MERGER AND ACQUISITIONS IN HEALTHCARE

(Author)

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CHAPTER 1

Introduction

Centuries ago, the inception of health care entities was one of each countries' greatest development. A well-functioning health care firm and facility coupled with the ability to survive its liabilities. Because they came no matter how they were avoided. Some learned to re-strategize and thrive, others succumbed and wallowed in self-pity. The smaller health systems especially faced its wanton business issues.

The newer ones began taking cautions from their predecessors, the mistakes and how to avoid or fix them. They realized there was always a way out. All it took was to pick between several options which would help reshuffle and restructure the corporations' framework.

One of these options were the merger and acquisition. In this way, they were able to avoid bearing the whole burden of their liabilities alone. They were able to share them with another company or more which it merged with. So, its business problems were addressed, handled and minimized.

In the world of business, mergers and acquisitions cannot be referred to as new concept. Consolidation of medical practices has been happening long before the twentieth century. Over the years, there have been mergers in various sectors. The US saw a surge in mergers long before the 2000s.

According to Gaughan, there were six periods of high merger activity, often called the merger waves, which have taken place in US history. And that research had showed that merger waves tend to be caused by a combination of economic, regulatory and technological shocks. The first waves occurred between 1879 and 1904, the second between 1916 and 1929, the third between1965 and 1969, the fourth between 1984 and 1989, the fifth between 1993 and 2000 and the sixth between 2003 and 2008. According to him, the first merger wave occurred after the depression of 1883, peaked between 1898 and 1902 and ended in 1904. During the second merger wave, several industries were consolidated. The third merger wave featured a historically high level of merger activity. After the third merger wave, a historic merger paved the way for a type that would be pervasive in the fourth wave: the hostile takeover by major established companies. The fifth and sixth waves were comparable and they exceeded the fourth wave.[1]

Explaining further, Bely, A.[2] stated that the first wave of mergers and acquisitions came to be known as the "great merger movement," and it became common in the manufacturing sector. Firms operating in the same industry – often as competitors – joined forces aiming

[1] Gaughan, P. A. (2017). History of Mergers- In Mergers, Acquisitions, and Corporate Restructurings, P. A. Gaughan (ed.) https://doi.org/io.1002/9781119380771.ch2
[2] Anastasia Bely (2019) A Historical Analysis of M&A Waves https://www.clevermind.com/historical-analysis-ma-waves-mergers-acquisitions/

to dominate the sector and for more efficient economies of scale. The combination of forces by firms that were not really competitors because they were at different levels of the industry's supply chain became common in the second wave due to the intervention of the government which enacted laws to ban or prohibit what they referred to as "anticompetitive behavior." This was due to the high level of mergers between firms in the same industry. But things changes when these integrations brought no solution, and then came the third wave. During this period, there were mergers of firms that had unrelated business. This wave was spurred by the desire of the US Corporations to enter new markets and diversify their revenue streams.

Then the fourth waves saw the arrival of corporate raiders on the scene, and hostile takeovers and mergers between firms operating in the same market with overlapping factors. The fifth wave happened welcomed the entry of "mega deals," where business had displayed greater greed for bigger economies of scale. And then the sixth wave which took place on the heels of the recovery period of the doctom bubble was characterized by globalization, private equity and shareholder activism.

This book is more concerned with firms operating in the same industry; the medical practices, which has been around for quite some time. There had been several consolidations of healthcare establishments in the past. From pharmaceutical companies, to private practices, to group practices to hospitals. Many medical practices saw this corporate restructuring strategy as a way out. Most of them seeking to diversify, others struggling to survive. The size of the practices had mostly been the determining factor towards embarking on a mission to merger or acquire, and the reasons why they wanted to join forces with another practice. To some practices, it was indeed a way out, as they reaped the benefits that came with a proper integration. Others plunged down because they failed to plan upfront.

However, the one-sided stories of the leaders of the failed merged groups didn't stop other practices from digging in. And it even got bigger with each passing year. The twenty-first century saw a higher surge. According to an article published on Becker's Hospital Review, the number of physician medical group mergers and acquisitions rose to 48 in the first quarter of 2017, which is a 78% jump from the fourth quarter of 2016.[3]

It even got a lot bigger in 2021. According to a report by PwC, healthcare mergers and acquisitions surged in 2021, the transactions volumes increasing 56%. The study said "while long-term care was the most popular subsector, it was the number of deals targeting physician medical groups that was particularly notable; over 400 in the 12 months through November 15. This compares to about 200 to 250 deals per year during 2017 to 2019."

[3] Scott P. Downing and Christopher DeGrande (2017) 2017 Physician Practice Consolidation of Mid-Year Review (Becker's Hospital Review) https://www.beckershospitalreview.com/hospital-physician-relationships/2017-physician-practice-consolidation-a-mid-year-review.html .

Despite the 2020 pandemic, merger and acquisitions found a way to have a major comeback as healthcare thrived through major consolidation, which surged in 2021.

Now the question is, what does this form of business restructuring entail. First merger. What is it?

The Meaning of Merger

"In today's global business environment, companies may have to grow to survive, and one of the best ways to grow is by merging with another company or acquiring other companies."

~ Jacalyn Sherriton

Like the name implies, it's as simple as a combination of business corporations and in this case, medical corporations. Or it could be said to be the integration of medical practices to form a single unit. They could be two corporations merging, they can be more. All these separate entities required to form a merger was an agreement and act to that effect.

It's not as easy as it sounds though, there are a lot of formalities, a lot of considerations to look into. Jumping into a merger is tricky and therefore very risky for corporations which do not plan not just for the moment but ahead. All it takes is to understand the whole concept, the pros and cons, the costs, how it would affect the business, whether or not a merger would be best for the business. Without proper investigation, a medical merger could go uphill.

Still on the merger, what is a medical merger? As mentioned, when two or more corporations come together to run their affairs, they become a merger. Now when two or more medical firms combine forces, they become a medical merger. Hospitals become a single unit when they agree to integrate.

The union must be a voluntary one, and when they are joined, they are joined on equal terms. Irrespective of whether or not one of them is higher in its affairs. Take for example, a small medical firm, V.V Medical Group and another medical firm Tee.T Medical Group which has a larger scale of operations. It is much more famous and much more trusted by its customers. If the two were to form a merger, their status before the fusion would not matter anymore, because they become one entity.

It is good to note that there are various types of mergers. From congeneric mergers[4]; a combination of two or more companies that operate in the same market or sector with overlapping factors, to conglomerate mergers; a merger between establishments engaged in business activities that are not related. From market extension mergers; a

[4] https://www.referenceforbusiness.com/encyclopedia/Man-Mix/Mergers-and-Acquisitions.html

merger between entities that deal in similar products but compete in different markets, to vertical mergers; a merger between entities which operate at different levels of the supply chain. And finally, the horizontal merger, which is a merge between firms operating in the same industry as competitors.

During the economic global financial crisis, enterprises had to face tough competition for survival and development. To prevent being acquired by larger enterprises, some companies had to buy other companies in the form of a merged group. Furthermore, merger and acquisition can make it comparatively easier to enter new business areas for enterprises. In this way, corporations could bypass barriers, launch new business, exploit and dominate the market, and reap long term large profits.[5]

The Meaning of Acquisition

Acquisition on the other hand, is an also very interesting concept. So many times, people will be heard saying merger and acquisition, they tend to use them as the same as one word. In reality, though the two words are used interchangeably, they do not mean the same thing.

When one corporation or more specifically, one medical firm acquires the assets of another medical firm, say a smaller firm, it is an acquisition. If Tee.T Medical group buys all of the shares or most of the shares of V.V Medical group, it will automatically gain control of the latter. V.V Medical group does not really have to approve of this development, after all, a shareholder has a right to vote in a meeting. As a majority shareholder of the V.V Medical group, Tee.T Medical group has a great influence over the affairs of the former. This is particularly if the latter's shares are voting shares. Having majority voting shares a gateway to controlling the company. It can bend the decisions of the former according to its whims and caprices, because that's what owning majority shares allows you to do.

Depending on the circumstances, an acquisition could be hostile or friendly. The former occurs where the target company is unwilling to give up most of its shares to the acquirer. In order to prevent the acquirer from buying up most of the stocks in the open market, the target company utilizes the strategy of increasing prices. It will only cause a hindrance if they had a prior hint of the large-scale purchase of the shares. Therefore, the acquirers usually stealthily purchase the shares at the beginning of the sales by taking the target company by surprise.

Contrary to hostile acquisition, a friendly acquisition occurs where the target company does not oppose the acquirer buying up most of its shares. Being that the target company has a conviction that an acquisition of its company -preferably a small private practice

[5] https://www.lehmanbrown.com/insights-newsletter/mergers-acquisitions-drivers-issues-countermeasures/

that's held back by a lot of challenges especially in respect to capital and access to advanced technology- may open doors of opportunities and goals, which the acquirer – preferably a larger and reputable medical practice- would help them achieve. It is important to note that the latter will not act in a reckless way because it has more influence than the other shareholders, every shareholder votes according to their interests. If the interests of the other shareholders do not match that of the majority, that could be a problem. In the end, like it is said, majority carry the vote. There is always a solution where the minorities are sidelined.

While a medical merger, most of the time allows two or more healthcare organizations to merge on equal basis, and as equals, an acquisition is quite different. Here, one medical is more equal than the other. The acquirer (i.e. Tee.T Medical group) has an upper hand than the target company (V.V Medical group).

Mergers are distinguished from acquisitions in that mergers are assumed to involve two firms with roughly the same size or equivalent resources. If one of the two firms is much smaller, we are inclined to label their fusion an acquisition.[6]

The Drive for Healthcare Merger and Acquisitions

There are many factors which motivate medical practice owners to turn to a merger or acquisition. These factors include diversification; the need for economies of scale; growth; acquisition of assets; technological drive; management proficiency; synergy; corporate leverage; tax benefits; competition; stock exchange quotation; continues existence.

These factors could even vary in different places depending on laws guiding the place. However, of all these factors, the commonest of them are the desire for growth; diversification; synergy and tax benefits. We will now take each factor respectively.

- ## Diversification

Diversification is just a way a corporation spreads its wings of operation. Take for example, as a small medical firm, V.V Medical group is not a pharmacy. And Tee.T Medical Group is a hospital. If they become a single unit, it allows Tee.T Medical group to not just be a hospital but also to have a pharmaceutical branch where medicines are compounded and distributed and all of its numerous services, which have been evolving with time.

According to Investopedia, diversification is a risk-management strategy that mixes a wide variety of investments within a portfolio.[7] It is a standard method of management and

[6] Godfred Yaw Koi-Akrofi (2016) International Journal of Innovation and Applied Studies: *Mergers and Acquisitions Failure Rates and Perspectives on Why They Fail* Vol.17 No.1
[7] Troy Segal (2021) Diversification https://www.investopedia.com/terms/d/diversification.asp

limiting investment risk. Dividing the total investment among a larger number of smaller investments will reduce exposures and risk arising from one particular investment.[8]

According to a report by Kaufman Hall "hospitals are increasing looking outside traditional care delivery methods to diversify business models by pursuing stakes in home health virtual care and post-acute strategic partnership with payers, physician groups and other adjacent sectors."

When shareholders invest in diverse areas which would not have similar response to similar occurrences, returns of profit are increased and risk minimized. It makes it easier to expand their market, and attract more consumers. This is why diversification is a leading motive for medical mergers because it not only creates a better consumer experience but it also fast-tracks the growth in profit.

> *"The strategy can carry credit risks, because when hospitals stray from their core competences, they may strain their financial health"*
>
> ~ Moody Investor's Service

There is a misconception that diversification in the healthcare industry is a distraction to the central task. However, there is also a lot of evidence that shows that corporations that spread their wings of operation had accelerated growth, increased revenue and better access to customer base. Nevertheless, the positive results will only come if there is upfront planning, and a proper execution of the plan by an active management.

- ## The Need for Economies of Scale

Let's not forget to include that the aspiration for an economies of scale is a drive for medical mergers and acquisitions. It is mystifying how larger practices are able to charge less for products and services which are charged at a higher rate in smaller practices. Economies of scale is the big secret.

> *Healthcare organizations are seeking economies of scale initially in areas such as support services, supplies, information technology, and purchased services, and over the longer term by rationalizing service distribution across the system.*
>
> ~ Kaufman Hall's Singh

In simple terms, economies of scale are cost benefits a healthcare system will experience when there is growth in its level of production. Economies of scale will always be a major motive to healthcare mergers and acquisition transactions. It's all about the per- unit costs

[8] Mària Grüllingovà and Diana Horvàtovà (2015). Diversification in Health Care- Yes or No? *Investment Management and Financial Innovations,* 12(4-si), 143-147

of the practices, the higher the practices, the larger its productivity. When these bodies consolidate, it brings about increased productive capability.

According to researchers at the Mayo Clinic; Robert D. and Patricia E. Kenn Center for the Science Health Care Delivery found that hospitals that perform the same procedure or treat the same condition repeatedly do it better than those who treat relatively few or the same condition or procedure.[9] This is how economies of scale applies to the healthcare system. The more efficiency in the operations of the medical merger, the more its operations widen, the more the cost reduces and the better for its patients.

In order to takeoff a mission to create an economies of scale, medical practices usually try out mergers or acquisitions with other groups. Because there is a lot of benefit accruing to the union of efforts.

According to Facktor *et al,* building scale and capacity allows organizations to spread fixed costs over a larger base, eliminates administrative duplication and delivers higher quality through the adoption of best practices in quality assurance, quality improvement, and risk management.[10]

Economies of scale will in doubt reduce cost of healthcare services without cutting its quality.

- ## Growth

Growth in a healthcare establishment is characterized by an expansion of its scale of operations. It a process which every system will strive to achieve. Be it a small firm or a large company, the desire and aspiration for the growth of business makes it a requisite to have a good business strategy. Without a good business strategy, growth will only be an objective which will never be achieved.

No healthcare system is devoid of challenges. Sometimes, business challenges will vary in many countries. But one thing they have in common is that they are the vices which will stunt the growth of an establishment. Like the old adage goes 'two heads are better than one.' So also does it apply to healthcare systems. Sometimes they come in form of financing which many small firms will face in the long run. Capital will always be an issue.

Other times, it could be competition from other emerging systems. There will be more establishments which will spring up as rivals. The consumers will be shared by these systems or in the long-run, completely entranced by the services of the emerging systems and in the end, switch sides. Without the right strategies to keep the existing consumers at least, it could turn out really bad for the losing side.

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[9] Meghan Knoedler (2017). Economies of Scale: Volume in Healthcare: Mayo Clinic https://advancingthescience.mayo.edu/2017/04/20/economies-of-scale/

[10] Greg Factor *et al* (October, 2020) Merger and Acquisition: A Practical Guide for Community Health Centers

It could also be the absence of advanced technological data management systems and other facilities. In other words, technological drive. Over the years, technology and artificial intelligence coming to the limelight took over a lot of spots in many sectors. This development played a major role in the healthcare sector. Many healthcare systems could not get a grip of this major turn because they were hampered by the inability to access the needed technology which would have boosted its operations. Because with the expansion of an establishments comes its need for more advanced tools to foster its growth. To change the status quo, these systems had to form a merger with other establishments which had a technological lead over it. This in many ways did not just foster technological advancement but the overall expansion in productivity, better healthcare management and a more effective patient experience. The evolving entity undergoes many positive processes which would have taken a lot more years to achieve if an establishment were to undergo and organic growth.

It is worthy to note that growth through acquisitions can be as tricky as it is attractive. There is a huge difference between growth through acquisitions and growth through a natural company's process of organic growth. For one, the former is an 'at a go' investment which sometimes exposes the acquirer to so many risks, on the other hand, the latter is a 'slow and steady' investment. It happens gradually and so there is more room to adjustment should the need arise based on material facts.

- ## Asset

Mentioning an asset is as simple as referring to a property, just in a more professional way. An asset is a company's property, which is of great economic value and also carries a future benefit for the entity. In other words, assets in the healthcare sector could mean anything of value whether tangible or intangible. For the former, it could be tools or medications, technological equipment, finances, even employees and for the latter; covenant, trademarks, practice protocols or treatment plans.

Assets play a key role in the growth of any establishment. They are there for the generation of revenue, the improvement of customer experience, to decrease the losses etc. Physical assets such as medical equipment have proven to be indispensable in every practice no matter the size of the practice. From monitors to surgical tools and what have you. Each has a role to play in the testing and treatment of the patients, and to monitor and track the patient's health.

Because of the importance of assets in every sector, entities are driven to acquire them from other entities that have what they need. Where it is not feasible to acquire such assets through other strategies. They to turn to such consolidations which would in return, give them access to the assets that they would find difficult to grow organically.

- ## Technological Drive

The introduction of technology into the healthcare sector posed a lot of opportunities for medical practitioners and the advancement in technology made a lot more impact to the whole system.

AI is about more than replacing each worker with a robot. It will involve the disruption and reshaping of whole industries. Business models will evolve to be quite transparent. In a world of AI, consumers will have access to information, perhaps using their digital assistant to find the best price or analyze which product has received the best reviews. It will no longer be possible to use information asymmetry to charge people a disproportionate amount.

~ Dr. Fai-Lu Lee, CEO, Sinovation Ventures

There are numerous changes technology has brought to the healthcare sector. Scientific research and investigation was made easier for experts in the medical field, access to information for both experts and the patients alike were made faster. Digital information became a thing; this not only saved cost but it also made information more reliable. Patients in turn had access to better care, due to technological tools which made it very easy to track their health. Technology helped reshape surgical operations, making it possible to perform operations which were difficult at first. Diseases and health complications which always turned fatal in the past, are now easy to destroy due to technological advances. Technology has evolved into user-friendly, powerful platforms that cover a number of aspects of joint replacement surgery, including preoperative planning, coronal and sagittal plane assignment, component, rotations quantification of soft tissue balance, and custom-made gigs and robotic surgery for precise prosthetic fit.[11]

In 2016, acquiring technological capabilities ranked as the number one strategic driver of merger and acquisition deals, with 6% of organizations citing that attaining technology assets and capabilities was the primary motive behind their deals.[12] Merger and acquisitions allow companies to source existing technologies, thereby filling gaps in their technology portfolio quicker than is feasible via in-house development and possibly in areas, that are too distant for profitable in-house development.[13] Also it provides a mechanism to learn about the other firm's technologies, to recombines knowledge and technologies residing in different firms and thereby to generate innovations.[14]

[11] Alejandro Gonzalez Della (2017) How New Advances in Surgical Technology is Improving Patient Care
[12] Olivia Daisy Lee (2018) Technology Convergence – Driving Mergers and Acquisitions Through 2018
[13] Capron & Mitchell, 2009; Schweizer. 2005 cited in Florian S and Max Planck (2014) The Impact of Technological Distance on M/A Target Choice and Transaction Value
[14] *ibid*

Small practices that do not have access to affordable technology meant to improve employee efficiency for better patient experience would rather turn to mergers or acquisitions with larger practices.

