NURSING HOMES
LONG TERM CARE MANAGEMENT

# Selling your assisted living facility: DO'S & DON'TS

*Acquisition is still alive and well. What to do about it!*

**BY ADAM HEAVENRICH**

When Jackie Dolliver and her sister Pat Garrison were approached by an operator to sell their assisted living company, the idea of spending more time raising their horses and traveling appealed to them. They had built and expanded their company for the previous eight years. But the offer turned out to be different from what was initially proposed, and the sisters backed out. They still liked the idea of pursuing other interests, but what was the next step?

They decided to hire a merger-and-acquisition (M&A) specialist in the assisted living industry. Through national industry contacts and valuation expertise, the specialist priced the offering and engineered the sale of their company to a regional operator looking for a platform acquisition in New Mexico.

Nationwide, there were nearly 90 publicly announced senior care transactions in 1999, according to Steven Monroe in Irvin Levin's monthly *Senior Housing Report.* While the public companies were less active acquirers in 1999 than in 1998, because of recent stock price volatility, the acquisition market remains brisk. Because of tightness in the credit markets and fear of overbuilding, many of the public and private operators have changed their focus from new development to acquisition of existing facilities. The assisted living market remains very fluid, with smaller investment and operating companies entering and exiting the market almost daily.

Sooner or later, most owners must address the many issues, both large and small, related to the sale of one or all of their facilities. To do this, you as an owner need to know the right questions to ask in order to develop a game plan. A well-thought-out and well-executed game plan will include selecting the right advisors, having your company's financial statements prepared and addressing operating, marketing, strategic, legal and tax issues.

Here are some basic Do's and Don'ts for putting your company on the market.

## DO

**Do stay focused on operations.** Many operators, once a letter of intent is received, assume the sale is done. Operators can get so caught up in the sale process that they allow operations to slip. If occupancy rates fall, or you lose some key referral relationships, you can severely erode the value of your company and put the transaction at risk. Until the transaction is closed, assume you are and will remain the operator.

## DO

**Do select the right team of advisors.** Assembling a good team of advisors will help you avoid costly mistakes and ensure that you receive the best terms for your company. Ask your most trusted business confidant(s) for referrals to both legal and merger/acquisition specialists, and select an attorney experienced in M&As. This attorney will negotiate the purchase agreement, noncompete, employment and other legal agreements. Don't assume that your corporate attorney specializes in these transactions.

You will also need to select an M&A specialist who will value the organization, prepare a marketing plan, develop an offering book and negotiate the financial terms of the sale. Make sure the specialist you select has completed transactions in the senior housing sector in your price range. Interview several candidates to determine how many of these companies they have sold, the transaction price ranges and the marketing plan. Once you have identified an M&A specialist, check references to see how satisfied customers were with the process.

Your CPA will also be an important part of the team. Alert your CPA that you are undertaking the process and that you will need your financial statements in good order. The CPA will also be able to assist with structuring the transaction to meet your particular tax situation.

## DON'T

**Don't assume that the more facilities you have, the better price you will receive.** Talk to your M&A specialist to determine if you might be better off shutting down some facilities and consolidating your operations before you go to market. In some cases, what you exclude from the offering is more important than what you include.

## DON'T

**Don't make last-minute major capital expenditures that alter your core business.** For example, don't buy the vacant land across the street for the purpose of throwing it into the sale. Many buyers want stable earnings. Some buyers like the ability to expand on an existing site, but few want to acquire existing facilities and, at the same time, buy a developable piece of land. For the same reasons, don't try to open a brand-new facility within a few months of selling your company. Chances are good you won't receive the full value of the investment. Lenders prefer to make an acquisition loan with at least 12 months of stabilized operating statements.

## DON'T

**Don't commit, prior to the sale, to new financing that has "breakage fees" or "lockout provisions."** Lenders sometimes have costly fees associated with terminating the loan on the facilities ("breakage fees"). Because it is very likely that buyers will need to seek their own financing, you will have to pay off your loan. In some cases, lenders might not permit you to pay off a loan ("lockout provisions") prior to a certain date. You may pay it off after that date, but still might be subject to breakage fees. If you do need to refinance a facility before a sale, search for a lender that does not impose lockout provisions or breakage fees.

## DON'T

**Don't make salary or bonus promises to your employees that will take place after a buy-out.** It will decrease the value of your company and cause transition problems, and it might cause a good buyer to walk away from a transaction.

## DO

**Do talk to your tax and legal advisor as to the best corporate and sale structure.** While a stock sale is usually preferable for a seller, most buyers will insist on an asset sale. With proper planning and negotiations, however, you will minimize the tax bite at the time of sale.

## DON'T

**Don't hold off on cosmetic repairs or needed maintenance.** During the sale process, it is tempting to defer expenditures unless they're absolutely necessary. However, the facility should continue to show and operate smoothly, no matter how close the sale date might be.

Finally, *do* ask several key questions (see sidebar, "Questions to Ask When Selling Your Assisted Living Company," below). **NH**

**Adam Heavenrich is president of Heavenrich & Company, a Chicago-based boutique senior housing merger and acquisition firm. For more information, call (312) 422-8921.**

## Questions to Ask When Selling Your Assisted Living Company

### How will my company be valued?

The most common approach is capitalization of current net operating income. However, methodologies vary, depending on such variables as occupancy or age. (Newly constructed facilities rely on a discounted cash flow analysis or cost approach.) Capitalization rates will vary on such factors as the location, age, cost of debt, return on equity and configuration of the facilities, as well as the stability of historic and expected income.

### Am I willing to take back paper?

If you are willing to take back paper, it should depend on the strength of the buyer and the payback period, as well as the legal and financial security behind your note or other considerations after closing.

### Why am I selling?

You might determine that the industry is consolidating and/or becoming more capital-intensive. Your facilities might require significant capital improvements to stay current with the market, and you might not want to invest that amount of money at this stage of your career. Related to this question is, what will you do after the sale? Are you selling because you think the timing is good in the market, but you wish to continue working? If so, then an employment contract will be an important part of the sale consideration.

### How will I maintain confidentiality?

You want the sale process to be as discreet as possible. If employees, residents or competitors are alerted about a sale, there could be unwarranted erosion in the value of your company or disruptions to operations and resident care. An established M&A specialist will have a process in place to protect owners' confidentiality. Ask detailed questions about this process.