



WEALTH PLANNING FOR THE MODERN PHYSICIAN

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INNOVATION, INDUSTRY, AND ANCILLARIES: LESSONS FROM DR. JACK BERT (PART 1)

Hello, this is Dave Mandell, host of the podcast. Got a terrific guest today. Let me tell you about Dr. Jack Bert, and then we're going to start. He's here, but I want to tell you about his bio. He's got a very impressive bio, which we're going to link to in the show notes for the full bio, but I'm going to summarize or give you the highlights here.

So, Jack is a board-certified orthopedic surgeon and knee and shoulder specialist. He has published over 73 articles and 22 book chapters and has presented at over 300 lectures nationally and internationally. He has taught multiple academic courses for the American Academy of Orthopedic Surgeons and for the 6,000-member Arthroscopy Association of North America where he previously served as president. Jack is an adjunct clinical professor emeritus at the University of Minnesota School of Medicine, and he's given grand rounds at a very, very long list of top universities. Again, check out the full bio for that. He served on the board of directors of the Retired NFL Players Association. We're going to chat a little bit about that. He's been a consultant to multiple orthopedic companies and we're going to cover that in the industry as well. And he's involved now with a company that links employers directly with orthopedic providers, and I want to hear more about that as well. So, with that, Jack, welcome to the program.

Dr. Jack Bert:

Thank you very much, Dave, and happy to be here.

David Mandell:

Well, you and I have spoken at conferences together and worked on some courses and curriculums, and I think this is just more of education. That's how people are getting it today, so I appreciate you being here. So, I ask all physicians the same question now for six seasons when they come on. Where are you from originally? What attracted you to medicine and in general and orthopedics in particular?

Dr. Jack Bert:

Sure. Well, thank you for having me. I grew up in the North Side of Chicago. My oldest brother was an orthopedic surgeon, spine surgeon out in Oregon who recently retired, went to Northwestern undergrad and then went out East for medical school and finished up my training at the Mayo Clinic and have been in St. Paul, Minnesota ever since. We started a very small group back in the late '70s, early '80s. Had the first outpatient ambulatory surgery center in St. Paul, Minnesota, in fact in the state of Minnesota back in 1990, and had some interesting experiences with that early on. And we built a group up about five people up to 27 by the time we retired, which is now 55 and in multiple locations throughout the Twin City area.

David Mandell:

And we're going to get into some of that. When you started in medicine, to get into orthopedics, was it something that had you been an athlete and this is something you had been injured or you'd experienced that specialty yourself as a patient said, "Hey, this is what I want to help others with"? Was it something that you started in one area and realized, "Hey, I really like orthopedics more"? Was it a certain person who trained you? Then you said, "Oh wow, that person really motivated me to get excited about that specialty." What was it that got you there?

Dr. Jack Bert:

Great question. So, when I was at Temple University doing my medical school training, I spent three months with John Lachman from the Lachman test for

an anterior cruciate deficiency, and he really got me excited. And then, my oldest brother was in orthopedics, and I spent time at Mayo on a rotation from medical school. And so, I got excited about it from that perspective as well. I did play sports in high school, played a year of college baseball when they realized I really wasn't that good. And so then, after that, I just played recreational baseball in college, and I do play sports now. A lot of golf, pickleball, believe it or not. And so, I still enjoy sports at this time.

David Mandell:

That's great. Pickleball, I think is leading to a lot of business for orthopedics, but that's another topic...

Dr. Jack Bert:

One million injuries last year. One million.

David Mandell:

What was that? Is that right? I've got a bunch of friends who are picking it up. I'm playing golf and those of you could see, if you could see this, you'll probably know what it is

Dr. Jack Bert:

Uh-oh.

David Mandell:

I've got this.

Dr. Jack Bert:

Golfer's elbow. I see it.

David Mandell:

Actually, it's been helping me, so it works.

Dr. Jack Bert:

Good.

David Mandell:

So, it's been paying off. So, you trained at Mayo it in your fellowship. You're still in the Twin Cities, so was your career kind of, "Hey, the first job I took was this small practice and we built it and I've been there the entire time"? And we'll start talking about that. It sounds like, and you and I have talked before, that was the path, which is different from a lot of other folks who start one job, it's not their lifetime job. That's most of the docs you're training, you got to tell them, "Your first job is not going to be your last." But for you, it sounds like some degree it has been.