- ## Management Proficiency

Management expertise is a skill needed in all fields be it in the healthcare sector or not. But there is no gainsay stating that it is much more needed in the specialties which hold the life of people, like the engineers, architects etc. and most especially for the purpose of this book, the medical field.

The significance of management proficiency in the healthcare sector cannot be overemphasized. There is a long conclusive list of why managerial skills are important. Have you ever wondered what medical practices would look like without the right skilled people working day in, day out? Many small medical practices seek capital to procure advanced technological data management systems and other facilities, but what good would they do if there was no one to handle them and make sure they are being well managed. There are many roles to be filled, many responsibilities to be managed in order to see the smooth running of a medical practice. It all depends on the size of the practice, a smaller practice would of course cut their coats according to their sizes, while the bigger practices can always afford to hire more professionals with specialized knowledge.

But it becomes inevitable that more professionals with the right technical and managerial skills are needed, to handle the expanding operations of the practice. Like the overseeing of areas like patient records, communicating with insurance companies and more. It is their duty to ensure that quality health care services are provided to the advantage of the practice.

While this will not be an issue for many healthcare establishments, the need for management expertise ultimately is a problem for many others. Just like there is a technological drive to medical mergers and acquisitions, so also do deals happen premised on the need for personnel with technical and managerial skills that help to achieve its corporate goal of quality production.

- ## Synergy

Synergy in merger and acquisition is the approach of the business units that if they combine their business by forming one single unit and then working together for the accomplishment of common objective, then the total earnings of business can be more than the sum of earnings of both the businesses earned individually and also the cost can be reduced by such merger.[15]

~ Dheeraj Vaidya

[15] https://www.wallstreetmojo.com/types-of-synergies/

Synergy is the concept that the combined value and performance of two companies will be greater than the sum of the separate individual parts.[16] The idea of synergy is like the equation 1 + 1 = 3. Synergy in mergers and acquisitions has its own benefits streaming from the combination of two business units. It comes with a combinations of the workforce of the individual units, the combination of facilities, assets, capital. These often lead to better efficiencies, as a single unit for better patient experience.

If two competitors decide to merger, synergies are almost always mentioned as the main motive for that merger

~ Ollevik

One of the best advantage of synergy in mergers and acquisitions if that it allows for market expansion. There is the idea that the combined efforts of the two healthcare establishments will create a corporate powerhouse that will dominate the market place, easily displacing lesser brands and competitors.[17]

However, be rest assured that synergy will not automatically happen without a clear planning and strategy by the forces behind the practice merged group or acquisition.

- ## Corporate Leverage

According to Lawinsider[18], leverage means the aggregate amount of indebtedness of the company for money borrowed outstanding at any time, both secured and unsecured.

The keyword here is debt. An establishment and in this case, a medical practice utilizes its debts to expand the return on investment. It can also mean the ratio of a company's debt to its equity. A medical practice desirous of improving its debt/equity ratio may utilize the option of merging with another medical practice.

Owing to mergers, especially in conglomerate merger deals, if the income flow becomes more stable, then the lenders can enhance the limits on lending to the newly created firm, and this limit would be greater than the sum of the original limits that would be available for the merging firms independently.[19] Increasing leverage by raising debt from the market or financial institutions ensures better economic outcomes during and after

[16] https://www.investopedia.com/terms/s/synergy.asp

[17] https://www.gaebler.com/The-Role-of-Synergy-in-Mergers-and-Acquisitions.htm#:~:text=In%20practical%20usage%2C%20synergy%20describes,way%20of%20sealing%20the%20deal.

[18] Lawinsider (n.d) Leverage Sample Clauses https://www.lawinsider.com/clause/leverage#:~:text=The%20term%20%E2%80%9CLeverage%E2%80%9D20shall%20mean,time%2C%20both%20secured%20and%20unsecured.

[19] Lewellen (1971) Cited in Abdul Rashid and Nazia Naeem (1997) Effects of Mergers on Corporate Performance: An Empirical Evaluation using OLS and the Empirical Bayesian Methods

acquisition.[20] A merged firm can enhance its firm value by increasing its financial leverage because of the tax deductibility of interest payments generated from additional debt.[21]

- ## Tax purposes

  Healthcare establishments gain a lot in regards to taxes. In a merger or acquisition, when one of the entities has a substantial tax deficit and the other had a considerable taxable revenue. The effect it has on the newly formed corporate unit is that is decreases its tax burdens.

- Note that the tax gains in mergers may arise because of unused tax losses, unused debt capacity, surplus funds, and the write-up of depreciable assets.[22]

  If a profitable firm acquires a loss-making company. It can manage to reduce its tax burden by using the new operating losses of the target company.[23] This is the strategy of using deficits to lessen taxes. That is by using existing tax laws to reap tax benefits.[24]

  Following a merger or acquisition, a target firms' effective tax rate decreases on average by 3 percentage points. This decline is as high as 8 percentage points when the acquiring firm is tax aggressive. Further, target firm profitability decreases, particularly in the case of targets having a higher statutory tax rate than the acquirer. These results point to acquiring firms' ability to more effectively low target's tax burdens after the deal takes place.[25]

- ## Competitive Advantage

  Within a country, there are sundry healthcare establishments competing. Every establishment's goal is to take over the market, or in some critical cases, survive.

  Many physician groups take the merger route to expand their footprints in a new market where the partnering physician group already has a strong presence.[26]

  The combination of an entity's assets, management skills, revenue etc. keeps merged groups at all times a step or two ahead of smaller private practices. With that advantage, dominating the sector may be guaranteed. As mouthwatering as this may sound, however it comes with some challenges. Imagine if two giant medical practices combine forces to dominate the sector, what do you think would be the outcome.

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[20] Billet and Ryngaert (1997) Cited in Raghawendra K. and Meghna C (2021) The Impacts of Mergers and Acquisitions on Capital Structure of Firms: Empirical Justification of Theory.
[21] Aloke Ghosh and Prem C. Jain (n.d) Financial Leverage Changes Associated with Corporate Mergers
[22] https://www.referenceforbusiness.com/encyclopedia/Man-Mix/Mergers-and-Acquisitions.htm
[23] Financial Synergy https://corporatefinanceinstitute.com/resources/knowledge/deals/financial-synergy/
[24] *Ibid*
[25] Tax avoidance as a Drive for Mergers & Acquisitions
[26] Nick Hernandez (2018) The Reasons Why Medical Practices Merge

It could bring about monopoly and this often attracts a lot of scrutiny from government agencies with the task to moderate company operations.

- ## Stock Exchange Quotation

Where a company is publicly quoted, it comes with a lot of benefits. First and foremost, the public is fully aware of the existence of the company. Publicity comes with a lot of benefits as it makes their products get wider recognition, especially if they have a good reputation with consumers. It opens a lot of doors to prospective consumers. This has the effect of raising the market share of such a company.

Also, public quotation makes it easy for a company to raise capital in the future. And every company requires capital to push its growth. There is no better way to fund a lot expenses if not the financial benefits public quotation can offer.

This is easy for the big healthcare establishments but quite different in the case of smaller practices. Despite being desirous for public quotation, many small practices will not meet up. Becoming publicly quoted can be a difficult task for smaller practices considering the price and commitment it requires to undertake, most of them cannot afford that. Smaller medical practices have opted for the strategy of joining forces with bigger practices which already have that recognition.

Therefore, as a strategy to get listed on the stock exchange, smaller practices usually go into a merger with bigger healthcare establishments. This way, a private practice which is not able to meet the listing requirements in the stock exchange by integrating with bigger practices which have already been quoted.

As attractive as being listed is, also comes with other shortcomings. According to Agrawal, one of the most important changes that companies need to acquire is the disclosure of accounts to investors, which may expose the company strategy and confidential figures to the competitors.[27]

- ## Continued Existence

The healthcare industry is going through a phase of uncertainty and combined strength is always better in tough times.[28]

~ Nick Hernandez

This is directed at the smaller practices privately owned by families or individuals. Practices privately owned are prone to go through more hurdles than others, such as the problems

[27] https://www.google.com/amp/s/www/kalptalk.com/amp/what-are-the-advantages-and-disadvtages-of-obtaining-a-stock-market-quotation

[28] The Reasons Why Medical Practices Merge *Supra*

associated with access to capital and advanced technology. But the highest of them all is the risk of closure.

As a privately owned business, any personal problem experienced by the founder affects the whole business. Be it as regards to finances, health or retirement. All puts the practice at a risk of failure. In the case of retirement, the risk of failure springs mainly when there are no plans as to who succeeds who. And once the practice is affected, whether as it relates to its continuance or not, everyone affiliated with it, is at a risk of being laid off. As for total closure, everyone loses their jobs.

These small practices therefore turn to mergers or acquisitions for the continuity of their practices. A larger practice would not be affected by the personal issues of one of its leaders.

Apart from the listed benefits, many other scholars have also made an input to the motives behind medical mergers and acquisitions. Gaughan had noted that the waves in mergers are caused by a combination of economic, regulatory and technological shock.[29] On the other hand, Bowers is of the view that acquisitions occur for five reasons; these are to deal with overcapacity by consolidating nature industries, to roll-up competitors, to expand into new markets or products, as a substitute for research and development and inventing an industry by exploiting eroding industry boundaries.[30] While according to Everage, increasing costs and hours to stay compliant with the rapidly changing regulations, practices that are declining in size, due to retiring physicians and difficulty recruiting new physicians in a private practice setting, decreased insurance reimbursements and challenges for smaller organizations to negotiate with insurers are some of the factors that may be the driving forces to both parties.[31]

According to Roberts *et al*, there are drivers which are motivations for mergers and acquisitions. Like the requirement for specialist skills and/or resources, national and international stock markets; in which a stock market boom tends to make acquisition more attractive, globalization drivers, national and international consolidation diversification drivers, industry and sector pressures, capacity reduction, vertical integration, a drive for increased management effectives and efficiency, a drive to acquire a new market or customer base, a drive to buy into a growth sector or market.[32]

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[29] Gaughan, P.A (2011) Mergers, Acquisitions, and Corporate Restructuring (5th ed.) Hoboken, New Jersey: John Wiley & Sons Inc.

[30] Bower, J.L. (2001, March) Not All Mergers and Acquisitions Are Alike- and that Matters. Havard Business Review, pp. 93-101

[31] Diana Everage (2015) Mergers and Acquisitions in Healthcare: The Current Trend and How a Physician Organization can be Prepared.

[32] Alexander Roberts, William Wallace, Peter Moles (2016) Mergers and Acquisition, Edinburgh Business School, Heriot-Watt University

Ellis and Razavi, are of the view that one of the numerous reasons for medical entities to take up a merger or an acquisition is driven by momentous changes in healthcare reform, the cost of providing care to patients in increasing, alongside new and often complex regulations and requirements.

Key Takeaways

- In a merger, medical practices agree to integrate on equal terms to form a single unit.
- Acquisitions of a medical practice by another need not be voluntary as it is usually on unequal terms.
- Diversification as one of the major drives of medical mergers and acquisitions not only minimizes risks but also allows medical practices to expand their market and attract more customers.
- The idea of synergy as a drive for medical mergers and acquisitions is that the outcome of the combined efforts of the medical practices will bring more result than the outcome of their individual efforts.
- The desire for growth, economies of scale, assets, technological drive, management proficiency, the desire to dominate, competition, tax benefits, leverage, stock exchange quotation, continued existence are some of the few reasons medical practices turn to mergers and acquisition.

How to get a Successful Medical Merger.

To be successful, you have to have your heart in your business, and your business in your heart.

~ Thomas Watson, Sr. Former CEO, IBM

No, these transactions are not without loopholes of which can be properly avoided if care is taken. Remember, we'd mentioned in the beginning of this chapter that mergers and acquisitions are not as easy as they sound. There are a lot of formalities involved. A lot of reflections, considerations to be taken account of. And that jumping into a merger without proper preparation and investigation, could make it all go south.

"Companies spend more than $2 trillion on acquisitions every year, yet the merger and acquisition failure rate is between 70% and 90%"

~ Harvard Business Review

How is this possible sine there's enough evident that shows a lot of firms seeking a way out through mergers and acquisitions. Many healthcare establishments that rush into a

merger or an acquisition often forget that what keeps an entity going are the people behind the wheel. And if these key people from the separate entities are not wheeling in the same direction owing to a lot factors; then the integration process will be frustrated and in critical cases, there will be a high chance of the integration to fail.

Medical practices considering such endeavors will need to carefully articulate a growth strategy that aligns with their overall corporate strategy (with proper board involvement); identify the right markets and targets; define and execute a thorough but fast-paced diligence process; prepare a detailed integration plan by phases; and follow up with a well-resourced and communicated integration execution across many complex function; dispersed technologies and geographies to capture the targeted deal values.[33]

According to Salame, failures in mergers maybe caused by lack of communication, lack of direct involvement by human resources, lack of training, loss of key people and talented employees, loss of customers, corporate cultural clash, power politics, inadequate planning.[34]

Well this is what this paragraph is about to explore. How to get a successful medical merger or rather, how to avoid an unsuccessful merger.

- ## Choose the Right Partner

Choosing a merger partner is the number one step to turning a private medical practice to a merged group. Without an alliance, there will be no transaction. It is based on have a prospective alliance lies the aftermath of whether or not there will be a group or not.

According to Laveren, the wrong choice of partner can lead to difficult negotiations and loss of information, and occasionally to nothing happening at all.[35]

Before choosing a partner, there are considerations to be weighted, otherwise, any transaction so done would clearly fail. Some of these considerations include – but not limited to the following;

a. Acknowledging that your practice can not achieve its goals through organic growth. Which is a growth which a corporate entity achieves internally when productivity increases and sales expands.
b. As an entity, what makes your practice a potential alliance. In other words, what do you have to offer? In choosing the right partner, you must consider your practice or firm as an

[33] Risk & business Consulting (n.d) Guide to Mergers and Acquisitions
[34] Godfred Yaw Koi-Akrofi *Supra*
[35] https://www.google.com/amp/s/blog.antwerpmanagementschool.be/en/15-success-factors-for-merger-and-acquisition-processes%3fhs_amp=true

ideal partner first. If there is so much to gain from the other, what is there to be gained from you? Therefore, assess your practice.

c. Can the cultures coexist?
d. Examine the leadership of the medical practice. The leadership includes both the board of directors and the management. There is an old adage that says 'there can be only one captain in a ship.' It also applies here. This is an inference to the fact that there may be power tussle. A merged group fairs better where a leader from one of the practices is still in the work force while the other is leaving the work force. Also examine if the leadership of the target firm is just after being well-fixed and established or if it has the mentality which would foster a coalition.

- ## Communicate Properly

It takes a long time to complete the process of a medical merger. Communication starts at the very moment of the introduction of the practices to the negotiation stages and what have you. It all entails each practice to be diligent and maintain close connections and communications which would not lay on the line any stage in the transaction.

It all makes it easier to communicate properly. Like we will learn later in this book, the due diligence process must follow a healthy communication practice which not only reveals the visions of each practice but also provides the buyer other pertinent information which would foster a successful medical merger. Their visions and priorities must align otherwise, there will be no deal in the first place. And where there is one already, it will fail terribly.

Because failure to be transparent, sincere, on the part of the buyer or seller, or failure to take into account the concerns of the practices, is a red flag. Every stone must not be left unturned.

- ## There must be a WHY

Why a medical merger? What is the motive for this transaction? Where there is no why, there is no how. The how is the strategy. And where there is no strategy, we all know what comes after that.

Many buyers and sellers get eager to close a deal without actually planning on what comes after the deal's been closed. Where there is lack of foresight, the future of such a medical practice will wager. What comes after cannot be avoided like the rest, so it is imperative that strategic planning should be put into the integration process. Because we can't build something on nothing and expect it to stand.

Basically, one of the factual reasons why there are failed medical mergers is solely because the practices didn't have a well-defined standpoint of what had driven them into a merger or what they hoped to achieve as a merged group.

This can be ascertained by pinpointing what the medical practices could achieve as a merged practice which they would not have achieved as private practices. This is the why? With matching visions and priorities, planning the future of such a medical practice would not be too difficult.

- ## There Must be a Clear Vision

A lot of healthcare establishments cannot blink an eye in the face of a mouthwatering opportunity to expand its business. Looking to expand the practice can often lead the decision making bodies of such practices to making resolutions without actually having a clear-cut vision as to what exactly how the merged group going to appear should the transaction be successful. And the absence of the vision on the new merger group is a red flag actually having a merger in the first place. In the end, it has been noted that having a clear strategic purpose for an acquisition, followed by a clear vision for how integration will unfold, were necessary for success.[36]

Without a clear vision from even one side, the merged group is bound to fail. Because if the goals of the groups do not align, how can they work together? Conflicts will always arise from the differences in the operations of the establishments, its cultural disparities and so many other misfits which would not have been a problem in a private practice.

The vision of the practice leaders must not just be detailed and unambiguous, but it must accommodate shareholders who have the responsibility to come to a conclusion as to when it has been realized. Therefore, it is paramount to have aligned visions, ask questions where necessary, make a well-defined plan, and where it seems impossible to come to a valid sense of working integration, do not force it. There will be other opportunities out there.

- ## Have Realistic Expectations

Mergers and acquisitions often fail not because the management of the merged companies didn't identify the right synergies, but because the acquired company stakeholders didn't have the patience to execute on these synergies. Expectations for realizing short term gains

[36] Brian Burgess, Stefan Wuorinen, Patrick Wright (n.d) Managing Mergers and Acquisitions: Perspectives from Human Resources

when merging two companies are often unrealistic even when companies complement each other well and should easily integrate.[37]

~Michael Blajwas

This is a clear case of expectation versus reality. Owners and executives often get too excited in the process of a successful merger. Most executives expect to hit jackpot after a merger, simply because their productive capacity as separate units were decent. While they have not the right strategy to keep it going.

But they are often met with a different reality. When these targets are not met, the directors lose patience in the system and the confidence of the stakeholders.

According to Michael, a merger should include a detailed and well-thought integration plan which is feasible, mutually agreed upon, transparent, efficient, realistic and manageable. In order to keep the momentum going and keep the feet on the ground, reassess your goals and expectations at constant intervals throughout the process.[38] This will not only make the integration process less complicated, but it will also allow for easy adjustment while realizing both the long term and short term goals.

- ## Leaders have to be Involved

The need for the involvement of the hospital leaders cannot be underestimated. Their role in the process is a vital aspect which must not be ignored. Right from the introductions to the negotiations to the conclusions, they must be involved.

It will be a mistake to leave that job to the experts, after all, that is their specialty and by the way, "there are other things to take care of." What happens then when the experts are out of the equation? It never turns out fine. How will the new merged practice move forward if its owners do not have proper insight with regards to the new status quo and expectations?

The answer to this question is straightforward; get involved.

- ## The Due Diligence Process Must Be Taken Diligently

The investigation during the due diligence exercises must be carried on with the required standard of care. Like we will see in the later chapters, the due diligence process is not to be jumped, because it is somewhat of an obligation. Though most of the times it can be seen as a voluntary investigation.

