FOR CALIFORNIA DOCTORS

A Guide to Asset Protection, Tax and Estate Planning

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By David B. Mandell, JD, MBA, Jason M. O'Dell, MS, CWM, Carole C. Foos, CPA
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-From a Declaration of Principles jointly adopted by a Committee of the American Bar
Association and a Committee of Publishers.
Book interior design by Rebecca Krzyzaniak. Sabon and DIN typefaces used throughout.

ISBN: 978-0-9912385-8-3
Manufactured in the United States of America.
Special thanks to Rodney Hatley
for coordinating the authors' joint efforts and assembling the finished product.
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In addition to his role as a trial lawyer, Mr. Quinlivan has worked extensively with small- and medium-sized businesses to address their needs in areas including business formation, contracts, succession planning, asset and stock sales, and general business counseling. His background in litigation provides him insight that helps clients avoid pitfalls in business that lead to the courtroom.

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Foreword

As a Doctor in California, you are faced with some of the greatest challenges of any group of doctors in the country. Sure, California is a great place to live for many reasons. But it is one of the hardest places to get ahead financially—especially as a doctor. Consider the following factors:

- California has one of the highest penetrations of managed care—resulting in lower reimbursement rates than those of your colleagues in other parts of the country receive.

- Once you are paid, California has one of the highest costs of practice overhead in the country—cutting your profit significantly.

- Once you have profits, California has one of the highest state income taxes in the country—with every doctor paying 9.3% of his or her income to state income taxes. Remember that your colleagues in Florida, Texas, and other states pay 0%.

- Even your after-tax costs are extreme—as in the major metropolitan areas (Southern California, Bay Area, etc.), the personal cost of living is among the highest in the nation.

- If you are ever sued for any reason, California gives you little protection—as it has one of the worst sets of “exempt assets” (to protect doctors from lawsuits and other creditors) in the nation.

- Better not get divorced in California—as a community property state, it is very easy to lose family assets to a divorce.

- When you die, it gets no better for your heirs—as probate costs in California are some of the highest in country (between 3% and 8%).

If you have interest in getting the most out of your practice without having to work any harder, sleeping better at night knowing that your personal and practice assets are protected, and learn-
ing how to assemble the right team of experts to help you reach your long term goals, then this book is ideal for you.

The co-authors have hundreds of years in the combined fields of asset protection, tax, estate planning, litigation, financial planning, insurance and investing. They have offices from the Bay Area to San Diego and in a number of areas in between. They are well networked with other professionals in your area and can offer you a level of service you’ve likely only imagined possible.

The first step for you is to read this book and learn the important lessons every doctor needs to know. Then you can decide how to proceed. You may contact the authors for a consultation or arrange a seminar in your area to learn firsthand how to improve your situation. Whatever you decide to do next, we hope we can be of assistance.

Thank you for reading our book. We appreciate your dedication to improving your situation.
In medicine, patients come to physicians when their bodies are unable to heal themselves. Patients who delay seeking medical treatment are missing out on the power of modern medicine and failing to take advantage of an opportunity to dramatically improve their health. Similarly, the financial and legal ailments impacting your medical practice cannot be healed without professional care. Simply working harder and hoping that your practice’s problems will solve themselves is just as foolish as the patient who places hope on his body healing itself. In addition, you may not see any “problems” yourself, but you will not be working at maximum efficiency without consulting an expert.

In this Lesson, we will delve further into this concept. We will examine the concept of Leverage in an attempt to help you shift away from “just seeing more patients” as a cure-all for your practice and personal financial challenges.

We will also discuss the demographics of the Average American, the demographics of the American Doctor, and compare the planning challenges and financial goals of both groups. We will also discuss how Doctors who look for information in magazines and websites can be dangerously misled. We will conclude with a discussion of how the information in this book is unique for Doctors and can be used to help Doctors meet their asset protection and wealth accumulation goals.
When you were in medical school, residency, and first starting practice, you relied on a number of mentors to “teach” you valuable lessons about medicine. Undoubtedly, this training was invaluable to your development as a physician. Despite the valuable training you received, you were left inadequately prepared to practice medicine as your profession. While you have learned the “medical” part quite well, do you think you were trained how to “practice?” In other words, did your education and residency prepare you to build a “practice” into an optimal business?