Dr. Jack Bert:

It has been. And I started as a soloist, and the one thing I noticed, I went down to visit Neal Small who did the first in-office arthroscopy back, I believe it was 1989. I'd spent time with Lanny Johnson up in Michigan. So, I had an affinity towards arthroscopic surgery, but it was intriguing to me that you could do surgery in your office. And then we decided from doing that, we would develop a full-scale ambulatory surgery center. And it was really interesting because I did the first outpatient, uni-compartmental knee in Minnesota, potentially maybe in the U.S., I don't know. But I remember getting reimbursed \$1,200 and Lanny came over from Michigan and did it with me because he developed this particular type of implant.

And I remember calling the insurance company, said, "Well, we don't have a code for this. We can't pay you for it, so we're going to give you \$1,200," which is pretty close to what we got for just a menisectomy. So, I quit doing them for literally 12 to 15 years as a result until everybody caught up. In other words, the insurance industry caught up and said, "Wait a minute, this makes more sense than paying the hospital 15 grand to do one." And I think we had charged \$2,500 for the outpatient, uni-compartmental replacement just to see what would happen. So, it's been an interesting journey for me to go from that in developing all the ancillary services for a large orthopedic group, which I think is absolutely critical [inaudible 00:06:33]-

David Mandell:

And we're going to get there. So, we're going to talk about both ASCs and ancillaries in general and all that kind of stuff. So, in terms of starting as a solo, obviously that's pretty rare if not extinct today for the folks coming up. Not all. My brother is a cardiologist. In certain specialties it's different. Orthopedics is more group oriented. But when you're talking to the fellows that you train, and you've trained a lot, they're looking more at group, probably or employed first jobs. What advice are you giving them just about that first position? We'll get into some of the other things about negotiation and some of the others but just choosing that first position. What do you tell folks?

Dr. Jack Bert:

Well, for one thing, there's something called an umbrella corporation. So that's what we did way back in the early '80s where you can have say five people and you put them together under what's called an umbrella. All you need is a common provider number and a common pension plan. And so, we did that. And there are groups now, massive groups around the country, PELTO is an example, that has umbrella-ed these major 100-man groups together to form one big entity for negotiating capabilities. And so, at the end of the day, that's one way to do it. If you're in a small rural town and there's two other guys practicing, you can form the umbrella, you can share ancillary services, set up an ASC, MRI, et cetera, physical therapy. And so, you can do that, and it works real well. The only thing you have to really remember about employed situation is you have to be very, very careful on your contracting aspect. And we can talk about that.

David Mandell:

I have that as a topic.

Dr. Jack Bert:

There are ways to design it where it is very favorable to be employed.

David Mandell:

We'll get there. On the umbrella corporation, I think that's really interesting, a couple of things, comments on that. One is, you don't see it as much today because in the law, there are firms now that are limited liability partnerships, an LLP. But before that, in the '90s when I started my law practice and before that, what you would see is a partnership for professional corporations. Each lawyer would have his or her own PC, and there'd be a partnership between all of them. And I have seen some medical practices like that, not just in orthopedics, but I saw a very large anesthesiology practice like that. And from my perspective, the benefit of doing that is a couple. One, you mentioned negotiation, economy of scale, you get the power of negotiating with all of that, but you maintain some autonomy, at least in terms of your financial situation, your tax situation, you can write off what you want. It doesn't matter what Bert does, Mandell can do something different within his or her PC, et cetera.

And that works for even in other businesses, nothing to do with medicine. You might have partners who have their own entity and they have a management agreement, et cetera. That concept of having a common entity for common expenses, common revenues, et cetera, but keeping those individual spokes is a really good one. I'm glad you brought that up because it is something, not just for docs coming out or even solo, but for those who would say, "Hey, listen, I'm comfortable in a small group, but I'd love to be part of something bigger." Well, you could do the same thing. You could have a small group. Let's say you've got two partners, you've been partners 20 years, you guys like the way you practice, et cetera. You could be a spoke in the larger hub and maintain your own entity. You've probably seen that come across. Is that how your practice has grown or has it grown all within one entity, or is it still maintaining that umbrella and [inaudible 00:10:39]?

