

**Ep #3: The Business of Medicine & Success Factors
for Doctors Working with Lawyers with attorney
Michael Byrd**



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With Your Host

David Mandell, JD, MBA

Wealth Planning for the Modern Physician with David Mandell, JD, MBA

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David Mandell: Hello, and welcome to this episode of the Wealth Planning for the Modern Physician Podcast. I'm your host David Mandell. And I'm very excited about our guest today, Attorney Michael Byrd. I'm going to tell you about him. He and I have known each other for a number of years now. I've seen him speak alongside me at a lot of conferences. That's how we initially connected. And since then, we have done a bunch of work together, written in the same book together that came out in a particular specialty. We have referred some clients, and I really got to know he and his partner, Brad Adatto, who we also will have on later.

Let me tell you, folks, a little bit about Michael and then we'll get into it. Michael S. Byrd is a partner in the Law Firm of ByrdAdatto, a national business and healthcare boutique law firm with offices in Dallas and Chicago. I've been down to their Dallas office and met all their other attorneys and staff down there, a great place. As the son of a doctor and entrepreneur, Michael has a personal connection to both business and medicine. He has blended these life experiences to become a leading advocate for doctors and dentists throughout the United States. He routinely lectures at academic institutions, hospitals, and continuing education seminars on the various business and legal issues in that professional space.

He's been named to the Texas Rising Stars and Texas Super Lawyers published by Thomson Reuters for

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multiple years. Top-rated lawyer by the Dallas Morning News. And he's been recognized as the best lawyer in Dallas in healthcare by D Magazine. With all of that, let me welcome, Michael. Welcome to the podcast.

Michael Byrd: Thank you. I appreciate you having me on.

David Mandell: Yes. And I'm glad that you were able to make it. Tell me, I mentioned it in your bio here, but give us a little background about where you grew up, what made you become an attorney, and then how you got into the area of assisting physicians?

Michael Byrd: Sure. In my early years, I was born when my dad was in medical school. I was born on Galveston Island in Texas, where my dad was in medical school. My early years were me traveling, following him during his training around the country. And then we landed in Dallas when I was in second grade and pretty much have lived my whole life in Dallas. I went to college at the University of Texas in Austin, and then off to law school at Texas Tech. But right out of Texas Tech, I had a job downtown with a big firm right out of law school and I've been here ever since.

How did I become an attorney? I wish I had some inspiring story behind it, but I was a business major, Dave, at UT, and so I was dead set on going that route and was pursuing a job actually with Dell computers, which was founded by Michael Dell, went to UT, has kind of a big story. In Austin, especially in the early '90s, it was a really big deal. It was kind of the sought-after job. And kind of in the background, my dad was pushing me to go

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to law school. And my senior year, I got down to the final two for a job at Dell in their finance department, and I did not get it. And I was really bummed. I thought I had everything mapped out in my mind. I was going to live in Austin. It was going to be great.

When that happened, it turned out to be one of the biggest blessings for my life. Because as I was asking myself what am I going to do, I just kept remembering that my dad was pushing me for law school. And so I started looking at it and decided that I would go to law school, even if I didn't practice law, that it would be a valuable degree to have if I went into business. And little did I know that I would love being a lawyer and that I would have my own business one day.

That's kind of how I decided to become an attorney. I realized pretty quickly in law school that one of my gifts is in this area, that it just all makes sense to me. And I've loved it every step of the way. And then it's not too far from my dad's advice as to how I started representing physicians because, in the mid-'90s, this was the peak of the old "doctors hate lawyers" era. Doctors got sued. There was no tort reform. And so, me being a young lawyer who knew nothing, I had one advantage and that was that I was considered 'one of them,' at least by the small group of my dad and his friends. And so when I was working at a big firm at the beginning, my dad and his colleagues who all happen to be really famous surgeons around the country would hire me for pet projects only because they trusted me that I wasn't going to screw them around.

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And so, I started realizing that there was tremendous opportunity not just in healthcare law, but in really focusing on the physician side, the provider side. And so I started learning it and kind of learning it on the job. There weren't a lot of other attorneys out there that I could learn from, but there was a few who were kind of in healthcare that would help mentor. And that was kind of how my direction was set in focusing on doctors. And this was just in the first few years of practicing in the mid-'90s.

David Mandell: Right. I know you've told that story to me and it is a compelling one and it's not too dissimilar from my story in terms of law school, coming from a family of physicians. But my father was certainly encouraging me to go to law school maybe because I argued with him and my mother growing up. I'm not sure why. And then ending up working with physicians almost exclusively in my career, we have that commonality. And one of the things you mentioned that I think is crucial really in any area of finance, and as people listen, or any area of business, finance, law is the trust element. You've got to trust your advisor. And how you get there may be, in your case, at least initially, it was through family connections. How we get a lot of it today is just us being out there and speaking and writing.