The successful practice of medicine in the 21st century requires so much more than clinical expertise and good bedside manner. The days of simply seeing patients and waiting for substantial income to be deposited into your bank account are long gone. Successfully practicing medicine now requires expertise in disciplines that were never even mentioned, let alone taught, in medical school, residency or even in a fellowship. How are Doctors supposed to learn how to protect themselves from billing and coding errors, employee lawsuits, health insurance fraud, HIPAA violations, Medicare fraud, and OSHA issues? Where will Doctors find the time to learn and understand asset protection, business structuring, estate planning, insurance management, investments, benefits structuring, and tax planning? How can you do all this while continuing to stay abreast of important clinical developments and still find time to see patients and earn a living? This is what Doctors MUST know how to do if they want to successfully practice medicine in the 21st century.

Replicating the actions of the physicians who trained you will not replicate their levels of financial success. The environment has changed dramatically. If you do what most Doctors do and focus only on the clinical issues of medicine, you will expose yourself to unnecessary lawsuits and taxes, and will continue to struggle as reimbursements stagnate or decrease while overhead constantly increases. Do you want to follow this path and be the next helpless victim or do you want to learn how to be different?

The only way to achieve financial success and peace of mind is to break away from the pack—to be different and do things differently than your predecessors. Perhaps this seems counterintuitive. While those who trained you no doubt provided priceless guidance in many areas of your practice, recognizing that today’s practices demand new perspectives couldn’t be a more valuable lesson. Let’s look at a practical example.
How Medicine Has Changed

One of the book’s authors, David Mandell, comes from a family of physicians. David’s brother is a cardiologist. His father is a radiologist close to retirement age, and his grandfather was a general practitioner from the 1930s to the 1970s. The grandfather worked only for cash—except during the Great Depression, when he accepted food from patients who were unable to pay. He made house calls and knew all of his patients by name. Not once did he utter the words “managed care,” “malpractice crisis,” or “HCFA audit.”

David’s father, Charlie, spent nearly 30 years in a lucrative radiology practice. He saw reimbursements increase for many years and enjoyed an over-funded pension. He took advantage of numerous tax laws (since legislated away) during his career that swelled his after-tax income beyond what he had ever expected to earn when he began his career in the 1960s. The idea of “going bare” (having no medical malpractice insurance) never occurred to him. Premiums were always reasonable and personal liability was never a major concern.

As you well know, the “business of medicine” has changed dramatically through these three generations. The young cardiologist—David’s brother Ken—began his career dealing with a medical malpractice crisis (in his state, many Doctors chose to go without medical malpractice coverage because of its outrageous costs), increased time demands for administration and paperwork, shrinking reimbursements, and increasing regulatory concerns. He thinks about terms like “practice buy-in,” “malpractice premiums,” and “debt repayment.” He wonders if he’ll ever reap the financial rewards his father did in medicine or if the landscape has just changed too much for him to ever be able to enjoy the fruits of his labor.

Where do you fit within these generations? Perhaps you are between the radiologist and the cardiologist and are in the prime of your career or you are in its second half. If so, the issues on your mind are likely retirement (not only when, but if), asset protection, tax reduction, and even partner buy-out. It is a lot to consider, by any measure.

Treat Your Practice Like A Business

Throughout this book, we will use the term “business of medicine.” This is not by accident; rather, it is quite intentional. To use this book as the professionals that helped put it together intended, you must make a paradigmatic shift in your medical career. You must come to view your practice as a business!

While we mean no disrespect—medicine is truly a virtuous calling, and your primary motivation to become a physician was likely an altruistic one—the hard reality is that there are myriad business issues that affect your practice and personal finances every day of your career. Unfortunately, the vast majority of physicians are completely unprepared for these issues so they suffer from lower incomes, personal legal liability, shorter and less comfortable retirements, acrimonious practice splits, severe financial stress, bankruptcy and sometimes a premature exit from the practice of medicine.
It is no surprise that 99% of physicians do not properly handle the financial and business issues that affect their careers. Why? Because Doctors have had absolutely no training in these matters. The typical physician may receive over 10 years of clinical training by the time medical school, residency, and fellowship are completed. This is over 3,500 days. How many days of training have you received on topics such as asset protection, compensation arrangements, taxation, investing, and retirement planning? How many days on malpractice insurance options, partner buy-outs, or disability protection? What about employee training, contracts, and practice management?

With this complete lack of non-medical training, it is a wonder that any medical practice survives. Imagine how more economically efficient and less stressful the business of medicine could be if you had been properly trained in all of the above fields. How much better protected would your wealth be from lawsuits? How much more income would you bring home? How much smoother would your practice run? Imagine.