Dr. Jack Bert:

No, that's a wonderful point, David. And it's the kind of thing where if you wanted a Maserati and I wanted a \$20,000 Chevy, you can do that through your professional corporation and it doesn't affect the other partners, which is

one of the things... For example, I had a defined benefit pension plan, so I put a ton of money away, which allowed me to have a significant amount of money when I retired. And some of the guys didn't want to do that. They had other expenses and they didn't want to do it. So that's the huge advantage in my opinion, to doing that. Now, we did that within our group until we got so big that we did a merged practice. But some of the guys were still allowed to keep their MDPA. I kept it for 33 years. I enjoyed the ability to write off certain expenses, and you can be aggressive or passive about it depending upon if I have somebody like you to call and give me advice. And so, at the end of the day, to me, it's a wonderful situation.

David Mandell:

Obviously you've done this. This is why you're here. You have a lot of business and finance knowledge. We talked about defined benefit plans, and it is one of those things that, if I get a group of 10 docs, for them to all opt in, it's pretty low, because everybody's got their own overhead. One person got divorced and one has three kids in college, whatever the issue is. And then there's some who are very tax oriented, very planning oriented, and they want to take advantage of it. So that just tracks to things we've talked about here on the podcast before.

So that leads me into another question, and I know you've got some thoughts on this, which is, I've asked docs that come on this program especially those in your position and in your career is, as you've had financial decisions, as you've had financial management, if on one end of the spectrum is totally do it yourself, like, "I file my own tax returns." And we've got clients who do that. Not too many. And then, the other end, which is, "I'm delegating, I'm trying to find the right people and I'm delegating. Whether it be the tax return or the investments or the insurance or the defined benefit plan, I'm trying to surround myself with a team." And then, there's folks in the middle who, "I do some of it myself and I delegate some of it." Where have you been on that spectrum and has that changed over time?

Dr. Jack Bert:

A hundred percent having somebody smarter than me do it.

David Mandell:

Delegate.

Dr. Jack Bert:

If you're a busy orthopedic surgeon, the guys that try to do their own financial planning, they're not going to do well. In fact, there's several articles written about that you can... I just saw one about six months ago that showed that the person who uses a good financial planner has an additional 30, 40% of revenue by the time they retire. And if I'm busy, if I'm working a 10 to 12 hour day, it's ludicrous to think I'm going to be smart enough to know how to plan my finances. So I 100% delegate and I haven't regretted it at all.

David Mandell:

So obviously we're in this business and it's in our books. We refer, there's a Morningstar study, there's a Vanguard study, I think there's a newer one, that all basically point to those who've used professionals have some, one or 2% cumulative return, which over a long career is a big number. If you're talking about a study that's for physicians, I want to follow up with you after we stop recording because that'd be something I'd love to see. I think we'd love to share it with others because obviously it's even more specific. And I agree with you. I brought up this point, and obviously I do this myself. Obviously when it comes to medicine, there's not even a choice. But even in... I have a company I've talked about on this podcast before outside of OJM, that is with two orthopedic surgeons, and could I have done the LLC for us? Yes. But it just didn't make sense.

We paid a lawyer that's a friend of ours. Sure, gave us a good fee. Yes. But same thing. My mother just needed a new estate planning. Could I have done it? Yes, I could have, but it's just I'd rather pay an expert does it all day long because I know enough to be dangerous on this stuff, but I'm not doing it every day, so I just don't even want the headache of it, never mind just saving

a couple bucks. So I employ this myself. I'm not just saying this because I want docs to hire a firm like ours.

Dr. Jack Bert:

Right. Understood. Completely.

David Mandell:

And you're laughing, so you get what I'm saying. So let's shift a little bit now to industry. You've worked with industry for a lot of your career. Why don't you tell us a bit about the kinds of things you've been involved in? And then I want to follow up after you've told us what you've done, the things you've learned. But just tell us some of the things you've been involved with over the years vis-a-vis industry.