So before people can even engage us, they've heard us, they've read what we write, and they understand where we're coming from. And then also the credibility. I think of having in both of our cases, certainly hundreds or thousands of physicians who have worked with us. But at the end of the day, you've got to build that over time with clients. And then hopefully, that turns into a long-term client because they have built that with you. So I think

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that's a crucial element. And then, it's the same thing on the other side, if I'm going to a physician, I mean, I want to trust their judgment and that doesn't happen the first time. Although, you want to try to get a sense of their background, their training beforehand.

So I want to ask a question related to of the entrepreneurial area, entrepreneurial wisdom, or lessons learned. So you left a large firm and spun off your own firm with Brad. Tell us a little bit about that -- when it happened, what the inspiration was. But then also, what lessons would you impart to the physicians listening to this -- probably very few are going to become lawyers, but they may want to get involved in entrepreneurial activities, whatever that is. And so any lesson from spinning out and doing your own business and what you took away and still take away from that today?

Michael Byrd: Absolutely. In 1998, I left my downtown firm to go to a firm that had 13 lawyers. I grew up in that firm and was involved in building it. Brad joined after Hurricane Katrina. And we started not only building our team, our healthcare practice and representing physicians and dentists, but we were involved in upper management at the firm, and it was really fulfilling to grow and build. What it didn't do was capture the entrepreneurial spirit that goes with taking a risk and building something from scratch. And so we realized there was something there all along because we're representing clients who are doing this all day long, they're starting businesses, they're selling businesses, they're bringing on partners. And I actually think that was part of how we connected so well with them is because they could see and experience our passion for what they

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were doing and we were truly in it with them and wanting it for them.

And it came to a point in 2014, actually, that we were just examining what's the future of our practice. We had a lot of traction nationally with our group, with our speaking. Dave, I know you've heard us say this before, where we're realizing that we are truly entrepreneurs trapped in a lawyer's body. And so we wanted to take that step. And I tell you, the only thing I thought of after we did it with both the ups and the downs of going through that experience is why we didn't do it sooner because it is so amazing. And we learned a lot. We learned a lot by living it. So we found that we had a different perspective as we were guiding our clients by actually having gone through it.

Now, again, we were in the upper management of our other firm, but it had a solid foundation even before we got into upper management. So there wasn't the same appreciation for the level of risk and decisions you're making when you're building something or it is your own creation. And so we did learn a lot. You asked for some wisdom of that process that may be different and something helpful for physicians who are thinking about starting their own. And one of the things we did, we did a few things right at the beginning. One of the things we did is we surrounded ourselves with a team of professionals to guide us, and so we outsourced. That was our big theme was outsourcing at the beginning.

Because we wanted to keep our overhead low in terms of payroll, and so we had outsourced accounting,

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outsourced HR, outsourced technology, outsourced marketing. And so we had access to these different departments of other firms that specialized in this that helped us stay competitive with the larger firms that truly had in-house departments for their own marketing, and accounting, et cetera. So, it really made a difference early on for us to be able to run a business like we thought it needed to be run, yet an outsourced marketing contract was significantly less expensive than hiring a full-time employee to handle that and you got more for it because you didn't have just a single point of contact as an employee, you had an entire department.

David Mandell: I want to dive into that or just comment on that for a second because I think that is a really savvy and applicable lesson. I mean, even OJM Group, to the extent we've grown so much, we do, and we've had in-house, as an example, attorney who was our compliance officer, but now we use a law firm and their subsidiary compliance firm to be our chief compliance officer. And it's less expensive than having someone full-time and you get the benefit that they're doing this for a hundred other firms. So they're total experts in what they do. But our firm isn't... I mean, we certainly had it and we could justify a full-time person there doing it, but it's actually less expensive and I would argue actually better compliance to outsource that. So I still think about that every day in terms of what's our highest and best use, where can we add the most value?

Because especially technology, and even in COVID, people are realizing how much you can do effectively remotely or outsourcing, et cetera. Again, in a day to day

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medical practice, that may not apply as much, although, to things like billing, coding, it can. I mean, the question for a lot of physicians, small practices, do we have someone in-house to do that or do we outsource it, right? And to the extent of practices, folks who are listening are in the aesthetic space, same thing, are they going to have somebody who does their website or their social media, or they're going to outsource it? So I think these are things that are practical even for many physicians today and certainly if they get into the entrepreneurial area that they could use.