[37] Michael Blajwas (2018) The Key to a Successful M&A Might Not be What You Think.
[38] Elizabeth Cutright (2019) The Post-Merger Synergy: How to Avoid Common M&A Pitfalls and Risks

Being an essential activity for both the acquirer and the target company and in this case medical practice, it is through the due diligence exercise buyers can make an informed decision about the target medical practice they are hoping to acquire. It comes with a lot of evaluations, a lot of confidences to be uncovered, which would not have been laid out had there been no such exercises.

According to Laveren, poor valuation can result in an inflated price, which will make merger or acquisition look like a failure in hindsight, however smoothly the integration proceeds.[39] This exercise of care is often applied in every contractual agreement to not just uncover the red flags but to save the acquirer from losses. Also, it could work as a defense to show that the buyer took all reasonable care anyone would have taken under the circumstances, thus a way out of a bad agreement.

- ## Take into Account the Culture Disparities

> *A lot of disasters occur because due diligence is focused on legal and financial considerations, as opposed to cultural ones. There is no concern for the human impact of the merger, for how to make the merger work. Once the two companies decide who's going to lead the combined corporation, their concern for corporate culture ends. They don't think about how to go about merging these distinct corporate cultures.*

~ Jacalyn Sherriton

Do not ignore this. It is one of the major reasons why many mergers have failed. Many buyers will acknowledge the cultural differences between the medical practices because at first, it may not pose a threat.

Every medical practice must look out for the cultural differences which will hamper a smooth and successful merger. Because it has been and will continue to be a major drawback of a budding merger. Take note.

Culture is usually seen as a soft topic, not that important, because how can they analyze the culture differences. To evaluate this, a culture assessment test is usually carried out to unearth culture clashes. But this will rarely ever make a difference because many practices will rather not let culture difference be a hindrance to a due diligence process to a done deal.

Rather, there are so many other ways to properly integrate without letting culture be an interference. This we will learn in the later chapters of this book.

[39] 15 Factors for Merger and Acquisition Process *Supra*

Therefore, the mistakes which have been made and could be made by medical practices that have gone into and would like to go into mergers and acquisitions could be summarized as lacking a good motive; failing to plan effectively; choosing the wrong partner; ignoring culture misfits; failing to communicate and lack of transparency; performing a poor due diligence process. Others include failing to move the process along expeditiously; absence of security over information; paying substantially more than fair value; failure to create focus during the integration process and involve front-line operating personnel; failure to deliver on expectations resulting in post-acquisition issues;[40] keeping a blind eye to other red flags; overpaying; overvaluing concerted effort. Hiring the wrong legal counsel; not hiring a great financial advisor or investment banker; not negotiating the key terms of a deal in a letter of intent; failing to negotiate and agree upon a favorable acquisition agreement; not having an experienced merger and acquisition negotiator lead the negotiations, not adequately taking into account employee related issues.[41]

Conclusion

In other words, some of the reasons medical mergers and acquisitions fail are;

- Lack of caution in choosing the right partner.
- Parties to the transaction fail to communicate effectively.
- Expectations become too high and impracticable.
- The topic of culture differences is overlooked and underestimated.

Communication allows for easier integration process. By communicating at the proper time traverses some complexities that will be faced in the process. This is not to say that difficulties won't creep in to frustrate the integration process of the practices, but it takes good management to handle such complications. Putting in enough time and effort into making a deal work; from both buyer and seller gives integration a better chance of it turning out fine. Because a lot of commitment is required from both parties.

Through the next chapters, we'll learn the benefits of mergers and acquisitions. How these benefits are reaped. We'll introduce you to the four merger options available to medical practices that would want to embark on a consolidation mission. The stages of merger integration; negotiating merger terms; the pre-settlement and settlement phase of integration processes and the post-merger, everything that happens after a merger.

[40] Guide to Mergers and Acquisitions *Supra*
[41] Richard Harroch (2015) 22 Mistakes made by Sellers in Mergers and Acquisition https://www.forbes.com/sites/allbusiness/2015/04/29/22-mistakes-made-by-sellers-in-mergers-and-acquisitions/?sh=59ba80bb28e9

CHAPTER 2

The Many Benefits of a Medical Merger

Medical mergers and acquisitions has been a growing trend; while many healthcare systems have seen the good in the growing external corporate restructuring system. Others have rather distorted conceptions about medical mergers. They point to its downsides which would rather discourage future transactions.

Like the conception that the consumer benefits are greatly affected. This conception is based on the fact that the cost of healthcare services will greatly increase when these transactions happen. According to Forbes, "hospitals don't consolidate to cut prices, they do it to gain market control which gives them negotiating leverage over insurance companies." According to a study published by the New England Journal of Medicine, "hospital acquisitions were associated with modestly worse patient experiences and no significant changes in readmission or mortality rates."

"All else equal, the more competitors that exist in the market, the less likely that a firm will be able to avoid this competitive dynamic; firms facing numerous competitors will find it difficult to unilaterally increase prices or maintain an agreement with other firms to increase price."[42]

It is said mergers are there to interfere with competitions between rival firms. And competitions work in the interest of the consumers whom are the driving forces behind the reduction of prices by firms in order to attract their attention. It therefore increases consumer prices and reduces the pressure on managers to fins more efficient methods of production.[43]

It is also said that when medical merger transactions happen, it is mostly not in the interest of the consumers but on finance. Also, there could be a shift in the purpose of one corporation for another. According the Mr. Baton Walker, a healthcare attorney for McGuireWoods,[44] in a webinar hosted by McGuireWoods, "when a hospital sells assets to or mergers with another hospital, the selling hospital may lose the majority of its local control and be subjected to a change in its mission. In addition, it the hospital is a for-profit, the hospital may undergo a structure change."[45]

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[42] Phillip E. Areeda & Herbert Hoven Kamp (2006) Antitrust Law (how mergers lessen competition)
[43] Kristin Madison, J. D (2007) Hospital Mergers in an Era of Quality Improvement
[44] A Law Firm Recognized in Many Areas such as Merger and Acquisitions.
[45] Becker's Hospital Review.

According to Anya, the primary disadvantage to patients posed by hospital mergers and acquisition activity results from the inability of smaller hospitals in the community to compete successfully. Freestanding hospitals may be forced to downsize or shut their doors completely, which can cause substantial disruptions in care for patients by eliminating access to critical services such as hemodialysis.[46]

The Opposite is in Fact the Case.

A report released by the American Hospital Association and the economists at Charles River Associates released clearly showed otherwise. The analysis compared cost per admission, revenue per admission and impatient quality measures. In the end, they found that the acquired hospitals saw a 2.3% reduction in operating expense per admission. They also found that an acquisition was associated with a decrease of 3.5% in net patient revenue per adjusted admission...suggesting the savings are passed on to patients and their health plans. The mergers lead to a decrease in both readmissions and mortality for patients. According to them, "for hospital and health systems, merging and building systems are one way to increase scale to manage risk as the field moves toward value-based care. Mergers are a strategy to reduce costs by employing standardization to reduce clinical variation, and to create efficiencies by reducing administrative and supply chain costs. And they provide increased access, particularly in vulnerable rural and urban areas. They make it easier to raise capital to fund expensive information technology systems that can provide data to improve the quality of care."[47]

A study carried out the Center for Healthcare Economics and Policy found that there was no statistical relationship between consolidation and hospital price increases. And that any such commentary arguing otherwise is the result of outdated reports from at least twenty years ago.[48] And we can't help but agree with them. Through medical mergers, communities and rural areas are provided with more quality care because these consolidations provide healthcare systems more opportunities with more capital which they utilize appropriately in the interest of their patients.

Mergers can help increase productive efficiency, and ultimately, the vitality of market competition.[49] Mergers can allow firms to produce goods or services at a lower cost than

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[46] https://www.hospitalrecruiting.com/blog/2447/mergers-acquisitions-in-healthcare-who-benefits/

[47] American Hospital Association (2019) Study: Hospital Mergers Reduce Costs, Enhance Quality for Patient https://www.aha.org/news/headline/2019-09-04-study-hospital-mergers-reduce-costs-enhance-quality-patients#:~:text=Hospital%20mergers%20enhance%20quality%20for,River%20Associates%20study%20released%20today.&text=%E2%80%9CThe%20benefits%20of%20mergers%20allow, improving%20care%20for%20the%20patient.%E2%80%9D

[48] Michael D. Shaw (n.d) The Economics of Wellness, or Why Hospital Mergers Do Not Increase Health Care Costs https://www.corporatewellnessmagazine.com/article/hospital-mergers-do-not-increase-health-care-costs

[49] Madison *Supra*

either participating firm could individually.[50] This ultimately has a positive outcome for the consumers especially.

That said, the consolidation of healthcare establishments has done more good than harm. It a beautiful concept that comes with a lot of advantages and less drawbacks. In this chapter, we will see why medical mergers is a good option.

1. An Improved Medical Care

Mergers have become one important means by which hospitals can provide their communities with high quality, convenient and cost-effective care.

~ Rick Pollack

This is beneficial for the patients. If the quality of medical care is improved without really increasing the costs, it is a win-win for both the healthcare establishments and the patients. We can use an illustration to show how this makes it better; imagine the inconvenience it brings to patients if they cannot access all the quality medical care they require in one practice. And on the part of the medical practice, imagine what loss it would be if it were to lose a patient despite proximity because they do not have a good reputation in terms of quality healthcare. Then imagine how the whole system is affected positively when this medical practice consolidates with another that specializes in different types of medicines and services, and more facilities. Patients get to access all they need in this merged practice and they do not have to worry about the price because the practices are provided with more capital which they utilize in the interest of the patients.

According to a study conducted by the American Hospital Association, President and CEO, Rick Pollack reports on the findings that "the benefits of mergers allow hospitals to create connected networks of care and keep the focus where it belongs; on improving care for the patient."[51]

Acquiring hospitals, may bring both financial resources and management expertise to the hospitals they acquire permitting an expansion of service offerings.[52] A merger might also increase quality by facilitating sharing of experiences and expertise among hospital managers and hospital medical staffs, both in the provision of medical care and in quality improvement techniques.[53]

Madison also views that another way which a merger might improve hospital quality is by accelerating adoption of information technologies. According to her, these information

[50] Cited in Madison *Supra*
[51] *Ibid*
[52] Michele Bitoun Blecher (1998) 72 Hospitals & Health Networks 38, 40, Wall Street Start, Main Street Savvy (Improvements made by major hospital chain in hospital it acquires)
[53] *Ibid* No. 7

technologies improve the safety and quality of medical care through a variety of mechanisms, including faster access to patient's medical histories, clinical decisions support systems, and alerts to potentially dangerous drug interactions.[54] Hospitals can perform better as a result of expanded service offering to patients and shared resources across hospitals.[55]

Consolidations allow for a better access to more professional which smaller medical practices would not have been able to hire as a separate entity. It is believed that since merger and acquisitions bring together a community of professional expertise and advance technology which a smaller practice would not have been able to afford as a private practice allows such practices the proficiency it was lacking to create care plans which would last longer and have more positive and significant effects. Apart from other resources which become accessible to the smaller practice, access to healthcare skilled experts not only pushes the smaller practice a step further in the aspect of creating more efficient medical care plans but this also fosters the ability to provide a better medical service which yield better results.

2. A Larger Community

A community of healthcare firms strung together by a connection of invisible links can be achieved through networking. You know how networking for referrals has been a suitable strategy to reach more prospective clients every day. The more you network, creating and maintaining affiliations as a means of building a firm referral network, the more accessible you become to the potential clients.

Growing a strong referral network can be difficult especially in the face of rivals looming in every corner. Mergers make it a lot easier. A medical merger creates a sort of permanent patient referral base which allows practices (especially the smaller practices) access to a more substantial patient referral source. This way, they are availed a better chance at drawing new patients from all the recommendations from this community which they become a part of. It not only gives them access to new patients but it increases their visibility. Hospitals benefit from higher patient volumes and a larger specialist referral network that could promote continuity of care and increase patient satisfaction.[56]

With a larger community, through mergers and acquisitions, comes a better opportunity to grow a small medical practices, especially in the terms of visibility through referrals, a feat that would have been difficult to achieve as a private practice.

[54] Cited in Madison *Supra*
[55] Mergers and Acquisition in Health Care-who Benefits *Supra*
[56] *Ibid*

3. Access to Capital

Smaller medical practices face a lot of challenges in the course of business. Sometimes in regards to retaining the wavering loyalty of customers which can be triggered over small issues that pile up into a bad outcome for the practices. Or with the problems involving hiring the requisite skilled personnel whom may be difficult to retain.

Well, the problem with cash flow seems to outweigh or these challenges. In fact, it is a major dilemma on a whole new level for smaller practices. Every medical practices needs to not only be able to provide a good patient experience but to also be profitable. Rather what we have with smaller practices are cash flow problems which often almost push them to the brink of shutting their doors.

It is easier for smaller medical practices to experience problems relating to finance. From the cost of hiring and paying well qualified staff, to the problems associated with bad debt, a liability incurred due to many patient's medical pills which remain unpaid, to the cost of procuring and maintaining medical tools and supplies, to the little to no cash reserves which would have been there to handle the expenses of the practices. These and more are the problems associated with cash flow.

But with mergers and acquisitions, the story takes a new direction. Consolidating with bigger practices makes it easier to access capital; they are guaranteed more financial stability which is inherent from the fact that the bigger practices often have to cover the cost of their expenses. Let us be reminded that it is not an advantage for just the smaller practices, because the other medical practice in turn is availed those resources and asset which were not available to them as a private practice.

Scholars like Anya, are of the view that medical mergers and acquisitions benefits also extend to healthcare providers through greater job security for front-line clinical staff, employed by a strong, solvent hospital system.[57] Mergers have also been said to increase corporate power and improve market and product lines, aid in diversification, such as reducing cyclical and operational effects.[58]

4. Synergistic Effect

"The whole is greater than the separate parts; extraordinary results are achieved."[59]

~ Covey

[57] Mergers and Acquisition in Health Care-who Benefits *Supra*
[58] Delta Publishing Company (2009) A Practical Guide to Mergers, Acquisition and Divestitures
[59] Covey (2005) Cited in Michiel Vos (2008) To Achieve Synergy; Know Your target pp. 17

A synergistic effect is a type of effect that occurs when components, bodies combine creating a result way bigger than each component would have exhibited independently. Synergy as the interaction of various elements could display itself in various areas of life;

1. Connection(synergy) of two or more pieces of radioactive material at excess of the critical mass gives an energy release which exceeds the emission of energy of simple summation of individual piece;
2. Knowledge and efforts of several persons can be reorganized in such a way that they are mutually amplified;
3. Interaction of different types of energies inn comprehensive action, which enter into partnership with each other;
4. Profit after the association of two companies may exceed the amount of profits of these companies before the association.[60]

This book is more interested in the number four of this list. Relating to mergers, it is the outcome of the combinations of efforts of a merged group. Two or more practices as a merged group could reach heights through their combined efforts which they would not have been able to reach as separate entities.

The reorganization of an establishment may draw in various factors which will combine forces to bring about a different result. These factors could be technology, expertise, double revenue. However, the goal is to have a positive effect of synergy. Looking back to the first chapter of this book, a subheading "how to get a successful merger," is a good cue for things to avoid when considering a merger or acquisition. These things to avoid are what bring about the negative outcomes of synergy. These factors include; disparity in culture, power tussle, absence of communication, financial stability, change of ownership etc.

However, a well thought out corporate restructuring could reap a lot of synergistic effect. The expected synergy is measured in terms of the potential to increase revenue, add technology, or to reduce costs.[61] According to Hitt, Harrison and Ireland,[62] there are four foundations in the creation of synergy, strategic fit, organizational fit, managerial actions and value creation. When all four foundations exist, the likelihood of creating synergy is substantially better.

The first, strategic fit is the match between the two companies' organizational capabilities. When two companies, in this case, medical practices with two similar capabilities and similar strength and weaknesses merge, the prospect of creating synergy is reduced. The

[60] Ivan Doroshin *et al* (2017) IOP Conf. Ser: Earth Environ. Sci. 90 012165 – Synergistic Effect of Business Reputation in the Result of Application of Innovations on the Enterprises of the Transport Industry
[61] Synergistic https://corporatefinanceinstitute.com/resources/knowledge/deals/financial-synergy/
[62] Hitt *et al* (2001) Mergers and Acquisitions: A Guide to Creating Value to Stakeholders. New York: Oxford University Press Cited in Matilda A. *et al* (2008) How Management Creates and Realizes Synergy: Cross-border Mergers and Acquisitions pp. 12

second, organizational fit is when the companies are highly compatible, meaning that they have similar management processes, cultures, systems and structure. This makes it easier to share resources, knowledge, skills and effectively communicate. Two companies without organizational fit could find that the integration process will be stifled or prevented. The third, managerial actions are what managers do in order to realize the different synergies and the benefits they convey. Creating synergy requires an active management that recognized the internal issues and other problems connected to the merger & acquisition process. The fourth, value creation which is based on the basic fact that the benefits from the synergy need to exceed the cost of creating and capturing synergy. Costs that are important are the premium paid for the merger & acquisition deal, the financing of the merger & acquisition deal and the actions needed to integrate the two companies in order to create synergy. It will not make any impact if the cost of creating synergy is greater than the value of the synergy.

It is also good to note that synergy may not necessarily have a monetary value but could reduce the costs of sales and increase profit margin or future growth. In order for synergy to have an effect on the value, it must produce higher cash flows from existing assets, higher expected growth rates, longer growth periods, or lower cost of capital.[63]

According the Mike Ostergard, Austine Corbett, to achieve the latent benefits of mergers and acquisition, acquiring hospitals need to do three key things;

i. Prioritize the value drivers[64]that will enable improved performance and profitability.
ii. Reconfigure the combined health system's operating model (organization, processes, systems, and assets) so that it fully supports efficient and effective care delivery.
iii. Develop a post-close integrations plan that prioritizes value capture and supports the new operating model while managing risk.[65]

To look at a few other impacts of medical mergers:

- Competition can improve the quality of care. It is clear that in the corporate or business world, mergers are to be reckoned with. Although one hospital can drive competition down, two institutions can be able to the competition down. In cases like these, competition might be threatened to improve the condition of their hospitals to increase patient care. This is a good tactic that works for healthcare institutions that have an effective strategy. A merger for hospitals could be of benefit to the institutions conducting the merger and external competition. Although a merger will be of help to the parties, if

[63]https://www.investopedia.com/terms/s/synergy.asp#:~:text=If%20two%20companies%20can%20merge,and%20technology%2C%20and%20cost%20reduction
[64] Elements that Increase the Value of a Product or Service E.g. Skilled Labor, Technology, Capital, etc.
[65] https://imaa-institute.org.capturing-synergies-in-health-system-ma-are-you-leaving-money-on-the-table/

not careful, they may lose some patients to the competition. Since a lot is happening in the institution, it may be easy to lose sight of the little things during patient care which might draw them towards another institution. My suggestion to merging institutions would be to not lose sight of the basics during patient care even when amid a merger.