Dr. Jack Bert:

I worked with three, actually four different implant companies in an arthroscopy company. I developed a surgical tool for cutting the meniscus way back in the '80s, published it in 1989 in the Journal of Arthroscopy. And then, I helped a couple companies with tibial implants. And I was fortunate enough to travel around the world doing surgery, Asia and Europe especially, which was really a kick for me to do that. But the bottom line is, industry has changed dramatically since then because we used to get a percentage of the sales of a particular product. Now, you're lucky to get a percent, and with some of the recent litigation that's occurred with some really well-known people around the country, it's even gotten worse.

And so, at the end of the day, if you're going to work with industry, make sure that you have a patent, number one. Make sure that you have an idea that, if you're going to share it with a company, make sure that you've had just a really good healthcare attorney look at the contract because there's been more stolen ideas over the last decade. I could go on and on about this, literally for guys from the Arthroscopy Association who go to come and say, "I've got this idea for this." Next thing you know it's being fabricated and they don't receive any revenue from it. So it's a huge problem. The bottom line is, if

you've got an idea, I would try to patent it. And if you've got a contract, make sure you've got a healthcare attorney who's experienced look at or a good contract attorney.

David Mandell:

Someone who has experience. Again, this is what we were just talking about, just delegating, not just any... I would say not even a contract attorney, an attorney who has some experience with industry contracts, orthopedics, or at least medical contracts, because they all have their own. Not only what does it say... When you're hiring a lawyer, we've had lawyers on here before a lot, you're not just hiring them to say, "Tell me what it says." Ideally, they have the experience to say, "There's some things missing here," or, "There's some things out there I know in the industry that I've seen, and your number is too low." It's not just explaining what's there, but it's actually advocating and giving you some ability to negotiate and do better than their first presentation of a draft. The first presentation is always going to be certainly more in their-

Dr. Jack Bert:

Favor

David Mandell:

Than not. You mentioned the patent, that's obviously the gold standard, but that takes a fair amount of investment, not just in time and money and more time, because it's not like you just get the patent right away, you have to file [inaudible 00:18:33]-

Dr. Jack Bert:

It's true.

David Mandell:

And all that kind of stuff. They have to see if there's competing patents and all of that kind of thing. In the interim, if you've got the idea, let's say you've got the idea, things like creating your own prototype or paying for some fabrication and maybe some non-disclosures if you're going to discuss it with

anybody, to see if there's real interest here to move forward. Are those some of the things you've seen or been talking to docs about?

Dr. Jack Bert:

Absolutely. The non-disclosures I have seen though be a problem because the argument can be made that, "Well, you didn't disclose quite all of it," or, "This part of it you didn't disclose." And I've seen some litigation regarding that not work out in favor of the physician who came up with the idea. So that's my only concern there.

David Mandell:

It's a step, but especially if the other side is a big industry, they're going to try to poke holes in all of that.

Dr. Jack Bert:

And if they've got-

David Mandell:

They say, "But ours is just this much different. We already had this idea in the pipeline, and so it wasn't really yours. You didn't add that much." I get it. I understand. That makes sense. That is not surprising that you mentioned that. So in the bio, I mentioned this Retired NFL Players Association. I know before we talked, you said, "Well, I'm not really sure people would be that interested because it wasn't as successful as we hoped." But I said to you, "I want to talk about it just because of that." Certainly it's interesting people or NFL fans might just be interested in general, but this isn't all just about success stories on this podcast.

Because anybody who's an entrepreneur, anybody who's a business person, I'll use baseball, nobody's batting a thousand, right? So we want to know about things that we had good intentions for, but it just didn't work out. And maybe there's a lesson there or a red flag or something that, "If I had to do it again, I would do X not Y." So tell us about what is the Retired NFL Players

Association? How did you get involved? What was the goal? And then, maybe what came short of it?

Dr. Jack Bert:

So about 25 years ago, I was involved with an attorney in Minneapolis who was close friends with Carl Eller and Alan Page, who became a Supreme Court justice in Minnesota. And they were part of what we call the Purple People Eaters back in the '60 with The Vikings who have never won a Super Bowl.

David Mandell:

I know.