I want to shift a little bit from the entrepreneurial piece to the “you as an attorney” piece. For all the physicians listening, where do you see physicians going wrong? I'll put this in the negative and then in the positive, okay? Where do you see them going wrong in the way that they work with attorneys, and from a positive point of view and I think this is really key for people to hear, what are some success factors that any doctor should know if they're going to find and work with an attorney on a business or financial matter? And as you're answering that, first start with, what are the areas you guys help doctors with? Because I think that'll be helpful, and then get into those the two angles of the same question, what are successful ways that docs can work with attorneys and where do you see people messing that up?

Michael Byrd: So broadly, ByrdAdatto, which is our current firm, we help with the business side of medicine. And so what that means specifically, any small business or any business for that matter has a host of business law issues that it has to navigate. So you're talking corporate structure,

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contracts, employment, starting a business, raising capital, buying and selling a business, those are all things we do. However, we now talk about healthcare, and the world's changing particularly over the last decade in the business of medicine, and it's now a compliance culture. And so this is where we shine. And so we can do all those things. And know that there's a ton of regulations out there for the business of medicine and enforcement has become real on the provider side in the last 10 years. And so it's important to understand what are the rules of the game beyond the normal business things that you do. So how do you raise capital in a regulated industry like healthcare, or how do you do contracts that are compliant? And understand that many of these laws that are out there can lead to loss of license, even jail time.

And so in essence, we handle traditional business law issues. We have 25% of our clients are not in healthcare. But for the other 75% and certainly, for the audience, we do this while navigating this myriad of healthcare regulations. And so kind of shifting to your question, Dave, about where do we see physicians going wrong and kind of what are some success factors, I can kind of start it like this, doctors are not good about going to the doctor, right?

David Mandell: They're not.

Michael Byrd: They're not good about going to their lawyer either. And I understand it. I mean, we know that, and you and I know from speaking, that their training and education is focused on learning their craft, on treating patients and whatever specialty they end up specializing in. And so they don't

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know the how and the when to engage legal advice. And so they don't know much about the business of medicine, much less this compliance culture that they're living in now. And so they end up calling their lawyer when they have a problem. Usually, if you use the going to the doctor analogy, they're pretty sick when they call and so there's usually a pretty big problem by the time they perceive that they have a problem.

And so, Brad talks about this, you may have heard him, Brad Adatto, my partner talks about the 5/50 rule. And he talks to doctors and he says, "Look, you can pay me \$5 on the front end to get things set up right or to address an issue on the front end or pay me \$50 on the backend to clean it up when there's a problem. And so what we find is a lot of times the first time we get calls from new doctors is they're in the middle of one of those \$50 problems. And, as you and I both know, there's no such thing as a \$50 problem.

David Mandell: Yeah, we can add a couple zeros to those examples, but the point is the scale and I get it.

Michael Byrd: And so kind of flipping that on its head to think of it in a positive way, the doctors who are successful in this compliance culture use us on a more proactive basis and understand that again, they, as a small business, they can't have an in-house attorney much less an in-house legal department, and so we serve that role. And, we have an office in Dallas and Chicago, we have 13 lawyers, and so we collectively have over a hundred years of experience of seeing just about every variation of the different types of issues that'll happen. And so we've

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found that those who embrace this idea of living in a compliance culture and understand that's not their best time spent is to be doing that and figuring out on their own, that they're really successful and they are, staying out of high-risk situations.

David Mandell: You know what's interesting, I was just thinking about this is I think physicians look at oftentimes, unfortunately, an attorney differently than they look at their accountant, right? Most physicians I talk to have a CPA and they may not say they give them great tax advice or any tax advice, but at least they've got a relationship that's ongoing and it's kind of forced on them because they have to prepare tax returns, right? So they're not just calling the accountant where there's a tax problem, right? They're actually working with them on an ongoing basis to provide the documents either for their practice or personally or both. But like you said, I think a lot of times with the lawyer, and I can say this as an asset protection attorney, I got too many calls, "Hey, I read your book. I saw your article. I think I might have a problem. I had a bad event, now I want to work with you." That's not even a 5/50 problem. That's a "I can't help you problem."

There are certain things I can't do that I could have done really well and really helped the client prior to them having an issue. But once there's a foreseeable or actual issue, it puts them in a bad position and me in a bad position to actually be able to do some things. It doesn't mean we're always paralyzed, but there's a big difference in timing between being proactive and reactive in the area of asset protection planning. And I think that goes all the way across the board to every area, right?

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So I want you to comment a little bit on, before we get to our last question, is one of the things that really impressed me about you folks when I first met you and realized you were different from every other lawyer that I interact with (and there's a lot of good ones and we'll have them on this podcast also) is the way your business model and how you're able to actually charge clients in a way that is an alliance with that kind of approach. So tell us a little bit in a couple of minutes about that, how it evolved, and what it is.