- Major successes occurs during hospital mergers. This is quite true, as it has been noticed in the past few years. Because of the combined system, workforce, and data, they can collaborate to create inventions that are of great help to the health care industry. These don't refer to hospital mergers alone. Mergers between the biochemical industries and pharmaceutical institutions are a clear example of collaborations that can benefit the healthcare system. Since mergers do not necessarily include 2 institutions, it could include pharmaceuticals, biochemical institutions, and a biotech institution could merge to pull their resources to achieve a particular goal.

- There is a loss of business for employees if there are any layoffs. This is true for every merger integration. This is the situation where some employees have to be laid off because of mergers. The impact of this leads to a lot of job loss in the community.

- Change of location. During a merger, there is a high chance of a hospital moving its location to another site. This results in the lack of healthcare in the community. When the hospital moves to its location to the merging institution. It could lead to a lack of healthcare for certain communities.

- Support of staff can increase motivation during a merger. Hospital mergers have a positive impact on staff job satisfaction in the year before and after the merger. However, there is a thin line between satisfaction and burnout. During the merger, there could be an upheaval and tension among the staff and exhaustion. It all depends on how management handles it. If it is addressed properly, it could lead to motivation among the staff and if it is not treated properly, there could be tension among the staff. The doctors and nurses can be jaded with extra hours which can cause exhaustion among the staff.

Some other impacts of Health Care Mergers to be considered are that;

●Competition can improve the quality of care. It is clear that in the corporate or business world, mergers are to be reckoned with. Although one hospital can drive competition down, two institutions can be able to the competition down. In cases like these, competition might be threatened to improve the condition of their hospitals to increase patient care. This is a good tactic that works for healthcare institutions that have an effective strategy. A merger for hospitals could be of benefit to the institutions conducting the merger and external competition. Although a merger will be of help to the parties, if

not careful, they may lose some patients to the competition. Since a lot is happening in the institution, it may be easy to lose sight of the little things during patient care which might draw them towards another institution . My suggestion to merging institutions would be to not lose sight of the basics during patient care even when amid a merger.

●Major successes occurs during hospital mergers. This is quite true, as it has been noticed in the past few years. Because of the combined system, workforce, and data, they can collaborate to create inventions that are of great help to the health care industry. These don't refer to hospital mergers alone. Mergers between the biochemical industries and pharmaceutical institutions are a clear example of collaborations that can benefit the healthcare system. Since mergers do not necessarily include 2 institutions, it could include pharmaceuticals, biochemical institutions, and a biotech institution could merge to pull their resources to achieve a particular goal.

●There is a loss of business for employees if there are any layoffs. This is true for every merger integration. This is the situation where some employees have to be laid off because of mergers. The impact of this leads to a lot of job loss in the community.

●Change of location. During a merger, there is a high chance of a hospital moving its location to another site. This results in the lack of healthcare in the community. When the hospital moves to its location to the merging institution. It could lead to a lack of healthcare for certain communities.

●Support of staff can increase motivation during a merger. Hospital mergers have a positive impact on staff job satisfaction in the year before and after the merger. However, there is a thin line between satisfaction and burnout. During the merger, there could be an upheaval and tension among the staff and exhaustion. It all depends on how management handles it. If it is addressed properly, it could lead to motivation among the staff and if it is not treated properly, there could be tension among the staff. The doctors and nurses can be jaded with extra hours which can cause exhaustion among the staff.

CHAPTER 3

Exploring the Four Merger Options

Every medical practice hoping to seal a transaction must bear in mind that there is a list of options open to them as an entity. From the structure of their establishment, they can make an informed decision for what best suits their medical practice. This comes after choosing the right partner.

Taking a cue from the VMG Merger and Acquisition Outline, it states options which are available to medical practices endeavoring to participate in a merger or an acquisition. According to the outline, there are four merger options.

The first option allows Medical Practice A to Acquire Medical Practice B. The former agreeing to transfer all of its property, employees, contacts, assets, etc. to the latter. In the end, only one organization remains which is Medical Practice B.

The second option allows Medical Practice B to become a subsidiary. Therefore, it changes its structure to heave Medical Practice A as the controlling/sole member of Medical Practice B. This guarantees Medical Practice A as the parent of Medical Practice B. In the end, both Medical Practices remain in existence and have separate legal liabilities.

The third option allows both Medical Practices to create a new parent Medical Practice which then sits above both of them. However, both organizations still remain in existence, and maintaining a feeling of autonomy. In the end, both Medical Practices remain as they were.

The fourth option allows both Medical Practices to create a new parent Medical Practice – Medical Practice C- to which they agree to transfer all their properties, employees, contracts, assets, etc. In the end, Medical Practice A and Medical Practice B wound up/ get deregistered.

We'll take each option explaining everything there is to know about it. It depends on which you feel would fit the structure of your medical practice. The ball is your court to choose what best works your need as a medical practice.

Key words: Parent company, subsidiary

First Option

5. **The Acquisition of the Target Medical Practice**

Two medical practices can integrate to form a single unit. This starts with an agreement between the parties involved, and a voluntary act to that effect. It involves two medical practices; say Med Care and Health Point. They agree to voluntarily fuse their medical practices into a single entity on approximately like and equal terms. This way, they are able to expand their reach, expand into new segments, gain market share, reduce costs of operations, grow revenues and increase profits.[66]

This type of transaction is common amongst practices of the same, if not the same, broadly the same size, scale of operations and the same customer root. And it is the medical practice incorporating and assimilating the other that usually initiates the transaction.

This is what happens when two medical practices consolidate under this option:

Or more specifically with Med Care and Health Point.

It depends on which is the target company and which is the absorbing company. Say, the parties agree to fuse Med Care and Health Point into Med Care. Then, Med Care becomes the 'absorbing company' and thus retains its identity while Health Point becomes the 'absorbed' and therefore loses its identity. Consequently, Health Point will cease to exist. What happens to everyone and everything in Health Point from the employees, shareholders, assets etc.? Health Point transfers all of its property, employees, contacts, assets, etc. to Med Care.

Health Point shareholders receive shares from Med Care. What this means is the shareholders having lost ownership of Health Point as a wound up company, become part-owners of Med Care through gaining shares. Med Care shareholders will retain their position, however, they will now share decision-making with Health Point owners.

Conclusion: Option 1 for medical practices to consolidate ends up quashing the names of one of the medical practices from the Registered Companies and the other surviving and retaining its identity. It may be a transaction between two or more medical practices, the aim is to form a single unit. As a result, the absorbing medical practice takes up the assets and liabilities of the absorbed medical practice.

[66] https://www.investopedia.com/terms/m/merger.asp

The Second Option

6. The Target Medical Practice Becomes a Subsidiary

A subsidiary in this context is a part of a larger organization. Being a smaller medical practice controlled and directed by a larger medical practice. That larger company is then referred to as the parent company.

The target medical practice becomes a subsidiary. For a clearer illustration, we'll still make use of two medical practices. One's the acquiring company and the other is the target company. Thus the transaction is between Med care, a larger medical practice and Health Point, a smaller medical practice.

And Health Point is to be the subsidiary. Med care here has purchased the whole or some of the shares in order to have control over Health Point. This way, Health Point changes its structure in a way that would make Med Care its controlling member. Therefore, Med Care becomes the parent company.

In effect, this only means that Med Care becomes the sole controlling body of Health point. Having the sole responsibility of making overriding decisions in respect to the operations of Health Point. And nothing else.

A subsidiary operates as a separate corporate entity, therefore, it can do whatever a corporate legal entity can do. It can enter into contracts, sue and be sued and incur separate legal liabilities. And it does not have to operate in the same location as the parent company, it is therefore allowed availed the right to a fair control of the company. Depending on what influential control offered by the subsidiary to the parent, the latter could be hands on or hands off owners.

Becoming a parent company comes with a lot advantages. First, a parent company more specifically, medical practice has controlling interests in the subsidiary which makes up of 51% or more of the voting stock which allows it exercise a significant control of the

subsidiary's decision making. With enough voting rights, it is easy to bend and twine the resolutions according to their whims and caprices in the shareholder's meetings.

The motive which drives a medical practice to become a parent company could be on the need to eliminate competition, gain access to the subsidiary's assets and specifically as it relates to tax benefits.

A parent company may apply its own data access and security directives for the subsidiary as a method of lessening the risk of losing intellectual property to other companies.[67] What makes being a parent company unique is that it should not be taken in place of its subsidiary. That is, they are not liable whatsoever for any liabilities incurred by its subsidiary. Be it debt, legal actions or matters relating to taxes, based on the concept of separate legal entity.

However, to every general rules is an exception, based on the alter ego relationship. This means Med Care can be liable for the actions of Health Point if there was an agency relationship between both. In other words, Health Point was acting in place of Med Care.

Some of the perceived advantages of having a parent-subsidiary framework includes; benefits are reaped from tax laws, through diversification, risk is reduced. Also productivity and proficiency is guaranteed. However, through the parent-subsidiary framework, while the latter will have control of the management of the firm, its control will always be limited with respect to core decision making.

Conclusion: Option 3 for medical practices to consolidate allows each (acquirer and target) to retain their identities. However, the target being a subsidiary will only have a limited control of the medical practice.

The Third Option

7. New Parent Medical Practice

Medical practices may decide to form a new practice which plays a supervisory role for them. the difference between this option and previous option is not much, as there exists a parent-subsidiary framework in both. Here are some of the areas they relate and the ways they differ.

Similarities and differences.

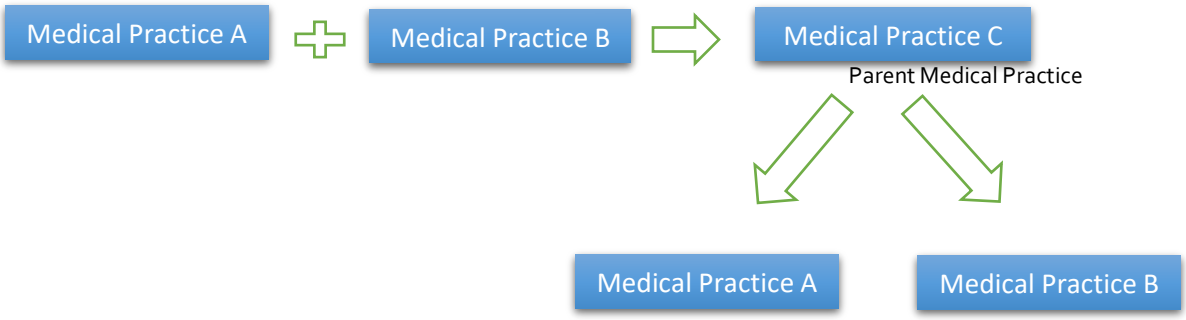
- Both parent practices have a supervisory role to play in the subsidiary practices.
- Both parent practices are expected to own a controlling interest in the shares of the subsidiary practices.

[67]https://www.investopedia.com/terms/w/whollyownedsubsidiary.asp#:~:text=A%20wholly%20owned%20subsidiary%20is,100%25%20owned%20by%20another%20company.&text=When%20lower%20costs%20and%20risks,would%20own%20a%20minority%20stake.

- There is a parent and a subsidiary
- Both medical practices retain their identities.
- Both practices retain some autonomy in its decision making.

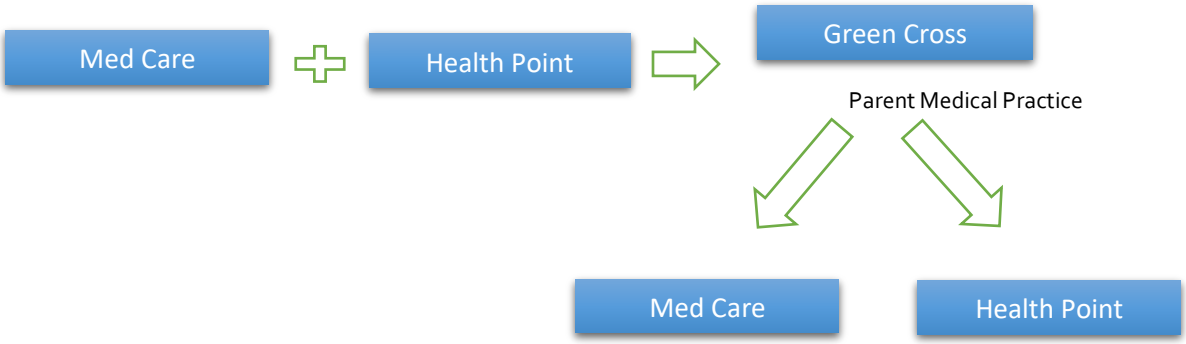
Differences.

- Despite both parent practices having supervisory roles, the parent practice in this option is more inactive and has mostly an overseeing function because it does not run the everyday operations of its subsidiaries.
- While in the previous option, the parent and subsidiary framework is created when one practice acquires controlling shares of the other practice. The acquirer becomes the parent and the target practice becomes the subsidiary and the latter changes its structure to accommodate the former. But the consolidation here involves two medical practices forming a wholly different medical practice. They have to change their structures to accommodate a new separate entity to sit above both of them. And by so doing, they transfer majority of their shares to the new practice. Take for example, a deal between Medical Practice A and Medical Practice B.



Subsidiaries

Or more specifically, a transaction between Med Care and Health Point;



Subsidiaries

In the end, Green Cross is the outcome of the consolidation with every right of a corporate entity, with a separate corporate liability from its subsidiaries; Med Care and Health Point.

- In the previous option, while the medical practices do not have to be of same size, this options works better when the medical practices are of the same size, have the same customer base etc.

Conclusion: In the end, Medical Practice and Medical Practice B remain as they were before the deal. However, they only retain limited autonomy since there is a Medical Practice C to supervise their operations.

The Fourth Option

10. New Medical Practice

Two or more medical practices may agree to combine their practices to form an entirely new medical practice. It also starts with an agreement and a resultant act to that effect. These medical practices become the transferor company and the new medical practice incorporating the two, consequently becomes a powerful practice with a better customer base.

This consolidation helps increase cash resources, eliminate competition, reduce taxes, increase economies of scale, and achieve diversification.[68] This is what happens when two medical practices consolidate under this option.

Put more specifically, a transaction between Med Care and Health Point;

Here, the two medical practices agree to lose their identities to form a wholly new practice, Green Cross, and thus will cease to exist. What happens to the people; employees, owners etc., property and assets of both practices? Med Care and Health Point agrees to transfer all properties, employees, contracts, assets etc. to Green Cross. This type of deal is usually transacted between medical practices of the same size, customer root and scale of operations and the initiation of the process is by both practices. Shareholders in both practices as a result also become shareholders of the new practice.

Conclusion: Option 4 for medical practices to consolidate ends up quashing the names of both practices from the Registered Companies, leaving none to survive. In the end, a new medical practice with a new identity is formed. As a result, the new medical practice takes up all the assets and liabilities of the transferor medical practices.

[68] https://www.investopedia.com/terms/a/amalgamation.asp

CHAPTER 4

THE MERGER INTEGRATION PROCESS

In previous chapters, we've observed the meaning, benefits, and merger options of a successful merger integration process, and there is still more to explore in the world of merger acquisition in healthcare, and there is a lot to unearth. A merger integration focuses on combining the strengths of each business as one to create an ideal business plan. For there to be a successful merger integration in healthcare or any other sector at all, it is vital to pay attention to the process and the phases that lead to it. A merger integration often occurs for the good of the parties who are involved in it. Although there are various reasons one chooses to merge with another institution or organization, it is often for the betterment of both parties. Most institutions have the end in mind but never pay attention to the process and the meticulous planning which makes it the most successful. Advanced and scrupulous planning ought to be conducted before the integration and after the integration to achieve the most out of the merger.

For a successful merger integration in healthcare, not only does one need to pay heed to the post-planning details, the pre-merger integration process should be important. This is our major focus in this chapter, to facilitate and guide entrepreneurs and organizations who seek to dabble in a profitable merger.

We are going to explore the first three phases soon to fully understand the pre-merger integration process.

PHASE I: *THE CONCEPT PHASE*

This is the phase where the ideas are nurtured to be turned into a feasible and successful project. At this stage, everything is intangible to be realized into something material. The phase is the starting point of all mergers because it begins with a need to create something that combines your healthcare business or institution with another. In this phase, there are various questions and stages one goes through in this phase

When the idea is conceived in your mind, the first question which anyone asks is if the idea of a merger makes sense?

The need to create or develop a merger doesn't mean that your healthcare institution, business, or institution is failing; there are various reasons people choose to create a merger, the major one being to increase the value or revenue of that business. If

your institution might not be generating as much revenue as you might have hoped; a merger can aid your business, lessen the cost, and generate more wealth for your organization. Another reason for a merger integration is diversification and expansion. This occurs when a healthcare institution feels it can cover more ground business-wise if they merge with another healthcare institution. With the merger, they can enter new markets and general market and product expansion. This is the same with healthcare institutions; their reason for merging could be to coordinate patient care, develop health management, increase the standard of care, and optimization of cost control.

Another reason healthcare institutions merge could be to acquire assets that could be of benefit to them, control and improve their finances, and cost revenue. So if your question is how beneficial a merger is, although there is risk in every business move, the benefits outweigh the risk.

In the concept phase, there are other points like the initiation, planning, execution, and closure that constitute this phase. The initiation stage involves extensive evaluation of the project to understand its value and usefulness to the healthcare institution. The planning stage involves taking necessary steps and procedures to ensure the success of the merger; this includes engaging in activities like optimum research and market evaluation. The Execution stage focuses on implementing the steps which have been researched and evaluated to achieve the desired market goal.

In this phase, we are going to explore the steps and processes before a merger integration and acquisition. These steps do not only apply in the healthcare sector but to all businesses and institutions who wish to expand their market and diversify into different market areas.

These are a few considerations to consider for venturing into a merger

I. FINANCIAL CONSIDERATIONS

There is a lot to consider under this radar. There are factors like financial and tax reports, financial synergy, corporate tax savings, and market power. There ought to be a precise report of all tax payments and savings. As we've observed earlier, there is always a buyer and seller under a merger integration; the person who makes the offer is called the buyer, and the other party is called the seller. However, a merger does not always constitute two parties and can involve more people. Most examples of mergers that are available are between two parties. A merger that occurs between equals is not very common, because there is always a power play and misunderstanding between parties. This is why most healthcare institutions merge with smaller institutions or institutions that do not have the same standing as them. In doing this, they are required to take on the debt

of the seller's institution. Taking on a debt owed by the seller is a great opportunity for the buying institution to acquire assets at a lower cost.

Financing a merger integration through stock has been termed to be safe for all parties who are involved in the merger because they get to share the risk. Shareholders also tend to benefit more from stock finance because they receive an equal amount of the stock in the newly created healthcare institution. This is why most people use stock to finance their mergers. The stock market is known to be volatile and it can cause untold problems for healthcare institutions in the talks of merger integration. There could be a drop in stock if news of a merger integration leaks before the deal is concluded.