Dr. Jack Bert:

I've been to four, lost all four. So anyway, they asked me if I'd be willing to sit on their board. So I had the very good fortune of spending about 15 years with those guys and going to lunches every six months. And I just sat back and listened. The sadness of that whole situation is, we tried to set up doctors around the country to see these guys, they all had horrible knees, especially to see them at no cost, because the pension plan for Carl Eller and Alan Page, two Hall of Famers, was \$2,000 a month. What is it? A \$13 billion industry. And so it was just sad. And we talk about stuff, how long does an average NFL player play for?

And it's, I think my last lunch with them since they retired from it was four years ago, and it was about three and a half years, which I think is ludicrous because I thought it was much longer than that. But the bottom line was is that these guys are super banged up. They all have severe orthopedic issues. And we did some things before the Super Bowl. We'd go and have a meeting while these guys, and I'd talk about arthritis in knee, what you can do about it, injectables, and then total knees. It was a lot of fun for me. It really was.

David Mandell:

And I assume this continues and hopefully, again, I'm not an expert on this stuff, but I think I have seen that maybe these pensions are better now, that

there is some improvement. Because again, you see some NFL Hall of Famers in there become homeless. They literally have no assets. Right?

Dr. Jack Bert:

Right.

David Mandell:

Like you said, it's such a lucrative business that there's got to be dollars for these folks, and especially for their healthcare, if anything. And then there's the CTE and all that stuff, which is on the neurology side, but I assume this, the group continues without you and they're Hopefully they're making more progress.

Dr. Jack Bert:

Yeah, the CTE. So I was in Boston at the university giving a talk, and I was fortunate enough to get the lecture on CTE and it's really frightening. I've got a series of slides that has about 160 brains on it, and with 50% atrophy of these poor guys by the time they're in their fifties. We actually talked about this quite a bit, when you hear about all these anger situations where somebody's beating up their girlfriend when they're in their forties, that really comes from brain atrophy and they get these anger issues and they're on drugs, and it's just sad. And so, when you slice these brains open, which they have over 250 brains now at BU-

David Mandell:

BU, right.

Dr. Jack Bert:

Just the average weight of a brain is about 1,600 grams. A lot of these are eight, 900. So it's just, they get severe atrophy from chronic concussions.

David Mandell:

You said Boston. I know it's Boston University. They've led this. Well, hopefully they make more progress with that. And it is great that you are a part of that.

So, let's go back to a practice question. So, you had mentioned, as we talked at the beginning, about ancillaries and the importance. And I know that's something you've lectured on and something you're very passionate about, especially with orthopedics. So tell us about orthopedics, but I also want you to broaden just to think about any kind of doc, because as we have a people of all sorts of specialties, how important it is, ancillaries from a financial, from a business point of view, and how that's changed over your career and what you're telling young docs or when you're lecturing at all these associations, what you're chatting about.

Dr. Jack Bert:

So it's almost impossible to function financially and be successful with just the revenue you glean from a clinic experience. Now, having said that, two months ago, one of my traveling fellows from Florida gave a lecture on the fact that, if you have two physician assistants and multiple clinic rooms and you can see 40 to 50 patients in a day, you can actually make more money than going in the operating room with the reduced reimbursements unless you own a portion of the ASC. And he's actually publishing that article. We're going to be talking about that at OT Hawaii in January, by the way. He's flying out to give an update on the lecture, and he's got a three-year experience on it. Which is fascinating-

David Mandell:

Which we'll talk about that conference as we wrap up because OJM is part of it. We'll get back to ancillary, but that also speaks to another topic we've had on the podcast, which is the importance of extenders, the importance of leveraging highest and best use, delegation.

Dr. Jack Bert:

Absolutely.

David Mandell:

We talked about it in terms of financial, but that's the concept is in medicine too, right?

Dr. Jack Bert:

Yes.

David Mandell:

Doctors don't answer the phone; there's a reason for that. And you can apply that all the way down the scale to say, "Hey, I'm only going to do what I... And I can pay a PA to do that, and that's more financially efficient." So, I just wanted to point that out. But that's interesting and I'm glad you have somebody really digging into that.

Tune into episode 6.4 to hear the continuation of this episode with Dr. Jack Bert.