Michael Byrd: Yeah. So again, the entrepreneurial side of things when we started our own firm, there was several things that we'd been passionate about for years that we got to see, start to experiment with. One of which is I think the law firm billing model is broken. The hourly billing system does not create alignment with clients. We've all experienced getting that surprise bill in the mail. I've experienced it when we've hired lawyers before. And, of course, on the other side at my prior firm, experienced when we would send a bill out and you'd have an unhappy client who had different expectations than the bill they received, and we wanted to build a model that would create alignment and create an environment for them to proactively reach out as we just talked about. And so in 2017, we created what's now called our Access+ subscription model.

And really the idea, Dave, behind that is that a client pays us a monthly fee and with that, they can send us emails, they can set up phone calls, and it's all covered as part of their plan. And so, when they see a potential issue, they call us and we can talk about it and steer them in the right

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direction. And then there's other benefits that go with our plan. We have a portal that has exclusive content. And then finally, we have, depending on which plan our clients are on, there's a certain number of projects that go with it for the actual project work that comes out of it. And it's been amazing. We didn't build it thinking that it would become the primary system for billing that we would use here. We wanted to create another option.

The reality is, is just in a few short years, it's 75% of our client base is now in Access+ and it's been wildly popular. And what's crazy, Dave is that when the pandemic hit, we wondered, this was going to be a true test to this model, and we wondered what would happen and it ended up more than validating it. We inadvertently solved a problem that we didn't know we were solving because, in this world of chaos that happened with the pandemic, with potential closures and all that stuff, the one item of certainty they had was the set monthly fee that they had to pay us when, of course, they needed us to guide them through all the different things that were happening.

David Mandell: Well, I think the genius of that approach is that it exactly encourages people to make a contact beforehand. Meaning what keeps people from, even if they think they might be an issue, I think it'll go away, is not calling the attorney because they don't want a bill, right? That's what keeps them from, "Oh, now I'm on the clock" and this and that. "Oh, that thing will probably go away or maybe it's not that big a deal." Whereas if they knew it was part of something that was already part of their overhead, their continuing business expense, and they say, "There's an issue here. I might as well run it by Michael and get him

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on the phone or shoot him an email. Oh, okay, this is something I don't have to worry about. Oh, no, this is something that we really need to take to the next level is get on the phone, et cetera."

And, I think the medical analogy would be the concierge medicine. I can call my doc up, even if I don't think it's a big deal and he'll get back to me, and then we can triage it and decide if it is or it isn't versus, "Oh, am I really going to go in and get this checked out? I'll just leave it for my checkup or do it next year." And then it never happens. Hopefully, it doesn't turn into something. So I think those two things, I know you thought this through, but it really impressed me and it's something that I think a lot of docs should know about because they probably even haven't heard about that in any kind of law firm environment.

So, that brings us to my last question. And I ask this of all the guests, already have, which is given your experience and it could be something related to what's going on today with COVID or anything, but in your experience what's one thing you would tell a young physician starting out when it comes to the law business, finance, et cetera, one piece of advice you would give them that you think they could do well by learning from other people's issues?

Michael Byrd: Just taking law, business, and finance, we know that they haven't had training in it. And it really brings it home to me if I add a pandemic to that list, so, law, business, finance, and a global pandemic. Because I certainly wasn't ever prepared for this. So I can relate to that level of what do I do with this area that I have no experience with. And so a young physician coming out isn't going to know what to do

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with the pandemic. They don't understand the business of medicine, the business both legal issues, and business issues, or the finance issues.

And so my one piece of advice is to engage that and turn into it because there is a human nature that we see all the time of you don't understand this, so you stick your head in the sand and hope it goes away. And it doesn't turn out well to do that. And so just engage it and understand, going back to my outsourcing comment, that there are people that do if you don't have the time to and you're engaging them to learn it. Get people to help you with whatever the different area is. And really that's it, it's turning into it.

David Mandell: Well, I really liked that, Michael, because I do think that one of the failings of many physicians in the areas of law, finance, business is not being as proactive in engaging advisors and being hesitant sometimes because it's fee-related, sometimes just don't know who to ask or what the process is. And I think that piece of advice can be applied in a lot of different areas and I think it's a very good one.

And with that, Michael, I want to thank you for being on. I certainly thought this is very valuable and there were some good nuggets here. We will put in the show notes a link to the ByrdAdatto website so folks can read about your firm and contact you if they want. And hope to all the listeners to hear you on and see you on potentially on the next podcast. Thank you.

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