While we cannot attempt to change how the American medical establishment trains its physicians (although we have often been asked to speak to medical schools and residency programs), we can make the following urgent recommendation:

**Make today the first day of your self-imposed training program by dedicating time to become educated about the non-medical issues that affect your business and personal financial situation.**

As the subheading of this section states, you must treat your practice like a business, learning the operational and financial issues that are crucial to its success. Otherwise, you will never reach your financial goals. By devoting just a fraction of your time on these practice issues—perhaps one day per quarter or one afternoon per month—you will be working ON your practice. For as long as you toil only as the medical worker, you will suffer from the stress and reduced rewards that come to people who handle matters “half-way.” Only when you step back and act like the CEO of your practice—and of your career—can you hope to achieve the financial and lifestyle goals that you certainly deserve and that the business of medicine can still afford you.

**Envision Your Ideal Career In Medicine**

When you chose to be a physician, you made a decision to rely on your medical practice to provide you with the things you value in life: control over your time, financial security, reduced stress, a good life for your family, among other things. Think back to before your medical practice, residency, and medical school to your college days. What was your vision of life as a successful physician? What was your vision when you were toiling in medical school or during
all-night calls during residency or fellowship? Did you envision your eventual career as a pay-off for all the years of hard work, training and sacrifice?

Now, after considering what the ideal vision of your career looked like to you during different stages of your education and career, take a moment to examine your present practice and personal financial situation. How close are you to your ideal vision? Is there room for improvement? Is it as stress-free, lucrative, and secure as your ideal vision? If not, is it worth devoting a small fraction of your time to working toward this ideal? The answer to these questions for the majority of physicians with whom we speak is obvious.

In the generation of David’s radiologist father, the medical business environment was so easy that physicians could almost totally ignore the business and financial issues described above and achieve their life goals rather easily. Even if Doctors made financial mistakes every day, it did not matter. Doctors simply rode the wave of the financial profitability with minimal regulation. It was truly the “golden age” of medicine for U.S. physicians.

Today’s physicians, however, operate in a dramatically different environment. Like David’s cardiologist brother, you do not have the luxury to make such financial mistakes. It is still possible to enjoy your own “golden age” of benefits, but to do so you must be as effective and efficient as possible. You must be both a skilled physician and an attentive businessperson or you will suffer the consequences of today’s more challenging medical business environment.

Avoid the trap of inertia. Be confident enough to envision your ideal situation and use this book and the advisors who contributed to it to help you achieve your goals. You have worked hard in medicine to get to where you are today. Now, work on (the business of) medicine to take you where you want to go.

Be Practical, Not Political

Many physicians reading this book may get riled up enough to march on Washington and Sacramento and demand malpractice caps, tort reform, lower tax rates, and greater reimbursements. This emotionally charged effort may or may not have any impact on lawmakers’ decisions. Whether any legislative changes will have a significant impact on your specific financial situation is uncertain. Though this is not our area or expertise, we do know that changing laws takes time and you need to change your financial situation today.

We are financial and legal advisors to physicians, not policymakers or politicians. In this book, we will not discuss how the laws regarding non-economic damages in malpractice cases should be limited. We will neither opine on the fiscal policies of the malpractice insurers nor comment on Medicare reform. We will not discuss tax policy or medical education. These elements, and any proposed changes to them, are beyond your control as an individual Doctor. While rallying with your fellow physicians as a political group may be effective over the long-term, we will let other voices (like those of your local medical associations) take up that cry.
Our focus here is to show you—in a real, practical way—what you as an individual can do to move your practice and medical career from point A (financially inefficient, high liability exposure, chaotic financial plan) to point B (efficient, asset-protected and organized for maximum financial success). This is the goal of this book, our e-newsletter and our website (www.forcaliforniadoctors.com).

The Diagnosis

Like any worthwhile endeavor, education is just the beginning of a process. For you, this means reading this book and digesting the general ideas before determining which of these strategies will make sense for your practice and personal situation. Reading this book is only the beginning—education without action is fruitless.

Like a patient who let the pills you prescribed sit in the medicine cabinet, a failure to implement the protocols outlined in this book will result in no improvement in your situation. For your planning, the next step after reading this book will be to discuss your situation with one of the authors to put the knowledge you have gained into action for you. This way, you can ensure that your practice and your life will be as close to your “ideal vision” as possible and that you can enjoy your own “golden age of medicine.”
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- Restructure practice operations to maximize efficiency and protection
- Utilize the investment secrets of the nation’s most affluent families
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- Efficiently manage your estate and protect your family

The authors have over 150 years of experience in the areas of asset protection, estate planning, probate management, litigation, insurance, investing and financial planning. They have co-authored over 15 books and have been quoted in The Wall Street Journal and Los Angeles Business Journal.

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