



Texas Department of Insurance
Financial, Company Licensing & Registration, Mail Code 305-2C
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HMO MERGER CHECKLIST

(Name of Non-Surviving Company and City and State of Incorporation)

Merging Into

(Name of Surviving Company and City and State of Incorporation)

**Statutory Reference: Texas Insurance Code, Article 21.25
Texas Business Corporation Act. Articles 5.01B, 5.03A, 5.04A, 5.07 and 5.16**

The requirements listed below contain the minimum information needed to execute a merger between stock insurance companies **where at least one of the companies is domiciled in Texas.**

Documents that must be filed with the Company Licensing Division of the Texas Department of Insurance are as follows:

1. If the merger is occurring between affiliates, the applicants may use the short form merger. No plan of merger or vote by shareholders is needed. All other companies must file a Board of Directors Resolution, with original signatures and corporate certification, from **each** company, approving of a plan of merger setting forth the following:
 - a) The name of the corporation proposing to merge, hereinafter referred to as Applicant.
 - b) The name of the corporation into which the Applicant proposes to merge, hereinafter referred to as the Survivor.
 - c) The terms and conditions of the proposed merger.
 - d) The manner and basis of converting the shares of the Applicant into shares or other securities or obligations of the Survivor.
 - e) A statement of any changes in the Articles of Incorporation of the Survivor to be affected by such merger.
 - f) Such other provisions with respect to the proposed merger which are deemed necessary or desirable, e.g.; the maximum period of time after the effective date in which a copy of the Assumption Certificate will be delivered to each policyholder of the Applicant.
 - g) A definite or readily ascertainable effective date of the proposed merger (a desirable date would be the last day of the month in which final approval is given by appropriate regulatory authorities).

2. The plan of merger must have been submitted to the shareholders of each of the corporations at separate regular or special meetings of the shareholders of each corporation, such meetings having been called in the manner provided by the by-laws of each corporation.
3. Written or printed notice of each meeting must have been given to each stockholder entitled to vote not less than twenty (20) days nor more than fifty (50) days before each meeting.
4. The plan of merger must be approved by the affirmative vote of the holders of two-thirds (2/3) of the shares of capital stock of each corporation.
5. Articles of Merger, executed by an officer of each corporation, must be filed, setting forth:
 - a) The plan of merger;
 - b) As to each corporation, the number of shares of stock outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class;
 - c) As to each corporation, the number of shares respectively voted for and against such plan and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against respectively; and,
 - d) If the merger involves a corporation organized under the laws of another state, the plan of merger must specify under whose laws the Survivor is to be governed.
6. A sample copy of the Assumption (Endorsement) Certificate to be used must be submitted for approval. A separate filing and \$100 fee must be sent to the HMO Section of the Texas Department of Insurance. Please refer to the guidelines.
7. A statement must be contained in the application for merger that:
 - a) Makes full disclosure and identifies all formerly admissible assets that could potentially be rendered non-admissible by the merger;
 - b) Designates the Survivor's home office property; and,
 - c) Specifies whether the Survivor, as a result of the merger, will acquire any of its own shares of stock.
8. Each company must furnish its balance sheet, as well as a combined pro forma balance sheet, accurately reflecting the financial condition that existed at the end of the last preceding quarter. If this is not practical, a statement prepared not less than sixty (60) days prior to the date on which the application was submitted is acceptable.
9. A filing fee of \$750.00 must be submitted.
10. A letter from legal counsel representing each party stating that, in his/her opinion, the merger will not violate any of the appropriate state or federal laws dealing with anti-trust or restraint of trade practices.
11. Written verification from the Texas Department of Insurance Accounting Department that the Texas Overhead Assessment form has been filed and any assessments due have been paid by the Applicant if it is a Texas domestic company.
12. **Five (5) copies of the documents listed in Items 1 through 11 must be submitted with at least three copies that are certified by the appropriate officer or officers of the respective companies.**
13. The **original** Texas Certificate of Authority(with gold seal) for the Applicant insurer must be surrendered for cancellation.

14. If the merger involves a corporation organized under the laws of another state, the Applicant must submit approval of the merger has been given by the proper official of the domiciliary state of the out-of-state corporation, or the Applicant must show that prior approval is not available either by statute or letter from said domiciliary authority.
15. If any stockholders, of either corporation, have exercised their right of dissent or commenced a derivative action, describe in writing said derivative action.
16. Submit verification that all agents of the Applicant have been reappointed.
17. Please note that the Survivor must apply for approval of the policy forms used by the Applicant.
18. If a statutory deposit is being held by the State Treasurer for the Applicant, it may not be released until all the items have been submitted and approved.

INCOMPLETE APPLICATIONS IMPEDE TIMELY REVIEW BY THE DEPARTMENT, THEREFORE, IT IS EXTREMELY IMPORTANT THAT APPLICATIONS ARE COMPLETE. SUBMIT A COMPLETE FILING TO THE TEXAS DEPARTMENT OF INSURANCE, COMPANY LICENSING & REGISTRATION DIVISION, MC 305-2C, P. O. BOX 149104, AUSTIN, TX 78714-9104. FOR QUESTIONS OR MORE INFORMATION, CALL (512) 322-4370.

THESE GUIDELINES ARE GENERAL IN NATURE AND DO NOT SUPERCEDE STATUTE OR REGULATION. THEY ARE NOT INTENDED TO BE ALL INCLUSIVE AND ADDITIONAL DOCUMENTATION MAY BE REQUESTED.