Another factor that comes up in a merger integration of institutions is the acquisition of debts; the buyer is the most likely to buy the debt of the other party[69]. The paying of other institutions' debt is also a very good alternative to paying in stock. Since the goal of institutions with debt is to reduce losses, it always proves a good fit for the healthcare institution that is buying. This can prove detrimental for the seller with debts because it reduces sale value and can eliminate cost/price. It is, however, more beneficial for the creditors because they get to acquire assets for a smaller amount. The buying healthcare institution also has more management power over the selling institutions because of this.

Financing the merger integration with cash is another uncomplicated form of financing a merger. Paying with cash is one of the most unproblematic methods of financing a merger. It is a straightforward and stress-free method for both parties involved. The value of cash under this aspect is less volatile unless dealing with differences in currencies. It doesn't depend on the performance of the healthcare institutions, but cash deals can result in millions, and billions of dollars, which can be seen as enormous for some institutions.

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II. CULTURAL CONSIDERATION

Culture essentially consists of implicitly shared values that influence how people behave and how they understand their actions. It is a long-standing tradition of how people choose to relate to people and their environment. The idea of culture affects businesses more than we could ever imagine; it is based on the principles that entrepreneurs build the foundation for their institutions; therefore, it is understandable that it is an important factor during a merger integration process.

During a merger integration process, culture affects;

[69] Best methods of financing merger and acquisitions. *Idealsvdr,* 11 April 2016. [Accessed on January 16, 2022] Available at https://www.idealsvdr.com/blog/methods-of-financing-mergers-and-acquisitions/

i. ***The decision-making style.*** The difference in the decision-making style can cause a delay in the decision-making process; it could also lead to failure in decision-making, which could lead to a plethora of problems during the merger.

ii. ***Ability to take risks and be flexible.*** Various healthcare institutions have created their unique methods of solving their problems; some have a very rigid system of work, while other healthcare institutions could be flexible in their evolution. With these differences ingrained in these institutions, there will need to be proper understanding to decide.

iii. ***How the employees work with each other.*** In some healthcare institutions, the culture there requires a formal structure, while another could incorporate an informal structure. To move past these contrasts, they can come to an understanding of the functions of each institution or generate a new system that can integrate people from both healthcare institutions.

iv. ***The Leadership approach***. The style used to run an organization varies from a democratic system, consultative system, or autocratic system. Whatever the culture is, reaching an agreement that is realistic, and that builds value for the future entity is the best course of action.

v. ***Beliefs concerning personal success.*** Various healthcare institutions value an individual or personalized workforce over teamwork. Differences like these can cause a decline or breakdown in getting work done.

WAYS TO UTILIZE CULTURE TO PROMOTE A SUCCESSFUL MERGER INTEGRATION

We have created different references where culture can become a barrier to creating a successful merger integration. There are other ways in which it can be utilized to achieve the required goal.

i. **Create a set of desirable cultural goals which are to be applied by the institution**. These ought to be tangible and measurable attributes that will go on to form the values and ideals of the new healthcare institution. These cultural goals could include innovation, patient focus, team orientation, and due diligence. All these are more could be a starting point to creating a different set of systems that would work for both parties.

ii. **Cultural surveys and assessment**. Surveys are no new subject matter in the business world; to run a successful business, it is necessary to understand and know your patients needs to effectively provide what they desire[70]. This is the same for the internal aspect of the organization. Conducting a survey will help the integration task force understand what is needed to build a new cultural structure that will be acceptable to both parties. Applying this method will stop culture from undermining the desired goals.

[70] Deloitte. Cultural issues in mergers and acquisitions. 2009. [accessed on January 16,2022]

iii. **Willingness to adapt to a new cultural structure**. One of the basic steps and processes in merger integration is the willingness to adapt to a new state of things. For a merger to be successful, both healthcare institutions must be willing to adopt new standards and customs. This is the same for cultural aspects. Although cultural ideas and ideals make an integral part of someone. It should not limit the successful flow of a merger. Creating an internal brand. This process relies mostly on the merger; the merger could be a "merger of equals", an integration of one healthcare institution into another, or a joint venture. In an unequal merger integration, the buyer's cultural ideas and values are expected to dominate the seller's culture. The acquirer is expected to present his culture in a way that is acceptable to the seller's institution to have a successful merger. During a merger of equals, the most realistic approach is created and taken as the new culture.

iv. **Use well-defined, precise, representations of the expected cultural norms**. Avoid vague, inexplicit, and unclear representations of the expected cultural norm. This will help eliminate any form of confusion on the part of the nurses or physicians so they can understand the context and the norms for which they work. It should be clear-cut and defined to enhance the business flow of the institution.

v. **Evaluate the strengths of the existing cultures.** Before building a new cultural approach, both parties must come together and evaluate their cultural strengths. This is another process of bringing out the best in each faction to create something spectacular. After assessing the strengths of each organization, they can take a step towards creating and combining their strengths to create an acceptable cultural norm.

vi. **Choose owners from the individual institutions for the creation of the integration team to allow for equal representation of both sides**. This way, they can both pool in their resources and share their assets for the benefit of the combined institution. Teams like the Senior Human Resources personnel, and the integration team, with due diligence, accountability will be able to further carry out the merger, making sure that the cultural differences will not be a cause for concern.

vii. **Leaders of the integration team ought to address the cultural disparity, if there is any, and identify decision-makers for each department or area**. Without this process, there could be a halt to the effective merger integration process. Communicate the expectations to decision-makers and give them deadlines to see how they react when immediate decisions are required of them.

viii. **Build brand allure.** When conducting a healthcare merger, it is necessary to take a look at the bigger picture and invest in ideas that will aid you to build your healthcare institution, both internally and externally. By investing in this, you can encourage the loyalty of your nurses and physicians, make the brand attractive, and increase production efficiency.

III. LEGAL CONSIDERATIONS

This focuses on the legal guidelines which are of necessity for the pre-close of a merger integration process. These guidelines are tailored to aid the legal department in the smooth closing of the merger. From the legal standpoint, some factors aid the practitioner in the legal aspects of merger integration, one of this is the exchange of sensitive information.

During the merger and from the legal standpoint, competitively sensitive information refers to confidential non-public information. This refers to sensitive information about a institution that is not known to the public. In Canada, there are limitations for the types of messages that ought to be exchanged in a merger integration to protect the confidentiality of the institutions. The sharing of these kinds of information is limited because it can be leaked and given to the brand competition. This initiates the need for the protection of sensitive information; although there is a merger, both parties are still entitled to protect their institutions by restricting the kinds of information that goes out. There is a lot to consider: If the merger doesn't go through. What happens to the information shared?

During a merger, the only information which is required to be shared is the ones necessary for the merger. And it can only be shared with individuals who are directly involved in the merger. The information passed across also ought to concern merger integration and nothing more[71].

There exists the alternative of calling in an independent third party who will check the books of one party and advise the other based on what he has, without divulging the full details. This alternative is mostly adopted by most healthcare institutions because it protects their institution's secrets if the merger falls through.

Once the transaction is almost through, the exchange of information should be restricted to information that is required by parties for the conclusion of that transaction; if the merger falls through, each party is expected to keep information gotten during the merger integration confidential.

FUNCTIONS OF THE LEGAL INVOLVEMENT IN MERGER INTEGRATIONS.

- Evaluate the legal parameters during the post-closing. This consideration ensures that all the checklists for mergers have been signed and are for the benefit of both parties.
- Ensure that all transactions are legal and not against any civil, criminal or corporate law.

[71] Blake, Cassels & Graydon LLP. Canada; legal issues and challenges for the integration planning for the M&A Transactions. *Monda*,7 march 2008. [accessed on the January 15, 2022] Available at https://www.mondaq.com/canada/maprivate-equity/58070/legal-issues-and-challenges-for-integration-planning-for-ma-transactions

- Ensure awareness of the risk that certain transactions or deals might include example, emergency contingency.

Other Important Things to Consider During The Concept Phase…

- DECIDE ON WHICH institution BEST SUITS YOUR GOAL
  Every merger or acquisition requires that the other organization has the same goals and needs as your organization. If not, it's going to be a deal that will lead to the institution's downfall. Before you begin deciding to merge and integrate both healthcare institutions, ensure that the other organization has the same goals and ideals as you to ensure a smooth merger. The goal of a merger is to aim for the potential growth of the healthcare institutions as one, so it is vital that you have an organization that shares your professional interest, structure, goals, ideals, and values. This is to ensure that there are no mishaps down the road. Access their values, their work ethics, to understand if the organization represents what you want your institution to be associated with. Once you are satisfied with these findings, you can take a step forward towards closing a deal with the institution.

- IDENTIFY THE AREAS IN WHICH THE MERGER IS GOING TO BENEFIT BEFORE YOU BEGIN
  The first thing to consider when one wants to engage in a merger is to list and evaluate the benefits of the merger to your healthcare business or institution. First, it is important to identify the areas where your healthcare institution is lagging to understand what it needs and how to apply it to these aspects. Usually, the healthcare institution takes it a step further by hiring experts who will identify the areas which require the most help. This group of experts takes time to observe the business and understand their policies to make definite and clear decisions on what the institution needs. Some healthcare institutions rush into the decision of a merger without truly understanding if that is what their institution needs. In some cases, all that the institution might need is to re-strategize in their marketing sector or staff management. If the problems that have been identified can be solved without a merger, then all that is left is for the institution to come together to make different decisions for the benefit of their healthcare institution[72].
  The hospitals must take time, to know the departments which will benefit the most from the merger and ensure that it is optimized. After this evaluation, they ought to pick out the departments which will benefit the most from the merge. A team of experts who will

[72] Rouse and Frame. The 10 steps to a successful M&A integration. *Bain,* November 04 2009. [Accessed January 17, 2022] Available at https://www.bain.com/insights/10-steps-to-successful-ma-integration/

take a look at these departments to evaluate and understand what it needs is the best suggestion for a institution or organization. After a proper evaluation of these departments, they can begin to take another step further toward merger integration. In the healthcare industry, numerous factors ought to be considered before one can truly affirm the idea of a merger.

- ACCESS GROUP'S STRENGTHS AND WEAKNESSES

  This means setting up your house in order before you invite someone in. before sending in an intention to merge with another healthcare institution. It is important that you take care of your institution and make sure that it is in order. Observe all departments and groups; look at their strengths and weaknesses. Inform and make them understand these differences while you come together to create a solution. This will help you create value for the buyer, your healthcare institution, and your patients. No healthcare institution will want to merge with another institution that does not have its things in order. Time and effort ought to be dedicated to this aspect as it can be time-consuming. This is because some departments might need more time than others. This is not to suggest that you put up on a front to attract healthcare institutions to merge with, but to, create something that you would be proud to show everyone. In the healthcare system, specifically, when one owns a hospital, the different departments such as the legal department, human resources, marketing and publicity department, administrative department and so many more ought to be considered to understand how it can be developed into something which can create more value for the institution.

  When approaching leaders of each department to assess their growth, It is vital that you do not meet them with any form of criticism that might cause them to close off. Try to understand them and encourage them to do better. It is even more important at that period in the institution. Doing everything to build a stellar institution system of organizations will go a long way in attracting worthy healthcare institutions, for mergers.

- IDENTIFY WHAT WORK WILL BE DONE BEFORE PRE-CLOSE

  This process comes into place after the two organizations have decided to merge their organizations. Before the deal is closed, definite and concise bullets for plans ought to be laid down to know what and where to start from the post-merger integration. For a healthcare merger, the definite goals could be to provide an efficient patient care system, enhance patient experience and enhance operational outcomes. For a manufacturing merger, it could be to enhance and expand distribution, create more marketing strategies for their products, and optimize their product. These are examples of goals that healthcare institutions and organizations ought to set before they sign the deal of the merger. After this has been identified, it is necessary to inform the departments which are directly

connected to these goals and inform them of the new targets which have been set for the post-merger integration. This is to prepare the teams to ensure that they make decisions that positively affect these goals which have been set. For the success of these goals, each healthcare organization ought to prioritize these goals to ensure its optimum implementation. In some cases, where the merger comes from a need to diversify and expand the markets, the goals and the duties of the healthcare organizations might be different. An example, if healthcare organizations decide to merge for the benefit of promoting their business. institution A could be a biochemical institution and institution B would be a biotech institution. These institutions serve two functions, as institution A contributes to the design of new drugs and biochemical research. While institution B functions using technology to provide treatment and life-saving drugs. These institutions offer different functions, so the goals in the thesis will be tailored to the functions of these individual institutions.

- ACCESS INTERNAL AND EXTERNAL STAFF MANAGEMENT

  In most situations, some healthcare organizations tend to house more staff than is required; this ethic tends to cause a clog in the system of activities. Some staff or nurses are hired on a short-term basis and others are hired on a long-term basis; some hiring are seasonal and others are not. The certainty of a merger certainly means that some staff is going to be laid off because the two healthcare institutions are coming together as one. Before the closing of the deal, it is necessary for both healthcare organizations to come together, and discuss the plans they have for their staff or physicians, to avoid tension in the workplace, which can reduce their efficiency. I have cases where the organizations fail to address the issue of staff maintenance, which causes intense tension within the workplace. This delay causes the physicians to be unfocused and stressed for fear that they might be laid off soon. This is one of the most important processes in a pre-merger integration because if the issue of staff management is settled quickly, the remaining staff can get to their work with drive and motivation. While this is not a sure statement that for a merger to be successful, people have to be laid off work, it all depends on the size of the organizations being merged, a healthcare institution can have a lot of resources and very little staff while another institution has numerous staff but a very little resource. In this case, there is a balance because institutions like these complete each other, where they are lagging and they may not have to lay off their staff.

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CHAPTER 5

PHASE II : LETTER OF INTENT

Having a successful merger and acquisition transaction greatly relies on how well all the parties involved communicate and how they can efficiently complete negotiations, due diligence and seal the deal. All parties need to ensure the transaction is mutually beneficial and the LETTER OF INTENT is a very important step in this process. LOIs resemble short, written contracts, often in tabular form.

Letters of Intent can be iterative in nature, in that, one party may present an LOI, to which the other party may either counter with a tweaked version of it or draft a new document entirely and nothing would come as a surprise.

BACKGROUND

A letter of intent is usually the first step in formalizing any merger and acquisition transaction. A buyer presenting, negotiating and reaching an agreement with a seller on the major terms of the transaction they are proposing is what a Letter of Intent is usually about. Delivering a Letter of Intent to another party shows a seller's intentions and paves way for potential negotiations.

Other than giving details of or price and payment terms of the transaction, the Letter of Intent includes other items such as the description of the assets to be acquired, any assumed liabilities, the terms of a seller's non-compete agreement, the timeline for due diligence and closing, a confidentiality provision, and an exclusivity provision, popularly referred to as a 'no shop clause'[73]. The capitalized form Letter of Intent may be used in legal writing, but only when it is being used to refer to a specific document under discussion.

LOIs are useful when two healthcare parties are initially brought together to hammer out the broad strokes of a deal before resolving the finer points of the transaction.

[73] Andrew Bloomenthal. Letter of intent. *Investopedia,* February 06 2021. [Accessed January 22 2022] Available at https://www.investopedia.com/terms/l/letterofintent.asp

WHAT IS A LETTER OF INTENT?

A letter of intent is written, non-binding document which outlines an agreement in principle for the buyer to purchase the seller's business, stating the proposed terms and prices.

The letter of intent is a written document that states out the buyer's initial intentions and wishes and may also contain important information and conditions related to the transaction. It outlines the understanding between two or more healthcare parties which they intend to formalize in a legally binding agreement[74]. These outlined agreements could be merger and acquisition transaction agreement, joint venture agreement, real property lease agreement and a host of other categories of agreements that may govern material transactions.

This document could also be called a ***Memorandum of Understanding.***

PROS TO IT?

1. Sets out and allows healthcare parties focus on the essential terms such as purchase price, rent amount, loan amount, amongst other things, without having to negotiate and determine the specific legal terms prematurely.
2. It addresses the big issues that if it cannot be resolved early, the deal will not be concluded regardless of any other terms[75].
3. There tends to be an establishment of good faith due to things like the identification of purchase price which makes a party feel committed even if the LOI is not legally binding.
4. It is presented as a guide to the deal to the board of both parties so the transaction can easily be assessed. Also, a guide to both party's attorneys to help in the preparation and negotiation of formal legal documents.
5. Serves as an instrument to prevent the negotiating parties from engaging with other parties at the early stage of negotiation.

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[74] Migala and Perchyts. Letter of intent in merger and acquisitions negotiations. *Lavellelaw,* August 30, 2019. [Accessed January 17, 2022] Available at https://www.lavellelaw.com/letters-of-intent-in-merger-and-acquisition-negotiations

[75] Jurado, Romy. The Pros and Cons of a letter of intent. *Jflawfirm,* January 2, 2018. [Accessed January 24, 2022] Available at https://www.linkedin.com/pulse/pros-cons-letter-intent-romy-b-jurado-esq-?trk=articles_directory

CONS OF AN LOI

1. There may be diversion of management time and focus.
2. The buyer and seller may engage in protracted negotiations on only a subset of a deal's terms.
3. Markets may move against the parties during negotiations and alternative opportunities may be missed.
4. Public disclosure obligations may be inadvertently triggered.
5. The healthcare Parties may reduce their lack of workable deal framework into their Letter of Intent with the hope of making progress later[76].
6. The risks of leaks, exacerbated by the desire of some to tout the Letter of Intent to the world, or shop it to other parties.

   Generally, if a Letter of intent is not properly drafted, it could be mistaken as being binding on the parties and when this happens, they can incur unintended liabilities and potential damages if the deal is not completed.

WHAT YOU SHOULD AND SHOULD NOT DO.

Inasmuch as LOIs may not generally be legally binding, you would want to put your best foot forward from the start. Little mistakes from the beginning may lead to delays, additional costs, and even loss of the transaction. It is therefore very essential to properly consider the terms and how they are conveyed.

- If you are the party delivering a Letter of Intent, you should make sure that your letter is very professional, it clearly communicates your intentions and entails realistic expectations.
- Do not address your letter to the wrong party or entity.
- Do not leave out the major details of the potential deal or fail to include necessary contingencies.
- Next, you should have an experienced Merger and Acquisition attorney to assist you in drafting your letter of intent.
- Ensure to identify, specifically, what you want to purchase.

[76] Landon Scott. Advantages and Disadvantages of using a letter of intent in a transaction. *Burtblee,* July 21 2020. [Accessed on January 24, 2022] Available at https://burtblee.com/advantages-and-disadvantages-of-using-a-letter-of-intent-in-a-transaction/

WHAT MAKES IT IMPORTANT?

Generally, Letters of intent are not legally binding unless it is otherwise specifically stated. Contrary to this, under certain circumstances, LOIs can sometimes be declared to be legally binding by a court.

