

JACK'S TELESCOPE – A TRIBUTE TO JACK KNOX



By Raja Sekaran,
Nossaman LLP



Jack Knox

Editors' Note: We are grateful to Raja Sekaran, partner at Nossaman and former CSHA President, for compiling these tributes to Jack Knox from his colleagues at Nossaman. Jack touched many lives, as the following memories will illustrate.

In 1995, I was the junior-most lawyer in the San Francisco office of Nossaman, Guthner, Knox and Elliott. There was one *name-partner* in the office – Jack Knox. Nossaman was growing and we ran out of office space. In her inimitable egalitarian style, the office manager asked Jack to share his large office with me. Without hesitation, Jack agreed and was always cheerful when he encountered me in his office with my stacks of legal research, Knox-Keene application exhibits and half-eaten snacks. His telescope and the panoramic view that included Alcatraz, Coit Tower and the Bay were a frequent distraction. His generosity of spirit and kindness only amplified my awe at his accomplishments and skill as a lawyer and legislator in California, which has led the country in healthcare regulation as it has in so many other fields.

In 1996, I left Nossaman for twenty-one years to pursue my career in academia, government, and in-house legal departments. This spring, I returned to Nossaman. The week before my return, Jack Knox passed away at the age of 92.

What followed was an abundance of testimonials, tributes and remembrances of Jack. A common theme was his generosity that I note above – but also his wisdom and contribution to law and policy in California, including health law. I would like to recognize some of those contributions here.

In 1965, Jack co-authored the Knox-Mills Health Plan Act to provide basic regulation for early managed care entities,

housed in the Attorney General's office. After a stunning run of other legislative accomplishments (including the seminal Corporate Securities Act and the California Environmental Quality Act), Jack returned to health care regulation in the mid-1970s. A federal HMO Act had been enacted during the Nixon administration, but it was voluntary and there were scandals in Governor Reagan's Medi-Cal Prepaid Health Plan program, mostly in Los Angeles. Lawmakers and the then-emerging legitimate HMOs desired a better regulatory regime.

Jack worked with Kaiser and the Ross-Loos Medical Group to craft a serious regulatory program for the regulation of HMOs. This was the first (and remains one of the very few) state regulatory regimes dedicated to HMOs, separate from the Department of Insurance. This was intentional on Jack's part given the fears that the dominant insurance industry, which had enormous sway over the Department in those days, would stifle the growth of HMOs. So Jack looked for another home for this nascent department. There was the Department of Health, but it was compromised by the Prepaid Health Plan scandals. There was the Attorney General's office, but it may not have afforded the room to grow to the scope Jack envisioned.

So Jack settled on the Department of Corporations (DOC), which he viewed as regulating fiduciary relationships, which prepaid healthcare essentially is, i.e., groups or individuals paying money up front in return for predictable quality services down the road, if and when needed. Here it remained for many years, until it moved into its own department, the Department of Managed Health Care, the only one of its kind in the country.

In 1975, the Knox-Keene Health Care Service Plan Act was enacted, providing for the licensure of health care services plans (HCSPs), commonly called HMOs today. Its key features include mandatory basic health care services, financial stabilizing mechanisms, the availability and accessibility of competent providers, prior review and approval of provider contracts and materials, sound administrative organization, and full consumer disclosure and grievance procedures. Initially, the HCSPs were not-for-profit and accessed federal grants, but those came to be discontinued. The established and emerging plans needed capital. Jack authored legislation to allow for-profit HMOs, leading most to make the conversion during the 1980s and 1990s. As a lawyer at Nossaman, Jack participated in the regulatory process for some such conversions.

Jack properly identified the *fiduciary* nature of prepaid managed care and that informed and infused its vigorous growth here. Where “HMO” is a bad word elsewhere, not so here in California, because of the brilliantly crafted charter Jack created in 1975 – a well-regulated, consumer-protection-oriented industry that works closely with its regulator, the Department of Managed Health Care, the sole HMO-only regulator in the country. Elsewhere the agencies oversee both insurance and HMOs together, which has proven, as Jack so presciently understood in 1975, to keep managed care down and denigrated. Here they thrive and provide a quality public good, as he intended.

At his memorial service in Miller Knox Regional Park in Richmond, there were commemorative speeches from several dignitaries and former legislators – both Republicans and Democrats. This reflected the recurring theme in remembering Jack, i.e., bringing together people of disparate

philosophies and backgrounds to effect positive change where possible. One speaker said of Jack, “it wasn’t across the aisle, there was no aisle.” Former Republican Assembly Member and U.C. Regent, Bill Bagley, exhorted the gathering to do what they can to *reinfuse* political discourse with this spirit of collaboration. In our current climate, this element of Jack’s legacy is all-important.

Jack also left behind a legacy of leadership in healthcare and beyond. At his memorial service, Willie Brown (former Assembly Speaker and Mayor of San Francisco) recounted being a freshman Assembly member in 1965. Jack approached him, invited him onto his committee (the Local Government Committee), mentored him, and later nominated him for the Speakership itself. They shared a courageous yet politically perilous willingness to stand up to the Assembly’s powerful speaker, Jesse “Big Daddy” Unruh. They survived and if their record of service is any measure, they prevailed.

As also recounted at the memorial service, Jack himself was mentored by the mid-century progressive leader, State Senator George Miller, Jr., after whose death Jack went on to politically mentor his son, George Miller III. The latter, recently retired from the U.S. Congress, was one of the principal architects of the Affordable Care Act. Regardless of where one falls on the political spectrum, the policy impact of this lineage cannot be denied.

As 21st century health care lawyers, the product of his legislative career many of us encounter, directly or indirectly, is the Knox-Keene Health Care Service Plan Act. What Jack enabled in 1975 has burgeoned into a trillion dollar sector, covering 85% of persons with health care coverage with high rates of satisfaction. California has the highest market penetration of managed care

of any state in the country, with diverse choices in a cost-containing, quality-stimulating competitive environment. A thriving essential service sector, with a satisfied public and a willing, collaborating regulated industry, is a legacy of distinction.

I would be remiss not to mention Jack’s contributions to California in many fields and sectors beyond healthcare. His contributions to California’s infrastructure alone would suffice for a life’s work, including his advocacy to enable local sales taxes for infrastructure financing. (*Los Angeles County Transportation Comm’n. v. Richmond* (1982) 31 Cal.3d 197.) There are now over twenty self-help counties building roads.

As if healthcare and infrastructure were not enough, there was the revision of the Corporations Code, modernization of California’s land use laws, and protection of California’s environment, including the creation of the Bay Conservation & Development Commission for his beloved San Francisco Bay. Jack was critical to establishing a legal infrastructure that allowed the state to preserve its natural resources while becoming the sixth largest economy in the world, and the most diverse and progressive state in the nation.

Upon my return to Nossaman’s offices this spring, I went looking for Jack’s telescope. It’s still there. Yet twenty-one years on, it’s more interesting to me now as a symbol, even though it’s still a fine instrument for spying ships on the Bay. Should you find yourself in the Bay Area, driving on Interstate 580 toward the Richmond-San Rafael Bridge on the John T. Knox Freeway past the Miller-Knox Regional Shoreline, think of the man, the lawyer, and the legislator and our good fortune in his public service and his faith in good government.