're paying a lawyer a significant amount of money, per hour, and their work is then judged on the number of hours that they provide. It's very much like a volume based healthcare driven system. It's one that does need examination. I think it forced a lot of law firms to exam at the time. The slow down in business and in transactions simply didn't allow lawyers to be paid as much as they were and to have as many to work on issues.

Now I will say and I made the point then and I still believe it, health law maintains its strength through recessions because it's regulatory based. There continues to be a lot of regulatory work, as healthcare organizations do their business. Transactions slow down. Mergers and acquisitions slow down, but the regulatory work, the bread and butter of health lawyers continues. I would go out to law students and say, "You might look towards health law." It's not as cyclical. It doesn't have the highs that mergers and acquisitions has, but it doesn't have the lows during a recession. We did okay, but our members, they stopped hiring health lawyers too. It slowed down throughout the entire legal community.

I think we survived it well, but that was another tough financial year for us. Our membership dipped. Now, it's expanded a lot since then, but it dipped for a while, in that period and we had to, again, be nimble. That's a good thing about the organization. Having a diverse set of revenue

sources allows you to be nimble and to rely on some one year, rely on some another year to try to take into account the environmental factors that impact you.

Dennis: Okay. You survived by just diversifying your financial portfolio basically?

Peter: Right. Exactly. Every good non-profit, when they need to, can tighten their belt. We reduced expenses and you have to be able to do that, in order to survive. Yes, we diversified our revenue sources. We make greater claims on one revenue source over another, but in tough times, and we did it in 2001, I neglected to mention that. In 2001, we tightened our belts and we did the same thing in 2008 and 2009. You have to have the ability to come together as a staff and figure out, "How can we economize?" Basically, "How can we be more efficient, spend less for the period of the downturn", and then you can expand again.

Dennis: Okay. I'm told the public interest department came about and produced material for the public about key health issues during your time.

Peter: Right.

Dennis: Disaster preparedness, death and dying. Tell us about that.

Peter: Right. Now that is a key feature of the organization and we have many members who are absolutely dedicated to it. The goal of our public interest section is to provide insight and analysis on issues that are within health lawyers' specific area of expertise, but serve the public. One that you mentioned that I have always been very proud of is what we've done on issues, healthcare legal issues related to those near the end of their life.

Elizabeth Belmont is a past president of ours. She had issues, as we all do, with our parents and those loved ones when she had to look for long term care for her mom. She talked to me about something called the chandelier effect, when you walk into a nursing home and it just looks great, but that's all you know about it. You just kind of get that impression of what it looks like and you don't really have a checklist or an analysis of, "Does this really provide quality care or am I being fooled by the chandelier effect?"

I remember talking to her on the phone. I think I was in the car and I said, "You know this stuff now. You have this experience. You should write about this and we could do it as a public interest. We could, because that will benefit so many people." Elizabeth is amazing at checklists. She understands the questions you have to ask to determine if you can get quality care. That was a public interest project we were very proud of, that Elizabeth helped to write. We then, in the public interest, then distribute those for free.

That's a way we give back to the community and we've done it in many different areas, as you mentioned. Those, I think the organization and its members can be rightfully proud of the way that we have selected to give back. We use our members' expertise, that very few people in the public have, to then generate checklist questions analysis that the public can ask. When you think about that, some of our members take risks because they're using experiences they've gained representing clients, defending those clients. When you're in an organization or representing a client, you also see issues that if the public knew more about, they would ask better questions about. It's a balancing act that our members have done and they've produced incredibly good, insightful analysis for members of the public to ask on issues that are really important to them.

Dennis: Did you produce a video?

Peter: We have. We did. We produced a video with respect to the issues related to those nearing the end of their life. That video, I think, was very helpful, similar to the video I think that you're creating now, should be helpful to and was helpful to our members walking them through how to have conversations with loved ones about issues related to the end of life. That's something that I think no human being is born good at because you don't want to contemplate the issues that will occur around the end of life. Parents don't want to face it. Kids don't want to raise it.

This was a video that provided just an example of how to have those really important conversations with loved ones about advanced directives, about trying to have everything in place for the generation that comes after you and how to really be sensitive in having the discussions that matter most. Yeah, we did a video. Kerry Hoggard was great at making the preparations for that video, recruiting in members of ours that acted in it. I think the staff did a great job of organizing it and members volunteered their time in the video and did a great job for our members and for the public to learn about it.

Dennis: Can you tell us about any fun stories, any hard time stories, any stories that come to mind that you tell friends about during my time at the American Health Lawyers Association, this and that happened?