- First and foremost, to be able to reach an agreement on all major business terms before expending substantial time and money. Once it is signed, it triggers a lot of comprehensive due diligence, which all takes substantial staff time and efforts to respond to.
- It can serve both healthcare parties. If and when carefully negotiated, a Letter of Intent can be beneficial to both the buyer and the seller[77]. For example, a seller of a business may incorporate what is known as a non-solicitation provision, which would restrict the buyer's ability to hire an employee of the seller's business should the two parties not be able to close the transaction. On the other hand, too, a Letter of Intent may protect the buyer of a business by expressly conditioning its obligation to complete the transaction if it is unable to secure financing for the transaction.
- It allows parties to sketch fundamental terms quickly before expending substantial resources on negotiating definitive agreements, finalizing due diligence, pursuing third-party approvals and other matters.
- It officially declares that parties are currently negotiating.
- It is important to verify certain issues regarding payments made for someone else e.g. credit card payments.

TERMS INCLUDED IN AN LOI.

The terms included in an LOI are certain stipulations, requirements, timelines, and the parties involved. Your Letter of intent would be specific to your transaction, industry, and needs. But, there are some clauses that appear in most LOIs. They include;

Basic deal structure: Whether good faith provisions are enforceable.

Purchase price: Also seen as enterprise value; cash at closing and rollover equity. Flowing from it, we have "debt free" & "cash free", rights to pandemic funding for pre-closing periods and, rights to "old pre-closing A/R" not credited in working capital.

[77] What is a letter of intent(LOI)- and why use one. *Corpinvest,* [Accessed January 20,2022] Avaliable at https://www.corpinvest.com/letter-of-intent-loi-m-and-a/

Payment terms: Cash amount required to be escrowed which deals with the dollar amounts or percentage of purchase price (total vs. just cash consideration) and, the length of time funds are escrowed.

Amount of "Net Working Capital" the seller is required to have at closing which covers the buyers need to conduct financial diligence first, the reduction of purchase price if such amount is discovered not to be held at closing date and, post-closing reconciliation and use of escrowed funds to cover any gap.

Purchase agreement non-compete: It is usually required to be 5 years from closing (and then ends), 10, 20 miles from all offices, or just primary office and any other carve-out for certain termination triggers.

Transaction Timeline: This involves the quality of earnings and other financial diligence completion, all other due diligence completion which includes legal, compliance, etc. Also, the timing for provision of initial draft agreements and negotiation of agreements. Finally, target closing day.

Terms of Post-Closing Employment: Starts off at initial terms e.g. 3 years, 5 years, etc. then, base compensation and bonuses, state if there are changes to work hours, on-call coverage, locations, vacation allowance, amongst other things. Next, are there same or substantially same benefits, insurance changes and who pays for "tail" coverage post-termination. Then comes post-closing restrictive covenant, specific grounds for termination and, impact on rollover equity upon termination of employment.

T**erms of Rollover Equity**: Is it the same class of units and rights of an investor/partner, are there any rights of the institution to have cash received "clawed back" from individuals? Any vesting periods, or expiring forfeiture or repurchase rights, and the acceleration of such upon certain events. Also, Terms of Buyout.

Indemnity terms: Sellers are responsible for any breaches of extensive and numerous representations made under the purchase agreement, and pre-closing claims. The representation and warranties considered fundamental and how long they can survive before the closing. The limitations on indemnities.

Nondisclosure and confidentiality obligations.

Exclusivity: This is also called "Standstill" or "No-shop". It involves the amount of days required, consent needed for extensions or if its automatic and, the right of a seller to terminate upon changes to financial or other key terms.

CONTENTS OF A STANDARD LETTER OF INTENT

Non-binding Letters of intent may include most, if not all of the following elements:

- Total compensation offered
- Warranties of clear and marketable titles
- Comprehensive list of all assets and liabilities to be assumed
- Valid guarantee of the validity and assumability of contracts
- Tax liability limitations
- The operating condition of all the sellers' equipment and machinery at the time of purchase
- Stipulations that allows the buyer to adjust the payment price in certain situations like (a) undisclosed liabilities, and (b) actual inventory purchased does not match amount stated in the sale agreement
- Provisions that relate to when the business passes any and all the necessary inspections.
- Provisions that state the final sale is contingent on obtaining the financing for purchase[78].
- Provisions that the final sale is dependent on the verification of financial statements, license and leave transfers.
- The restrictions on any business operation till the final settlement.
- The non-competition and advisory clauses. Although this most often has a separate document of its own.
- The allocation of purchase price.
- Finally, a date for settlement.

HOW TO CREATE A LETTER OF INTENT

A well thought out and comprehensive Letter of intent establishes specific and critical deal terms prior to drafting the definite purchase and merger agreement, rather than go through the more vigorous process of negotiating deal terms through numerous and costly drafts of those definite agreements.

The following are some of the key considerations in negotiating and drafting an exhaustive Letter of Intent:

- **Structure of the Transaction:**

[78] How to draft and Negotiate a business letter of intent. *Dealroom.* [Accessed on January 20. 2022] Available at https://dealroom.net/blog/business-acquisition-letter-of-intent

A structured transaction means dividing a transaction that otherwise would be reportable under this chapter into two or more transactions that, if considered separately, would not be reportable. So, considering and then, analyzing tax consequences on both parties of the transaction is important before agreeing to one of the three common Merger and Acquisition structures:

a) **Merger:** Here, two distinct institutions, the surviving and the acquired, come together to form a single combined legal entity, the shareholders of the acquired institution obtains cash, the stock of the surviving institution, or a combination of both. The seller or buyers institution is reconstituted and a fresh entity is started. The buyers assume by operation of law, all the assets and liabilities of the seller, making indemnification considerations critical for the surviving healthcare institution. A major benefit is that it normally needs the approval of only a majority of the shareholders of the target institution. The process is relatively simple.
b) **Purchase of Assets**: In this, the buyer only buys the assets and liabilities that are precisely specified in the purchase agreement. This structure if favorable to buyers as they can select only the assets they desire to buy and the liabilities they would like to take on. It is mostly used when buyers want to acquire a single business unit or division within a institution. The process can be complex and time-intense because of the additional effort used to find and transfer only specified assets. This method is greatly despised by sellers as they may have to face adverse tax consequences due to allocating the purchase price to the assets.
c) **Purchase of Equity and Stocks**: in stock purchase, the buyer acquires the stock of the healthcare institution from its stockholders. This institution would remain whole but would now be under new ownership. These purchases are typically beneficial to the sellers. It is advantageous to buyers because the seller continues to be in charge of the operations, making the integration less expensive and shorter. The buyer owns all the assets, contracts, and intellectual property, making the derivation of value from the acquisition easier. Purchases of stock transactions are often less contentious.

- **Consideration / Purchase Price:**

Price can take different forms. It can be all cash or part cash and part of the remaining purchase price in form of an earn out, promissory note, equity in the buyer, and/or a combination of the foregoing. An all cash purchase price has the most stability with certainty and the least possible risk. However, a seller can realize the most purchase price by agreeing to have some of that purchase price contingent or payable at a subsequent

time[79]. Navigating the different structures and looking through all the pros and cons of each would be greatly advised.

- **Post-Closing Management**:

  This is the management agreements to be entered by both parties on or following the closing, in the forms approved by the requisite corporate organ. Consider, negotiate and provide for, if applicable, the continuation of the owners, key management, employees, or contractors of the seller with the buyer post-closing and, the material terms of post-acquisition employment or consulting arrangements anticipated.

- **Due Diligence**:

  This part provides for the scope, period and timing of the due diligence necessary for the buyer to evaluate the seller adequately. So also for the seller to evaluate the buyer especially in instances where part of the purchase price will be contingent on post-closing operations of the buyer or equity in the buyer will be issued as part of the purchase price.

  Other Strategic Considerations

- **Evaluate and obtain consensus in the Letter of Intent** regarding;

a) The categories of representation and warranties to be given by the seller and owners of the seller, where applicable.
b) The indemnification liability limitations based on the current market terms (which are accessible through market deal study statistics). These would apply if any party breaches the definitive agreement.
c) Any other major deal point important to either party should be considered for inclusion.

- **Binding Elements:**

  Generally, the Letter of Intent is not binding except for specific exceptions that apply prior to a definitive agreement being signed, such as;

a) Nondisclosure and confidentiality
b) "No-shop" or exclusivity rights the buyer has that hinders the seller from negotiating offers with other parties while their Letter of Intent is working.
c) Costs and expenses. Those incurred as part of the LOI and the negotiation of the transaction are typically stated that each party pays its own expenses.

[79] Letter of intent considerations for mergers and acquisitions. *Linden law partners,* May 4 2019. [accessed January 21, 2022] Available at https://lindenlawpartners.com/letter-of-intent-considerations-for-mergers-acquisitions/

HOW TO NEGOTIATE A LETTER OF INTENT

Whereas a good deal of discussion leading up to the drafting of the Letter of Intent has been done, it may only be a few tweaks from the seller after they have read it over that would be required.

Certainly, the seller would already know the price being offered for their business but they may have concerns with the financing terms[80]. At this point, the seller looks to breakdown some of the clauses you've set out for them (a non-compete clause if they are leaving, terms around receivables, exclusivity, the cap indemnity and so on.) and gently push upwards some of the benefits they are to gain from the transaction (their equity share in the newly formed business, their incentives, the basket indemnity, amongst other things.)

When a Letter of Intent expiration date and time is defined, the buyer is putting the seller on notice that they must either agree to the terms defined in the letter, the counter terms or propositions or lose the opportunity to sell the business to the buyer authoring the Letter of Intent. Healthcare buyers may choose to include this expiration date and time because they are actively pursuing the acquisition of several businesses at the same time. Typically, a buyer would state its Letter of Intent is open for acceptance 72 to 96 hours, or in some cases one-to-two weeks.

While there are so many parts of the acquisition process that can be handled without legal advisors, negotiation of the Letter of Intent is best conducted with your legal team. This is best so that you would not go up against the other party's team on your own.

1) DISCUSS THE ENTITY UTILIZED FOR THE MERGER

This is one of the most important subject matters to focus on while negotiations are in place. There are various reasons one would want its entity to be utilized for the merger. For it to be concluded successfully, both parties need to sit down, diplomatically to decide what is best for the plans they have for the future of their healthcare institution. During these meetings, some parties lose their calm and this is because they've been faced with the reality of losing some parts of the institution to merge with another. Most parties delay having this conversation until the letter of intent has been signed, and this always ends up in more disagreements than necessary.

Making sure this is part of your process, will aid your goal for a successful merger integration.

[80] Holly Magister. What a letter of intent Expiration means? *Exitpromise* October 25 2013. [Accessed January 22, 2022] Available at https://exitpromise.com/?s=what+a+letter+of+intent+expiration+date+means%3F

2) WHEN APPROACHING THE OTHER ORGANIZATION FOCUS ON THEIR NEEDS NOT YOURS

In a conversation, the compelling habit is to talk about ourselves as long as we can; this is the same in professional meetings, and you can be tempted to talk about your businesses and the new deals which you just signed. While this is quite tempting, it is important that you refrain from it to achieve your goal. To strike a chord during the meeting, it is important that you show the other organization that merging with your business can grow theirs. I do not suggest that you sweet talk or exaggerate the whole deal. I simply ask that you truly show them by stating out plans and guidelines on how merging with your healthcare institution will be a great help to them. This is not to mention that the business will not suffer setbacks or risks. In case of that situation, show them a clear-cut plan and guidance on how to deal with those problems. You could show a clear thesis of how beneficial the deal or the merger would be to both of your organizations and how with hard work and subsequent planning you could be able to achieve the priorities that you have set for yourself. As you explain this thesis to your listeners, it is important that you use a diction which they can all tally around and understand; using heavy diction will create an unknown tension in the room, creating difficulty for your listeners to understand the message you're passing across.

3) RESOLVE THE POWER ISSUES QUICKLY

It is important before the merger to truly understand the professional way of life that will be in place. There is a lot of personnel who hold big positions in their healthcare institution. It is important to decide who goes where after the merger and who makes certain decisions regarding different business decisions. If this process is overlooked before the merger, the institution can suffer some losses from their best physicians who believe they are not being appreciated in their place of work. To avoid this, make sure to have conversations with your best physicians and nurses in their respective fields to assure them of where they stand even after the merger. During a merger, a healthcare institution is most vulnerable; this means that various institutions can poach your best players to get them on their side. In many situations, where some institutions get overwhelmed by their merger and do not pay attention to their top players, they tend to lose them even before the merger is sealed. To avoid a context of this nature, it is vital to inform your clients and patients about the recent developments to keep them informed. Sometimes, patients can get confused about the rapid changes of which they have little or no idea. This can create confusion and push them to another brand. Even with the significant change, always be sure to keep your clients, top players, and staff aloof of the recent developments.

4) DEPLOY AN INTEGRATION TEAM/TASKFORCE

It's only expected that for a successful merger integration, there ought to be an integration task force backing and overlooking every decision and strategy. An integration task force pulls in all their effort and business expertise to make the integration a success. This task force focuses on making the decisions that affect the healthcare institution at the time of the integration, strategies, and coordinates the task force. During the old times, there was a lot of bureaucracy and paperwork that went into making a merger integration. This bureaucracy caused a delay in the actual implementation of decisions which could affect the institution positively. More time was spent filing papers than making practical decisions that would boost the institution's value. Nowadays, as the world evolves, the healthcare world has realized that delayed bureaucracy and extensive paperwork will not help the institution in the ways that it should. The members of the integration task force should be people who are decisive, accountable, honest, strategic and work best with the information given to them. These are things to look for before picking out a leader for this team.

You could create and give them a framework to work with to know how they make decisions. This will also aid you in seeing firsthand their method of work and how they make decisions. This task force is important before and after the merger. Before the merger, they can serve as a guiding lamp to aid your hospital or institution make decisions that would affect the merger properly; they could also help create a deal thesis that ought to be followed the merger is complete. After the merger, they also assisted in setting up those deal thesis that has been laid down.

It is up to the healthcare institution to decide how long he is going to keep them. Some institutions keep the task force a long while after the merger until they are comfortable with the new system of work.

5) REVIEW POTENTIAL TAX ISSUES

Tax is not a new notion to various healthcare institutions and business owners. It is a method used by the government to manage the macro economy and tend to state budgets. Severe tax evasion or issues are one of the main causes of audits which could lead to bankruptcy or the liquidation of institutions. Issues like hiding revenue, late tax payments or filing, poor records of tax information or accounting, improper entity selection, claiming revenue can cause a hold-up in the integration because, the risks aside, no healthcare institution will want to merge with a institution that doesn't take care of its book. If it has happened once, it could happen again. It is advisable that as a healthcare institution or separate business, you should be on the lookout for institutions of that nature, for they can bring untold hardship to your institution.

IN CONCLUSION:

A Letter of Intent is a signed letter agreement between two parties that sets forth the key agreed business terms for a transaction, a process for the buyer to conduct due diligence and says the seller to cooperate by providing requested information and documents. Additionally, sets forth confidentiality provisions as regards to the exchange of information.

It is a critically important aspect in the negotiation and pre-drafting process of a Merger and Acquisition transaction. If it is drafted, evaluated and negotiated properly, a Letter of intent can effectively establish the expectations of each party on the fundamental deal terms, provide guidance for the drafting of the definitive agreements, and delineate a focused path to close the transaction synchronizing the intention and expectations of both parties.

The Letter of Intent restricts the seller from meeting and negotiating with any other potential buyers for a given period of time. It gives confidentiality and exclusivity provisions.

Letters of Intent are also used outside of the business world in any circumstance where two parties intend to work together of form a deal.

An effective Letter of Intent determines whether there really is a 'meeting of the minds' between the parties that can survive the rigors of the transaction process.

CHAPTER 6

PHASE III : DUE DILIGENCE

Due Diligence is one of the last processes which takes place before the final merger. It is a process that allows the buyer to understand what healthcare institution he is buying into. It is an informative process that allows the buyers to view undisclosed details of the seller's contracts, tax information, personnel records, and financials. Due Diligence can also be explained as a process that sorts details from a sales pitch. In other words, it gives an extensive understanding of the operations of the institution.

From the famous words of Warren Buffet, "sales pitch gives you price, Due Diligence gives you Value." It gives the buyer a complete picture or view of what they are buying into. It is mostly an informative process that involves a lot of information being passed across. It creates a transparent relationship between both parties and builds understanding between the healthcare institutions. During this process, no question is regarded as unnecessary or irrelevant, so long as it relates to the institution and will aid in better understanding[81]. It is acceptable. It reviews a healthcare institution before the merger integration is complete. The due diligence process differs by the transaction. The type of transaction that you hope to make decides what is necessary for the due diligence to be complete.

Challenges In The Due Diligence Phase of Merger Integrations

Lack Of Expertise

A Merger integration is the biggest change that a institution can go through. Having experts in the room who are very knowledgeable in their fields will be very beneficial to each institution. Most healthcare institutions cannot afford experts and this can be very detrimental to them. It is very overwhelming and the processes can be intense. Healthcare institutions that do not have enough money will find it challenging during that time.

No Knowledge of What To Ask

It is often expected that when we are placed in the spotlight, we might not know the right questions to ask. And this is the same with some hospitals or bio-institutions during the due diligence stage. They might not know the best questions to ask to keep them informed

[81] Due diligence in mergers and acquisitions in simple words. *Dealroom*, November 21, 2022. [Accessed January 25, 2022] Available at https://dealroom.net/blog/due-diligence-in-mergers-and-acquisitions

about the institution's assets, personnel documents. Patient ervice or liabilities. This is why the best headway is to hire experts or conduct extensive research which will guide you in what questions ought to be asked.

Cost Challenges

This is another challenge that small healthcare institutions tend to have during merger integrations. There is no definite rule on how to weather the cost, but you could start by making little changes in your institution that are not necessary until the merger is complete.

Lack Of Communication

Another problem that most healthcare institutions face during the due diligence process is a lack of communication. In this situation, the seller does not pass across information that is beneficial to the merger. This challenge tends to cause a lot of delay towards the merger and sometimes the buying institution might back out due to delayed information.

DUE DILIGENCE CHECKLIST

A. CORPORATE DOCUMENTS

This extends to a thorough review of the target's institution documents and records[82].

- List of the selling institutions subsidiaries and charter documents
- A detailed list of the institutions directors, officers, and executives
- Warrant agreements
- Stockholders and voting
- Agreements granting stock units
- Stock-related Rights that extend to the selling institution
- Sale of stock agreements
- Agreements that restrict cash dividends sales
- Purchase of business agreements
- Review of the minutes of the board of directors and any board committee since its inception.
- Minutes of stockholders meeting since its inception. Review of written consents to action without a meeting.
- Information on stockholders.
- List of outsourced workers including freelancers and consultants in the hospital.

[82] Richard Harroch. 20 key due diligence activities In mergers and Acquisition Transactions. *Forbes*. Decemeber 19, 2014. [Accessed January 27, 2022] Available at https://www.forbes.com/sites/allbusiness/2014/12/19/20-key-due-diligence-activities-in-a-merger-and-acquisition-transaction/?sh=7949cf884bfc

- Review of the target healthcare institutions, major competitors, and steps which have been taken to be ahead of them.
- Copies and documentation of the institution's annual reports and proceedings.

