

# Leaving our house in order

*When a relative dies or is stricken with a catastrophic illness, the family business feels the impact—even if that family member never worked for the company. Just as the business must prepare for the absence of the leader, it must also prepare for the loss or illness of others in the family.*

BY BROWN HARTLEY

Death is a crisis, a passage  
Danger and opportunity  
Life is a path, a journey  
On the way we gather people and things  
As we anticipate the danger of death  
We must prepare  
Prepare ourselves and others  
Ib handle what must be handled  
Ib enjoy what can be enjoyed  
To appreciate what we have  
and those around us  
And  
Ib leave with our house in order.

—LeslieDashew

**G**IVEN THE FOCUS on succession and continuity planning among family business advisers and in the business literature, most business owners recognize the importance of planning what would happen to their company and their family if the CEO died suddenly, and many of them have at least begun to address the issue. Less frequently do those family business owners consider the possibility that their spouse or one of their children who don't work in the business

might face a catastrophic illness or die suddenly. Yet it's equally important to create contingency plans to prepare for the impact of such a loss on the business and the family.

Consider the following scenario: The wife of a family business owner was diagnosed with breast cancer at age 35, a year after their youngest daughter was born. She battled the disease valiantly for five years as the cancer metastasized in her brain and finally in her liver. Her husband, 42 when she was diagnosed, juggled running his multi-state retail business and taking an increasingly active role in raising his three daughters, who were 16, ten and six when their mother passed away. The business struggled during those years because the owner's attention was on his family, not the business, and he had no one in place to assume his responsibilities and no time or energy to train anyone. The owner declared bankruptcy and closed the business a year after his wife's death.

While the wife's death was not sudden, the breast cancer diagnosis was. She was young, physically active and in love with life. Even after the diagnosis, there were periods of remission and then another shock when the cancer reappeared.

This family's experience highlights the critical need for family business owners to address several false assumptions as part of their contingency planning process:

- **The oldest will die first.** In our scenario the wife died before her parents, her siblings or her husband.

- **The ill or deceased family member wasn't active in the business, so the business won't be affected.** Child rearing is demanding in the best of circumstances. But this husband had to juggle business demands with the demands of three scared children; a wife in and out of surgery, chemotherapy and radiation; and his extended family.

- **You have a chance to be prepared because you'll have warnings.** There was no warning when the breast cancer was first diagnosed. The business owner and his wife were so sure they would beat the disease that they focused on her healing and on the immediate needs of their children rather than preparing either the business or the family for the impact of her death.

- **Everything is taken care of.** Neither the business nor the family was prepared for this series of crises. No successor had been designated, and there was no board of directors. It didn't occur to the owner to look for someone to buy the business. Although the couple had insurance, there were many expenses during those five years that insurance didn't cover, resulting in depleted financial reserves and increased emotional stress.

- **It's more important to prepare for my husband or father's death than for mine.** The wife's death left the family shell-shocked. The business owner was exhausted and grieving, trying to help his grieving children and family, and trying unsuccessfully to salvage his business. When he closed the business and declared bankruptcy, the lives of all his employees, vendors and customers were affected.

### The risks of not preparing

In 2006, the annual Women in Family Business gathering, "Are You Ready?," focused on the challenges of dealing with death, divorce and disaster. What we learned from the participants was that most were not ready to face these challenges. As the discussion unfolded, the women began to *realize* how risky it is for the family and the business when the family hasn't prepared for illness and death.

Once the participants got past the discomfort of discussing death and the challenges they would face if a loved one died, they began to explore what they would need to know, how to gather what they would need, and how to have the necessary conversations with the key people in their lives. They were shocked at what they didn't know and the risks they were inadvertently taking by not engaging in dialogue about death and the practical challenges they would face.

When sudden catastrophic events occur, families need facts to move forward with decisions that have long-term financial, legal and emotional ramifications.

### Getting started

A logical place to start is to create a binder that contains all the information that you or other relatives would need in the event of a family member's death. This includes:

- **Bank accounts and bills.** Create (and update when necessary) a list of checking, savings, money market, line-of-credit and credit card accounts, including account numbers. Do any accounts include co-signers? If the person who pays the bills dies or falls into a coma, who else can access these accounts? Where are statements sent?

