The Art of Negotiation

HME Business Owners and Managers Must Hone Their Bargaining Skills in Today's Rapidly Changing Health Care Market

By Dexter Braff

COMPANIES ARE BEING bought and sold at a record pace. Managed care organizations (MCOs) are demanding capitated fee arrangements and seeking discounted pricing. Companies are establishing alliances and partnerships to survive.

As health care delivery evolves and the chances of entering into some type of negotiation situation increase, your bargaining skills as a business owner or manager must keep pace. You can't afford to view negotiation as simply splitting the difference between opposing views. The margin for error is narrowing, and the consequences of poorly negotiated agreements can mean the difference between success and a slow, painful decline.

Although it might seem obvious, effective negotiation requires purposeful preparation. Unfortunately, however, many people enter critical negotiations with only a vague notion of strategy, focusing instead on the desired outcome—an outcome that is often poorly conceived and too narrowly defined. The result is an unfocused, muddled negotiation that invariably leads to unsatisfactory outcomes.

Preparation should instead begin by clearly identifying your goals. Simply put, if you don't know what you want, there is no way you can get it. These goals should not, however, be too narrowly defined. For example, in a divestiture situation, it is not enough to set a goal of getting the highest possible price, because such a narrow focus ignores other business, personal and financial goals that should be considered. These include purchase price structure, future employment opportunities, employment agreements, tax ramifications, impact on family and lifestyle, and employees' future.

To establish well-defined goals, you must organize and prioritize your financial and nonfinancial goals before entering negotiation. When considering financial goals, establish multiple targets. By doing so, you are forced to link satisfaction to results—not to the process itself, which can be emotionally distracting and stressful. For example, in negotiating a capitated home care rate, you might establish the following four price targets before negotiation:

- An asking price that, as the starting point for negotiation, is the highest possible price that might reasonably be expected.
- A price that would be extremely favorable.
- A price that would be favorable.
- A price below which the deal would be unacceptable.

With these targets in mind, you are likely to focus on specific objectives and less likely to adjust these targets in reaction to an unpleasant negotiator.

Editor's note: *This article is the first in a two-part series. Part two will be published in November.*

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For nonfinancial or intangible goals, set priorities that can be reviewed throughout the negotiation. Simply organizing these goals into *must haves, like to haves* and *giveaways* can help prevent you from getting stuck on minor issues and unwittingly derailing a transaction. Additionally, identifying giveaways can provide you with nonfinancial ways of negotiating "currency" to reach other goals. For example, if you are confident in a buyer's financial condition and are willing to take a note, you can give in on this term in exchange for a higher total purchase price.

Once your goals are established, it is critical to prepare emotionally and psychologically for the negotiation. We all tend to focus on our own fears in a bargaining situation while ignoring the other person's fears. Experience shows, however, that the stronger you feel about your position, the more confident you are, and the more likely it is that the other person will recognize those strengths and respond accordingly. Confident negotiators are also less likely to fall prey to tactics used to weaken resolve.

In preparing for negotiation, then, the key is to identify the other person's potential sources of power, which can come from knowledge, competition, performance and reputation, and patience. In almost every negotiating situation, the most powerful person is the one who has the best knowledge and information about the situation at hand.

In an acquisition situation, for example, if you as the seller know that a statewide managed care contract depends on the buyer acquiring your firm to meet coverage requirements, you would have extraordinary negotiating power. Similarly, in a competitive bidding situation, knowing your own true costs of operations reduces fear and uncertainty, which could otherwise undermine your power and confidence.

As health care delivery evolves and the chances of entering into some type of negotiation situation increase, your bargaining skills as a business owner or manager must keep pace.

•**Knowledge.** Substantial time and effort should be devoted to obtaining accurate and strategic information. Equally important is to question any assumptions, estimates or perceptions you might have about the other person. Such assumptions can be completely incorrect and needlessly limit opportunities. For example, while conventional wisdom holds that home medical equipment firms sell for three to five times their earnings, in reality, they routinely sell for substantially more. Believing their own assumptions, however, many business owners and managers have sold for substantially less.