B. FINANCIAL DOCUMENTS AND RECORDS

In this checklist, the buyer is concerned about the seller's financial history and similar financial metrics. The financial information which is required under this checklist is;

- Conditions for assets and liens
- Are the institution's financial statements audited? And if they are for how long?
- What normalized working capital will be necessary to keep the business running?
- Credit reports
- Reports that demonstrate the value of the institution's product
- Comprehensive Income statement
- List of all the physical assets
- Reports on the expenses (fixed and Variable)
- What are the amounts of accounts receivable?
- Does the healthcare institution have enough financial resources to operate in the ordinary course of business and close to the merger integration?

C. SERVICES

The buyer will want to understand and know the target market of the seller's institution, and if the target market is confined or extensive. Some institutions have been established to cater to a specific kind of audience and this is what the buyer would want to understand.

- What group of people are your major consumers and what revenue is benefitted from them?
- Copies of the purchasing agreements
- How are sales rewarded or compensated, what motivations and incentives do the institution offer?
- What are the major warranty issues with the customers regarding certain products?
- Refund and exchange policies
- Information on any patient litigation
- Marketing and sales strategies of the past
- Can you evaluate how satisfied patients are with your services?
- Database of institutions customers or patients

D. CONTRACTS

This is one of the most critical components in a due diligence inquiry. This inquiry focuses on reviewing the commitments and contracts of the target institution. This process is

time-consuming and intricate because it involves a thorough search of the deals made by the institution. Reviewing these contracts aids the buying institution to understand the kind of contracts that the seller institution is fond of contracting. These categories are important to review for parties.

- Examine the supplier and customer contracts.
- Settlement agreements
- Powers of attorneys
- Non-compete contracts
- Tax allocation or collection of taxes from the federal, state, and local level
- Contract waivers
- Confidentiality agreements and statements
- Employee contracts
- Union agreements, collective bargaining agreements
- Loans and credit agreements
- Exclusivity agreements
- Indemnification agreements
- License agreements
- Franchise agreements
- Dealers, sales, or advertising agreements
- Purchase agreements(real estate)
- Past acquisition agreement.

E. HUMAN RESOURCES ADMINISTRATION.

This covers the rules that guide, the people management of a institution. The institution focuses on reviewing how the personnel and employees in the seller's institution are treated. These are inquiries that are made during these occasions.

- What is the healthcare institution's disciplinary policy and how effective is it?
- The Absenteeism policy and changes which have been implemented to reduce it.
- The code of ethics and conduct and the usage of it by the institution.
- Policies which surround Media Relations.
- Safety measures and practices in the institution.
- Confidential information policy.
- What is the damage and grievance policy and effective has it been in the situations where it has been used.

F. INTELLECTUAL PROPERTY

This inquiry focuses on the target institution's quality and intellectual property. Due diligence will focus on these aspects of inquiry.

- What registered and common law trademarks does the healthcare institution have or own?
- What materials and copyright products are used by the hospital or bioinstitution?
- What steps has the institution taken to protect their intellectual property ad how effective has it been?
- What technology in-licenses does the institution own? How important are they to the target institution's business?
- Does the structure of the hospital or bioinstitution depend on any trade secrets? If so, how are they protected?
- Does the target institution have any liens or encumbrances?
- What technological software is critical to the institutions progress and how has it been updated to increase market value?
- Information regarding patenting
- Has the hospital or bioinstitution ever been involved in any intellectual property litigation or other disputes?
- Has the healthcare institution infringed on any intellectual property rights of another person?
- Has any exclusive technology rights been granted to a third party by the institution?

G. LEGAL EXPOSURE

This inquiry under that seeks to understand the relationship between the institution and its legal and regulatory aspects. It gives an overview of the institutions' litigation, arbitration, or regulatory proceedings, whether settled or pending. The inquiries under these reviews include

- The claims threatened against the target healthcare institution.
- Judgments, settlements, injunctions, or orders against the bioinstitution.
- Filed or pending litigation or arbitration against the target hospital or bioinstitution.
- Filed or pending litigation against the selling institution by the government, and how it has been addressed.
- Any filed litigation against the institution by employees or customers and how it was handled.
- Reviewing the major reasons the actions were brought against the institution and creating avenues to avoid them.
- How insurance covers the claims which are made against the target bioinstitution.
- Copies of the permit
- Licensing information.

H. VISUAL/ONSITE INSPECTION

This inquiry focuses mostly on healthcare institutions that dabble in manufacturing and have sites that are used for the conduct of their business. institutions like these fall under pharmaceuticals, bio chemicals, and biotechnology. Institutions in this industry undergo inspections from time to time because of what their job entails.

- The inquiries which are expected are:
- When was the last onsite/visual inspection of the healthcare institution?
- Have there been any litigations concerning the sites that have been used by the healthcare institution?
- What measures have been taken to protect the workers during the onsite/visual inspection?
- How frequently are the machinery on the site inspected and changed?
- The policies which guide the sites which are used?
- How frequent are the permits for the sites renewed?
- Names of the various site address?
- How accessible are the sites?
- How can the materials and personnel be transported to the site? How much does the transportation cost?
- How secure are the materials and personnel on the site? Has there been any security breach, if so, how was it dealt with?
- How advanced are sites to deal with dangerous situations? Are there any escape routes on the site in case of danger?
- What is the communication infrastructure on the site? How easy is it to communicate with personnel who are on-site?
- What's the electrical infrastructure on the site and how advanced is it to aid the work which is being carried out at the site?
- Is there an effective drainage and sewage system?
- What's the water supply for the site, have there been bouts of shortage of water? If so, how was it dealt with?
- Are the ownership and deed title under the institution's name?
- Are there any planned government works around or in that location?
- What are the agreements for the existing services; electrical, telecommunications, water supply, and plumbing?
- What are the existing licenses on the site?

- Are there any building regulations/approvals/restrictions? What can be done on the site and what is restricted on the site?
- Any existing contracts on the site?
- Any prior historic use of the site?
- When was the last survey/ site investigation?
- Air quality survey
- Contamination/ pollution survey?
- How sustainable is the site?
- Any natural disaster risk is any has happened on the site. How did the institution deal with It?

I. FOUNDATION AND INCORPORATION DOCUMENTS

This inquiry only extends to the document that concerns the institutions incorporation sand foundation. It also covers the business structure on which the institution was built and its driving force.

- A detailed evaluation of the institution structure(diagrams and charts exemplifying it)
- The healthcare institution's by-laws
- The business plan and short and long term strategies of the selling institutions
- Has the institution, since its incorporation merged or acquired with any other institution. If so, the provision of a detailed account of the incorporation.
- Do the strategic goals which were formed at the institution's incorporation still stand to date or have they changed.
- Significant changes that the selling institutions have undergone?
- The geographical structure of the institution and its subsidiaries if any?
- Assessment of the institutions' complexity in cases of services, products, and subsidiaries.
- Charter documents of the healthcare institution
- Are all securities issued in compliance with securities law and federal, state, and local law
  · Jurisdiction of the institution's ability to conduct business

J. CULTURE

This entails an extensive inquiry because the acquirer aims to understand the ideas and values which govern the selling institution. Evaluating these will aid the institutions in creating a functional cultural thesis that will be accepted by both healthcare institutions. In the case of a merger of equals, the institution will have to pick out the cultural strengths of both parties to create a realistic approach that will be adopted by everyone[83]. The

[83] Langerak and Biharie-Verschoor. Successful M&A requires cultural due diligence. *Wtwco,* October 29, 2019. [Accessed January 27, 2022] Available at https://www.wtwco.com/en-us/Insights/2019/10/successful-ma-requires-cultural-due-diligence

culture of the hospital or bioinstitution ruins deep into the main core of the institution as it is one of the main issues to inquire about.

Under culture, these are some of the inquiries which are necessary for merger integration.

- The preexisting cultural norm in the healthcare institution?
- How frequently are these policies concerning the standard altered?
- How can the staff be involved in creating and shaping the new corporation?
- What institution's culture is strategically most appropriate for the merger?
- How can both healthcare institutions increase support from their sources[84]?
- How can the institutions reach an agreement on priorities among directors, executives, or physicians?
- What guidelines can they take to create a culture that supports these priorities and cultural traits of both institutions?
- What are the ways to align the employee or physician value and proposition with to create a realistic cultural approach?
- How to create an integrated culture that supports the business strategy?
- What are the hospital or bioinstitution's practical values? What do they believe in?
- What aspects of the culture are most important to the people in the institution?
- What are the most peculiar standards of your institution? What are you known for?
- Are there dominant culture traits in the institution? If so, where do dominant sub-cultures exist?
- What are the biggest cultural problems that healthcare institutions face and what attempts have been made to fix them?
- What are the major differences in culture among the healthcare institutions? In what ways are the culture of each institution similar?
- What are your institution's cultural strengths and weaknesses and how have they affected the institution?
- What are the defining characteristics of your institution?
- In what ways can the two cultures come together to make a good fit?

K. PERSONNEL DOCUMENTS

This is when the institution analyzes the human capital in the institution to fully understand what they are working with. This inquiry is to understand the policies and

84

Cultural due diligence assessment. *Merger integration.* [Accessed January 29. 2022] Available at https://www.mergerintegration.com/cultural-due-diligence-assessment

regulations that guide the human capital in the institution. It is an inquiry that seeks to understand how employees' potential is maximized within the institution and to see if there is room for improvement.

Some inquiries which might be of use are

- What are the capabilities of your employees, nurses and physicians ?
- How do you keep each team motivated to work?
- List of all your employees, nurses, physicians and their responsibilities within the institution?
- Are there any existing or completed training or education paid for by your institution?
- What are the operational expenses for your institution?
- What is the detailed code of ethics in your institution, and is it often adhered to?
- Is there a copy of the employee's handbook handed to every employee?
- What are the policies that concern absenteeism, discipline, sick leave, maternity leave, and how often is it implemented[85].
- Has there been any litigation that resulted from the lack of implementation of these policies? How was the litigation settled?
- Are they any informal workers, contractors for freelancers who work for the institution?
- Are there separate policies that surround these informal workers or contractors?
- Are there any confidentiality contracts in existence
- Any non-compete contracts?
- What are the details of monetary and non-monetary compensation?
- Details of the employee, nurses and physicians commissions and bonuses
- Are there any preexisting severance plans and packages
- What are the details of employee pension, retirement, and savings plan?
- What are their performance review, schedule, and structure?
- The detailed summary of HR and employee-related expenses?

[85] HR Due diligence checklist for Mergers & Acquisitions. *Fmpglobal.* [Accessed 25, 2022] Available at https://fmpglobal.com/services/global-mergers-acquisition-consulting/mergers-acquisitions-hr-checklist/

CHAPTER 7

PHASE IV: NEGOTIATING MERGER TERMS

This is one of the last stages of a merger integration where the parties come together to make a final decision on the necessities for their merger. The parties come together to form a concise decision on the outcomes of the merger on their cultural, legal, and economic aspects. The aim of Negotiating these terms is to ensure that both parties are in sync with the decisions made for the merger. For merger negotiations to be favorable to both parties, they have to be open to compromise from both parties. Each healthcare party ought to bring their goals and be able to compromise on some aspects for the deal to fall through. State out your top goals and priorities and show your other parties why it might be beneficial for you both to work on them. If there is any doubt on these goals, the main decision ought to be one that will favor merger integration. Sometimes a party will have to let go of some goals or terms which are favorable to merger integration. Another objective of negotiation lies in listening to the other party and being able to understand their needs. During a merger, it is normal for a party to want to state its needs and goals to the other party first. Another important factor to note is that listening to the other party will aid them in understanding what the institution truly wants. By understanding their needs, you will be able to figure out if they are what your institution truly needs; not listening and understanding their needs can lead to some major issues in the future. Understanding their needs will also help the buying or selling institution understand if the top-tier goal of the other matches theirs. If there is a standstill, the parties can come together to make an alternative decision that can favor them both.
This fourth phase follows certain processes, but one of the most import things that must be done to see the success of this phase is ***Establishing an Integration Committee.***

Various concessions are required in every merger and acquisition deal. These concessions are listed below. It is critical to determine which party possesses the greatest

bargaining power throughout the negotiations. Which party is more eager to close the deal: the buyer or the vendor? Is it feasible to place multiple bids against each other at the same time? Are you willing to agree to significant non-financial terms in exchange for a price increase? The seller must determine if the sale price is attractive enough that it will be willing to tolerate larger post-closing indemnification risks than it would otherwise desire. Having an experienced merger and acquisition negotiator on your team who knows which topics aren't worth arguing about can make all the difference. What do you think about putting together a team to handle the negotiations and everything else that necessitates the use of a professional flexible and appropriately qualified workforce? You require the formation of an integration committee!

There is no way that one person or a small group of people can bear all of this workload on their shoulders and be successful. Consider the possibility of a heart that attempted to do the complicated functions of the brain rather than simply pumping blood around. The committee must be multifarious and well-versed in every ramification of the situation, as it is necessary to ensure competency and adequacy in all transactions.

Believe me when I say that every step of the merger and acquisition process necessitates the best possible contributions from each and every stakeholder in the process. You are unable to unwind in any way. As the adage goes, two heads are better than one, and even more, heads are better than two; a group of people. In order to effectively handle the negation of merger conditions, you must assemble a committee that is dedicated to this task, especially because this is the most delicate stage of the merger and acquisition process. The assignment of a team of highly qualified personnel will, in fact, reduce the likelihood of a failed merger and acquisition transaction taking place.

Developing a working relationship with the senior negotiators on the other side is vital, and it is never a good idea to allow discussions to become heated or aggressive throughout the course of a merger or acquisition. Never lose sight of the fact that negotiations should be conducted with decency and professionalism. Because of this, you must carefully assemble an experienced group of professionals that are capable of delivering results at a high level of efficiency. Avoid over-engineering and designing a system that slows rather than speeds the resolution of tough problems. Regularly collect statistics on the success of the integration/project management process and document the lessons learned in order to improve future integration procedures. Some of them may need to be replaced with others, and some may need to be tweaked here and there. As a result, it is impossible to determine whether everyone on the team you are constructing is someone who would contribute to the credibility and efficacy of the process.

THE OBJECTIVES OF A COMMITTEE ON INTEGRATION

There is unquestionably a purpose in mind when putting together a team to deal with the nitty-gritty of merger and acquisition, and that objective is to bring two or more businesses or organizations together. Even while this appears to be the end goal, the integration committee is involved in every step of the process, from the very beginning to the very end, which is why it is called the integration committee. At each stage, a group of professionals sits around a table and focuses all of their efforts into ensuring that the stage is completed efficiently and with results that meet or even surpass expectations.

But, before we get any further into the matter, we need to make sure that we understand what an integration committer is to the best of our ability. Continue to be patient and pay close attention since we will need to know who and what constitutes an integration committee.

What is the purpose of an integration committee?

You have probably been thinking about it since the beginning of this chapter, especially if you are hearing about it for the first time, and the answer is yes. Perhaps you have, but under a different name or in a different context, depending on who is speaking. You may have heard this simple concept referred to as governance, integration planning team, or any number of other fancy names. It's the same stuff as before, just with a different look.

So, what exactly is an integration committee, and how does it function?

When two media practice firms merge or acquire one another, an integration committee is formed. This group of experts comes together with the sole purpose of adopting a culture, a set of processes, and a single long-term goal for two previously separate media practice firms. The key aspects that this group of people realize are culture, talent acquisition and management, as well as goal setting. The instrument covers every part of the process, from the very beginning to the very end, and as a result, the importance of establishing this committee cannot be overstated.

To put it another way, an integration committee is a well-organized group of people who collaborate to plan the integration of mergers and acquisitions. It is the responsibility of the integration committee to establish the team structure and protocols to ensure that the appropriate players are involved at the appropriate times, take the appropriate steps in the appropriate order, will provide the appropriate information, and will achieve the appropriate goals, as opposed to teams dispersing in all directions with no coordination and no central authorization. Even in a crisis situation, some teams may perform

admirably while others may struggle. No matter what happens, staff will be working in silos, developing plans and providing progress updates at different times and using different formats. Senior managers will have difficulty tracking progress, identifying and dealing with problems, and holding employees accountable if they do not have a clear picture of what is happening at the organization.

Creating a clear hierarchy for the integration process might help to bring order to what would otherwise be a jumble of information. The team is true, but unlike the conventional idea of what a team should be, it is not a crowded assumption or crowding of accomplishments, but rather a personalized compendium of efforts that combine to form a coordinated approach to every work or challenge that is faced.

Members of an Integration Committee

The integration committee as a whole is a group of sub teams organized according to a specific hierarchy and communicating through a specific channel of communication in order to ensure that every unit involved in the merger process completes the task that has been assigned to them accurately and properly supervised. In the entire process, each team is accountable for the various stages of the process. Everyone involved in those teams is accountable for the tasks assigned to them; everyone has a role to play and is held accountable for whatever aspect of the merger and acquisition they are in charge of. In this way, it is easier to monitor and be a part of the merger and acquisition process down to the smallest effort that is put into it.

Standard integration command chains are composed of three layers, which are as follows:

1. **A steering committee**: As implied by the name, a steering committee is tasked with providing direction and guidance. Ordinarily, the Steering Committee is comprised of two to seven top executives from each firm. Members serve as an oversight function during the whole merger and acquisition integration process by providing sponsorship, making crucial strategic decisions, and approving integration plans, among other things.

2. **An integration management office (IMO)**: With three to five full-time personnel, the Integration Management Office (IMO) serves as the primary workhorse responsible for driving the integration forward and ensuring excellent project-management discipline

throughout. Ideally, one member of this team should be chosen to serve as the integration project leader, who will be responsible for overseeing the overall progress of the project.

In the acquiring organization, the Integration Manager serves as the head of the Integration Management Office, which is comprised of senior executives (IMO). The Integration Manager is responsible for facilitating the activities of the Integration Management Office, providing guidance and direction to the work streams, and providing regular updates to the Steering Committee on progress; he or she is a sort of highly important middle man. In mergers and acquisitions, he is the tie that connects the steering committee to the functional teams involved in the transaction.
Someone who is chosen and burdened with the responsibilities that come with this position of leadership will spend eighty-to-hundred percent of their time to this position of leadership. His responsibilities include gathering feedback input from the integration leader and work stream leaders on decision-making processes and the escalation problem process on a regular basis, keeping everyone up to date on developments, and putting any concerns or choices on the table that require senior-level approval in a timely manner.
He is responsible for developing an integration strategy, planning integration activities, launching plans, conducting thorough integration team meetings, monitoring progress, reporting results, and documenting integration lessons learned, with assistance from the Steering Committee and the Integration Management Office. He is assisted by the Integration Management Office.