- **Safe deposit boxes.** Where are boxes located? Where are keys located? Are there co-signers? What is kept in the boxes? Note: It may not be prudent to keep an original will in a safe deposit box if there are no co-signers to the box and no one knows it's there.

- **Home and vehicle titles.** Where are titles kept? Are there loans or mortgages? If so, what are the account numbers? When are payments due?

- **Guardianships, wills and trusts.** Where are the originals of all family wills, trusts and guardianships? When was the last time each was updated?

Who are the guardians, trustees and executors of individual estates? Have these individuals been given relevant information to support good short- and long-term decision making?

- **Contact information for trusted advisers.** Create (and update when necessary) a list of names of advisers and service providers (such as accountants, attorneys, financial advisers, clergy members and preferred funeral homes), including their contact information.

- **Investment assets.** Create a list of account and contact information for personal stock portfolios, IRAs, 401(k)s and any other work-related assets, like ESOPs, corporate or partnership shares. Are there assigned beneficiaries for any of these assets? Where are the "proof-of-ownership" documents?

- **Death and burial information.** Is there a prepaid burial plan? If so, where is the documentation? How many official death certificates do you need to request? How do you do that? Include documentation of family members' wishes regarding a memorial or funeral service.

- **Insurance policies.** Create a list of insurance policies that includes policy numbers and the agent or representative's contact information. This should include health, life, long-term care, disability, home and accidental death policies. List the beneficiaries and provide information on exclusions.

- **Passwords and codes.** Keep a current list of passwords and codes for computers, online banking services and other security systems.

Use headers or footers on your documents that contain file names and the date of the last update. If your "binder" is in electronic form, store it where hackers can't access the information but your designated family members can. Back

## Decisions made in times of crisis have long-term financial, legal and emotional ramifications.

up that information and keep it in an off-site, safe, accessible place.

### Guidelines to help with this transition

The Women in Family Business participants also found these guidelines to be helpful:

1. Share your contingency plan for catastrophic illness or sudden death with key family members. Let them know where the information is how to access it.

2. Educate yourself about the rights and responsibilities of trustees and beneficiaries, and be sure that those roles are understood by the people who will assume them.

3. Be mindful of unintended consequences of estate planning strategies. Remember that your financial capital is only one part of your legacy. Consider the impact of your estate plan on your family's human and social capital.

4. Consider what you want your legacy to be, and capture that in a letter or other document so the family has the opportunity to benefit from your values, wisdom and insight.

5. Recognize that contingency planning is an ongoing process. Start wherever you feel your greatest need lies. Commit to working on your plan regularly.

For more suggestions and relevant tools, see Bonnie Brown Hartley, *Sudden Death: A Fire Drill for Building Strength and Flexibility in Families*, (Cambio Press, 2006).

### Act before a crisis strikes

As the Women in Family Business participants talked, their commitment to follow up on these ideas was driven in part by their maternal instinct. In particular, the women began to think about what would happen to young children or grandchildren if no guardianship had been determined or legally appointed. It's difficult to choose someone who would care for your children in the event of your untimely death, but it's far preferable to do this than to leave it to the state to determine.

When a family member dies suddenly, there are hundreds of decisions that must be made at a time when the family is grieving and less able than usual to handle the stress that accompanies "the business of death." Families who have not gathered the information they will need to

make these decisions are unknowingly risking catastrophic financial, legal and relationship costs. OH

**Bonnie Brown Hartley, Ph.D.**, is president of Transition Dynamics Inc., a Venice, Fla., consulting firm specializing in business and financial families (bhh@transdyninc.com). **Leslie Dashew** is president of Human Side of Enterprise in Scottsdale, Ariz., and a partner in the Aspen Family Business Group (LDashew@aol.com). The next Women in Family Business program will be held March 6-9 at Miraval Life in Balance Resort in Tucson, Ariz. Contact Leslie for more information.