•**Competition.** In merger and acquisition situations, buyers are under substantial pressure to increase market share while preventing others from increasing theirs. Sellers have the power to meet these needs. In competitive bidding situations, for example, managed care providers are beginning to realize that they can't ignore quality without risking loss of membership. High-quality providers that recognize this competitive reality will therefore not be so quick to underbid their services.

•**Performance and Reputation.** Companies that perform the best and have exemplary reputations in their field enter negotiations with unmatched power and leverage.

•**Patience.** Negotiators who are in a rush to complete a transaction can communicate fear and uncertainty, substantially weakening their position. On the other hand, those who are patient exude strength and confidence. Negotiators should therefore do everything in their power to avoid placing themselves in a position in which timing is critical. For example, it is probably not a good idea to negotiate terms on a new credit line if you are about to miss payroll. Never underestimate the power of not being in a rush.

After clearly identifying goals and sources of power, the final component of preparation is fine-tuning your attitude. Negotiating is not about winning—it is about getting what you want. The difference is attitude. When one person goes into a negotiation intent on winning, the other becomes focused on not losing. The resulting conflict increases the emotional ante and blinds people to problem-solving opportunities. Even when confronted by another person's "take no prisoners" attitude, effective negotiators will recall their prioritized objectives and draw strength from their sources of power, preventing them from taking a detour.

Once you are well-prepared, you can use many strategies to achieve a successful outcome. Perhaps the most important strategy, however, is to set high aspirations. Research has shown that, within limits, the higher a person aims, the better the result. High expectations establish a foundation for negotiating that communicates value and strength, which will serve you well through each stage of a transaction.

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Even if you are well-prepared, perhaps the most unsettling decision you must make involves the strategy of which person should make the opening move. In situations in which information is limited and you both have minimal experience, it can be to your advantage to "force" the other person to make the opening move. For example, say you are negotiating fees and terms to provide home care products and services to a regional MCO under a capitated agreement. While you have been unable to find reliable comparable data, you know that the MCO has never capitated these services, nor is it affiliated with anyone who has. Essentially, the MCO's representative and you are both negotiating in a vacuum.

In such a situation, the MCO representative's expectations of what these services should cost might be substantially higher than your own. Therefore, waiting for the other person to make the first move could be the best strategy. Recognizing the company's lack of experience, however, the MCO's representative will be hesitant to make the opening move. This is where confidence and patience can pay off. If you understand the MCO's motivations and needs and have tailored your presentation accordingly, the representative might choose to break the stalemate and make an initial offer. With its position revealed, you could have a psychological leg up on the transaction and be better positioned to negotiate further.

On the opposite end of the spectrum is a situation in which both parties have substantial comparable information and experience. Take, for example, a merger and acquisition transaction involving you, an experienced buyer, and a seller who has obtained substantial comparable data. Contrary to the previous example, it is highly unlikely that you will make an uninformed, unnecessarily high initial bid. To the contrary, recognizing that sellers often perceive that experienced home care buyers know the right price, you might strategically open with an offer that is only marginally reasonable, because doing so can command authority.

On the other hand, if the seller makes a high yet reasonable opening move, he or she communicates to the buyer that to obtain the unique benefits the firm has to offer, the buyer might need to stretch. Now the seller has control, and the buyer's fears of losing the company begin to edge the price upward.

The opening move decision becomes more complicated when there is an imbalance of knowledge and experience. If the other person has more knowledge and experience than you, you might be inclined to see what is on the buyer's mind and let him or her make the opening move. The downside, of course, is that the buyer might use the opportunity to "educate" you and create price boundaries.

To prevent this situation, you can make the opening move. However, if you do lack knowledge, you will likely be extremely wary of going into negotiations with too low a price. On the other hand, if you have more information than the other party does, you might prefer that the person make the opening move to see if his or her value expectations are substantially higher than your own.

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Clearly, where an imbalance of knowledge and experience exists, the opening move decision is a tough call. Negotiators can, however, take solace in the fact that although a sound opening move strategy is important, keeping expectations high is the most critical element in negotiating a successful outcome. HC

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