Peter: Right. Yeah. There are so many stories. One story I tell that and I'm not sure why I started this tradition, but I had a tradition at roasting the president after every year of their presidency. I just started it as a whim my first year here. Then it became the tradition that I had to do it every year. It was a struggle because you had to balance. You were kind of, you were poking a little fun, but it was all in the right spirit. There was this balance and I would kind of sweat it out like, "All right, what's the right combination of humor, but it can't be mean. It's got to be, it's a caring thing." I always enjoyed doing those. I think the members that got roasted enjoyed it.

It was a travail every spring to draft it, but I loved. To me, even though I always regretted starting it because once I started it, I couldn't end it, but to me, it really was an effort to capture this new culture. We could poke a little at each other. It was light. There was a lightness about being a member of the American Health Lawyers Association. It wasn't always serious business that, where the weight of the world was on people's shoulders and that was the balance that I think people were looking for. We were giving serious information about serious issues and trying to be the best educators we could, but with a light spirit. I think that the roasts were kind of representative of that light spirit and hopefully they then bled into the introductions that people had before programs.

The whole notion was this is a convivial, congenial place to be, where we put aside our competitive instincts and natures and we really try to support each other in a light way. I always enjoyed that.

Dennis: I want to get your take on health law and how it has evolved to where we are today.

Peter: Well, health law and that's why I think for all those law students that are out there, health law will continue to be a source of great legal work for lawyers for years to come because it's regulatory based. It's statutory based and then there are thousands of pages of regulation that go along with those statutes. They make the issues complex, for better and worse. It's a complex area to negotiate. Whenever you have complexity in our modern society, you need lawyers to interpret that complexity, to help you through. Whether they're transactions or the provision of services or efforts at risk mitigation, you are going to need lawyers to do that. What I love about health law, and again, I think most health lawyers will tell you this and certainly law students should be aware of it, you're doing complex legal work for an end that is good, that is ...

Health law is an area where you can really feel good about the ends for which you're working. I think it attracts a certain lawyer. The lawyer that wants to do the big deal, that wants to do the merger that changes an industry may go to one area of the law. A lawyer that wants to do legal work that actually benefits vulnerable people every day is generally attracted to health law. That, to me, is why a lot of people go into it, but the complexity of the areas means that you're going to be intellectually challenged every day. It's that combination that I think draws really good, well intentioned people that want their work to really affect patients. It's a great area to work in.

Dennis: How do you see the future?

Peter: I think the future is much the same for health lawyers. We're having this interview and last Friday the Republican effort to repeal and replace the Affordable Care Act failed. I think statutorily, legislatively, we're going to have a little respite, but the fact is that there are significant issues with the Affordable Care Act. The complaints are not random. There are fewer insurers that are coming in exchanges for those buying insurance on the individual market. There are rising prices in those individual insurance markets, so that people are having to pay more for less choice. That's an issue that's not going away.

There will be legislation in this area and hopefully at some point in the near future, it'll be bipartisan legislation to improve our healthcare system. I was just thinking about this, we need to ban the word Obamacare. We need to ban the work Trumpcare and we need to ban, repeal and replace. What we need is just a group of well intentioned legislators, who get together to improve the healthcare system that they're faced with, regardless of what it's called. Ultimately they're going to have to do that because there are failures in the system now that need to be repaired.

For health lawyers, I think there's going to continue to be a steady diet of work, but hopefully for the health system, we'll move to one where, for health lawyers, the work is generated because the system exists based on volume to one where the system thrives based on value and that we have strong insurance marketplaces, both for employers and for individuals and that we have a reasonable Medicaid program for those who are poor and disadvantaged and that we have to safety net for those who simply can't afford what is admittedly the high cost of healthcare.

Dennis: Looking back on your time as CEO, what would you consider your greatest accomplishment?

Peter: I hope it's the culture issue, I hope that people think that I succeeded in bringing together two predecessor organizations and developed a culture, which was member first, professionally supported, but member driven and that was congenial and convivial, but also very purposeful in the high quality education that our members provided for their colleagues. If people think that the culture was a good one, that we were financially, but that's not what drove us and that we provided really strong quality services for members, then I'm good with that as what I left behind.

Dennis: On the 50th anniversary, where do you see this organization?

Peter: On the 50th anniversary, I hope that we have realized the vision of the founder, David J. Greenburg, that his ingenious creativity in seeing that there was a niche for the health lawyers that were emerging in the 1960's has to come to fruition with a vibrant, strong community of individuals that practice in the area of health law and that he would smile and be proud of what he had created and that he thinks that his successors, Mary Lou, me, David Cade, all of the staff here, have been good stewards of the idea that he germinated and brought to life.

Dennis: All right. Thank you very much. Anything you'd like to add?

Peter: No, I just am very, I'm very excited that AHLA is doing this video in honoring those health lawyers that really began this profession and I think it's a great project.

Dennis: Okay. All right. Thank you. Hold on just a second.