The Integration Manager should be a full-time, on-site employee of the acquirer who should be appointed to the project no later than two weeks prior to the Announcement and should stay actively involved in it for at least four months following the conclusion of the transaction.
The general goal of this team is to provide leadership that allows the integration process to go forward in a timely manner by maintaining a high level of transparency across the teams, including day-to-day decision-making, throughout the organization. Members of both healthcare organizations should be eligible to participate in this category. When both organizations have reasonably equal representation, it is more likely that employees at both media practice firms would support the integration plan and that the plan will be implemented successfully.

3. **Added/Functional Teams**: Additional teams, which are generally grouped by function (such as sales, human resources, finance and information technology), or by business unit (such as a product line), procedure (such as a procedure), or geographic region, plan and integrate their respective regions.

In some situations, an integration committee can include a 'legal' team that can communicate directly with all of the teams involved in the project, rather than simply the ones listed above in the command chain.

All of the teams that constitute the integration committee should have clearly defined roles and responsibilities in order for individuals to be held accountable. Decision-making mechanisms and escalation pathways should be established so that integration concerns can be addressed as quickly as possible.

As we have established above, an integration committee is made up of a lot of sub-teams, but with reference to this phase, we will expand on the negotiation team that also constitutes an integration committee.

The negotiation team is a critical component of the integration committee, and before you ask, the members of this (negotiation) team do not only come from one chain of command, but from all three chains of command as well. To form the negotiation team, the most experienced members of the steering team, the Integration Management Office (IMO), and functional teams are often selected. Members of the executive team, the integration manager, and the human resources department can all be members of this team; it is advised and rather preferable.

For rather obvious reasons, using a negotiation team is better than individual negotiation.

During the merger negotiation phase, team negotiation is used to negotiate the terms of the merger. At the table, multiple people from both sides of the table bargain to reach an agreement in a team negotiation. When it comes to large corporate transactions, it is typical for teams to meet and discuss their plans. In a negotiation team, there are many distinct personality types to consider. In certain instances, a single individual can take on a variety of responsibilities.

On integration teams, the following are some of the most frequently encountered positions:

- When participating in a negotiation, the members of each side often designate a **foreman** who will serve as the team's spokesperson and make final decisions.
- When a negotiation is taking place, the observer pays close attention to the other party's team and communicates his or her observations to the foreman or negotiator. While acting as an **observer**, he observes the meetings and analyzes specific reactions to particular remarks or proposals that have been presented.
- During negotiations, a **connector's** job is to establish relationships with members of the opposing party in order to gain their cooperation.

- A **Logger** is a member of a negotiating team who is responsible for gathering information about the discussions that take place during a negotiation meeting.
- Even though this may appear to be a negative role, having a **Carper** ready with criticisms on your team during negotiations may assist you in understanding the compromises and other negative effects of a deal that has been reached. It is vital to have someone who will point out the negative aspects of any decision. Because not everyone is willing to acknowledge the drawbacks of a concept, the Carper does it for them.
- **Cook**: We specifically chose the term "cook" because of its humorous connotation, but a cook can also be referred to as a "builder," because his role is to put together a bargaining team's offer or package on a negotiating team. Negotiating team: They can evaluate the cost of an agreement and carry out financial transactions while the conversations are taking place.

Forming a negotiation team requires time and thinking, but the benefits could be well worth it. We can handle some issues on our own, but in the economic world, those kinds of agreements are becoming increasingly difficult to come by. Modern-day negotiation success frequently depends on the ability to collaborate effectively with others as a member of a negotiation team.

Working with a negotiation team has a number of advantages over working with one-man negotiation. The ability to generate appropriate bargaining tactics, such as developing compromises between issues, outperforms the ability of solo negotiators in many situations. Compared to solitary negotiators, teams are more effective at presenting information to counterparts and making correct evaluations, and they tend to achieve better results.

On the note of establishing a critically effective integration committee, considering an investment banker is not a horrible option, especially for the buyer, given the need for caution and all of the experience necessary to support a smooth and, more crucially profitable merger and acquisition. However, it is not a great option for the seller. Investment bankers with merger and acquisition experience may be able to add significant value in a variety of situations by doing the following activities:

- In addition, they can assist the seller and his or her legal counsel in the preparation and execution of a successful transaction.

- Helping in the preparation of an executive summary or confidential information memorandum for prospective purchasers.
- Buyers who are interested in purchasing must be discovered and contacted.
- Scheduling meetings with prospective buyers • Organizing and preparing for the signing of confidentiality agreements • Assisting the vendor with the proper completion of the online data room
- Ensuring that the seller's responses to due diligence requests from prospective purchasers are coordinated.
- Helping with the development of management presentation materials for meetings with prospective buyers, as well as preparing the management team
- Preparing management presentation materials for meetings with potential buyers, as well as preparing the management team, is part of the job description.
- Providing market comparable value recommendations in connection with pricing and other essential business conditions negotiations

I believe by now, you would have grasped the fact that an integration team for the buyer and seller will constitute different parties for different reasons, all to maximize profit and success.

Earlier, I mentioned that a legal team could be employed as a crucial part of an integration committee, this part doesn't necessarily need to be a team, especially considering the cost of a legal team. If you wish to incorporate external expertise on your integration committee, getting a specialist to deal with any legal issues that may arise will be just as effective as getting a legal team and looking on the bright side, it will be cheaper; although always and and forever, a team is better than an individual. is the whole idea behind forming an integration committee.

Merger and acquisition transactions are characterized by the presence of complex, multidimensional agreements and deal structures, as well as the presence of significant legal considerations. A merger and acquisition lawyer is essential in these transactions since they are typically fast-paced and might result in disagreements between parties. A successful merger and acquisition transaction requires the lawyer to be well-versed in both the business realities of the deal as well as the general structure and ins and outs of the provisions of the agreement in order to be effective.

He or she must have a good understanding of the applicable substantive law and be a skilled counselor, negotiator, and draftsperson in order to be considered for this position - so you see, a lawyer can and should be part of the negotiation team. The services of an experienced, centered outside merger and acquisition lawyer who has "been there, done that" a number of times are required for a significant merger and acquisition deal. It is extremely difficult to be effective as a "part-time" mergers and acquisitions lawyer due to the nature of the work.

A similar statement can be made about the legal professionals who are required in mergers and acquisitions transactions. This team of professionals should be knowledgeable in the merger and acquisition legal issues that are important to your transaction and should be dedicated to their field of expertise. Although it may be tempting to avoid employing a "big" legal team out of concern of incurring a large legal fee, skilled lawyers will save you money by identifying serious risks early in a transaction and working to establish meaningful solutions for those risks.

Furthermore, a legal specialist merger and acquisition team that has collaborated on a number of previous agreements is more likely to be efficient than a pair of attorneys who claim to be experts in the numerous specialty areas that are critical to a merger and acquisition deal.

In order for a healthcare merger and acquisition deal to be successful, the selling firm must engage the services of outside counsel who is experienced in the merger and acquisition process. Aside from skilled merger and acquisition lawyers, the outside legal team should include professionals in key disciplines such as tax, compensation and benefits, employee relations, real estate, intellectual property, cyber security, data privacy, antitrust, and international commerce.

WHAT ARE THE BENEFITS OF ESTABLISHING AN INTEGRATION COMMITTEE?

The integration committee is the organizational and hierarchical structure of the management team that ensures that the integration is accomplished on time and under budget, as well as meeting all other objectives. The appropriate level of governance is determined by a number of factors, including the complexity and aims of the integration, as well as the level of integration competency of the team members themselves.

Also, it just feels good to know that there is a team in charge of a specific procedure even before it begins. As a result, they can plan out their inputs ahead of time, allowing their

goals to be realized as smoothly and professionally as possible throughout the various stages of the process.

So, beyond the obvious one big goal of a successful merger and acquisition, there are several reasons, organized according to phases, for why establishing a committee is beneficial in the long run.

The following are some of the benefits of forming an integration committee:

1. Early preparation and propelled readiness

The likelihood of anything being completed to a high standard is reduced by fifty percent whenever anything is hurried. Even if things turned out okay it will simply just be 'okay' and in today's business world, no one wants things to turn out okay; instead, everyone wants something spectacular, something that will change everything. If you want a smooth and successful merger at the end of the day, you must start planning early, and establishing an integration committee will assist in properly allocating time and resources.

It is possible that a successful integration will boost the whole deal value by six to twelve percent. Integration planning is frequently overlooked or ignored during the course of the merger and acquisition process, despite the potential benefit it might provide. In most cases, it is discovered in the late stages of a negotiation and emerges as a major impediment towards the conclusion of the due diligence process.

One of the most significant questions that integration planning attempts to address is, "What's next?" The transaction has been completed, and the necessary paperwork has been signed, but how does this new firm run, and what are the factors that contribute to its success? According to research conducted by leading industry experts, integration planning should be included as part of the due diligence process of merger and acquisition deals. By putting together an integration committee, the purchasing firm may more accurately predict the success of the transaction.

Generally, proper planning yields a better output and in due time.

2. Cultural Compatibility

Every firm has a particular culture that distinguishes it from the competition. The management and employees of the purchased firm are adamant in their opposition to any changes to the firm culture. While the planning stage of the acquisition process is underway, it is recommended that a culture audit be carried out on the firm that will be acquired in order to determine the degree to which its culture is aligned with the acquiring firm's culture.

It is possible to conduct a culture audit to determine the degree of mismatch between two cultures and the amount of effort required to achieve a level of synergy that is considered satisfactory. Based on the anticipated expenditure of resources, energy, and time by the acquiring firm in order to represent the acquisition's genuine worth, a more precise evaluation of the purchase price can be established, and having a team whose sole purpose is a successful integration to do this is the best approach to analyzing cultural compatibility.

3. Information gathering and dissemination

An acquisition results in the creation of a new firm and a new vision for the future for all of the new firm's stakeholders (i.e., employees, customers and suppliers). As long as all stakeholders, particularly the employees, believe in the long-term vision, they will participate to the extent necessary to bring the two cultures closer together and create the synergy necessary for the acquisition to be successful.

Making timely and accurate information about the transaction and its ramifications for stakeholders available to them helps to avoid confusion and anxiety while also boosting the buy-in process. Starting the day the purchase is announced and continuing throughout the integration process afterward, the communication strategy is implemented.

Who will be in charge of 'the delivering' of the information at this point? I know you're already saying it in your head... There is no doubt that the integration committee is well-equipped for this task.

4. Effective Leadership and sufficient allocation of resources

An integration committee is responsible for establishing a strong and stable leadership system. Order is vital in any endeavor undertaken with the purpose of achieving success. Competent leadership distinguishes itself by ensuring that resources are distributed and optimized appropriately across the entire system.

One of the most typical mistakes businesses make following a merger or acquisition is failing to devote sufficient resources (both in terms of people and money) to the post-merger integration process. It is recommended that, within two weeks of the completion of the purchase, a senior member of both the acquiring firm's management team and the acquired firm's management team be chosen as the team's and process's leader so as to facilitate the allocation of properly calculated resources to the respective facets of the whole process.

5. Post-Acquisition Integration Team

Throughout the post-settlement period, the integration committee is also on hand to provide assistance. The formation of a post-acquisition integration team, composed of representatives from each firm's relevant departments (e.g., human resources; information technology; purchasing; credit; sales), will begin as soon as the leaders are appointed. The team's goal will be to develop an interoperability action plan, promote the benefits of integrating the merged operations, and encourage information sharing among employees at all levels of both media practice firms.

6. Developing an Action Plan for Integration

In order to successfully complete the post-acquisition integration process, the leaders and team will develop an integration action plan that includes clear and comprehensive objectives, an estimated timeframe for achieving those objectives, the responsibilities, tasks, and authority of key employees, and procedures for tracking progress.

It is through this action plan that both organizations may get agreement on objectives and buy-in, as well as clarity on what needs to be done and who will carry it out. It does so by describing the organizational alignment that exists between the two organizations.

If a team is saddled with this responsibility, you be rest assured that it would be more accurately and adequately schemed.

The process of integration planning may appear time-consuming and even superfluous at first glance, but business leaders who are serious about a merger or acquisition must commit significant resources to ensure a smooth transition of power, which is more efficiently accomplished through the use of an integration committee.

Integration committees are critical components of every successful merger, but they must be treated with seriousness from the beginning of the process in order to increase the chances of the merger and acquisition being a successful one. It does not serve as a cost center in any way. Indeed, it will provide a more complete and precise prediction of the value of the merged firm and will convey to new employees that they are joining a firm that is focused on the future and has plans for the future.

Integration planning is especially important from the perspective of the employees of the acquired healthcare business. This is especially true for large acquisitions. Despite the fact

that the business owner has had months, if not years, to conduct due diligence, the employees are taken completely by surprise. It is essential to be prepared to provide strategic advice from the outset in order to avoid creating fear and concern among your employees.

In addition, meeting with key people and ensuring that the current ownership is passing over the keys to a well-oiled machine with a solid team in place may appear to be straightforward procedures to follow, but they are not and are sometimes missed until the very last minute. It is not the appropriate time to take a tour of the new facility and begin thinking about integration just a few days before it closes for good. It must start with the first meeting and then be formalized into a committee, at the very least throughout the due diligence process.

In the world of mergers and acquisitions, there are no returns on your investment period. It is the obligation of the organization to plan for integration. Don't let yourself be taken by surprise. build a sufficient team that can handle every step of the way efficiently.

MERGER TERMS TO BE NEGOTIATED

1) HOW TO WORK COOPERATIVELY TO CREATE WIN-WIN SITUATIONS

For a healthcare merger integration to benefit both parties, both parties must come up with a win-win solution that can be of aid to the merger. During the negotiation of these terms, the parties decide on how to solve pending issues that affect both institutions. It could be a matter which affects the employees; it could be how incentives and benefits would be transferred to the employees. It could concern the employees work process and how they could be working together to create a solid task force.

Another term which will be sorted out will be how the restructuring of the staff will be, which institutions staff will be retained, and under what department will they be retained? Reassessment of their staff or physicians positions. This is another subject matter that ought to be evaluated effectively to create that win-win effect for both institutions. No institution wants to feel like they are going at a loss during a merger. They still shoulder the need to maintain some of their top tier staff in various departments and a lack of negotiations on these issues can create a clog in the systems where the parties believe that the merger is a win-lose integration instead of a win-win situation, it could lead to major pitfalls post-merger integration.

They also need to evaluate the terms of which nurses or physicians will be retained and which will be let go. There will be a strain in the merger integration if both parties want to retain most of their staff when the merger integration can only let on so few. The institutions will have to evaluate their staff based on their performance in the institution and how much they can contribute to the merger.

They also ought to evaluate the cultural, marketing, legal, finance, and human resources to figure out how to create that win-win situation. Sometimes the merger is often delayed because both parties are still figuring a way to create a scheme or business schedule that works in both their favor. There is no need to be in a hurry during this phase, it is time-consuming as every intricate part of the business ought to be examined to further understanding.

2) ESTABLISH AGREED STANDARDS THAT THE BOTH institutions AGREE TO

Every healthcare institution has a particular standard with which it works. A merger integration means that things would have to change a little with the institution. Because of this, both parties must create standards that they can work with. Usually, if the buying institution had more optimized standards, it might be adopted as the more realistic approach with the agreement of the selling institution. In other cases, if it is a merger of equals, they will both have to come together to create a business standard for which they

will be held accountable. The standard can vary from, creating a different cultural standard, a business workforce, the new marketing branding, and how patient service will be approached. If these standards are not approached before the merging of the institutions, it could lead to a decline in the business workforce later. Sometimes, the selling or buying institution could have an autocratic method of doing things, and the other institution might practice a more democratic form for operating their institution. This is a serious standard, and values that the institution has grown by, changing these ideals might not be comfortable for both parties, so a lot of consideration ought to be held before both parties can come to a consensual decision on what decision to make. In most institutions, their standards might differ in cases like employee workforce. The buying institution may encourage individual success more than teamwork. In other institutions, teamwork may be celebrated more than individual success. This creates a large bridge for merging institutions because employees are among the most important factors institution.

What happens if this turns out to be the case?

The two healthcare institutions will have to negotiate terms that will be of comfort to both of them. They may choose to apply both systems in a way that functions for them. Or they could create a whole new standard that works for both of them. But these decisions ought to have been taken before the merger had been settled. If there is any delay, it may cause a clog in achieving their goal after the merger is complete. Which may lead to a whole trail of disaster.

3) POTENTIAL PROBLEMS AND RISKS

Before the final closing of the healthcare merger, both parties must state the potential problems that they may encounter. This will aid in their planning process and help them create solutions to these problems. It is also beneficial that they state out any pending risk that their merger may encounter; this will help the integration task force manage and tailor their decision-making process in a way that benefits both parties. If these problems or risks are aired out, it could be something that the other party might be capable of solving. Keeping these risks from the other party might cause a hold-up post-merger integration because the buying party might discover something that they had no idea existed. This could lead to a lot of legal problems that will attract a lot of costs. There is always the presence of risk in any business transaction; the only necessity is that it ought to be shared with the other party. If the buying institution comes into the merger under a mistaken belief of what the institution is, it could lead to other problems. I have witnessed cases where the buying institution refuses to disclose some important fact about their institution due to desperation, sometimes they may downplay the amount of debt that they are in or it could be that they have a lot of pending litigation than they let on, this often leads to more litigations which leave the parties drained. Stating out your risks and

problems is one of the best ways to build trust among the institutions; when all these risks are laid out, the buying or selling institution gets to understand the other corporation. It is important to strategize in business, however, the best traits to have in a merger integration is dealing in honesty and integrity. The parties need to have trust in one another for the deal to fall through in the favor of both parties. Stating your problems and risks is a way of proving that you have good intentions for the merger. This will go a long way into building your interpersonal relationship with the institutions. Some healthcare institutions and cooperation may feel that showing problems and risks before the final close may place their institution in a vulnerable place. While this is true, they are different alternatives one can use to protect their information to avoid feeling vulnerable. These risks could be given to an indifferent party who could evaluate them and state them to the parties. All information this party receives will not be leaked to another party; most institutions use this tactic to protect their personal information. And it has been known to be of utmost help during mergers and integrations.

4) TRANSFERRING CONTROL

This is another integral part of the negotiation in a healthcare merger integration process. It includes the negotiation of how control of both hospitals or bioinstitutions will be realized. In a situation where the buying institution has more resources and finance than the selling institution, the buying institution tends to exercise more control after the merger. In another situation where it is a merger of equals, there has to be an intricate consideration of both institutions and what they bring to the institution. A healthcare institution could be more advanced in marketing than the other institution, in situations like these. The other institution that is more advanced in marketing could take control of that department after that merger. This is quite a difficult process for institutions because they realize that for the merger to move forward and benefit them, they have to give up most of their control to the buying institution. I have seen situations where institutions might not be satisfied with giving up control and end up canceling the merger. It is very difficult to give up control of your institution to another when one has doubts if they could run it well. However, considering that it is a merger, it is important to make these decisions solely for the betterment of your institution. They are various instances where it is implied that the selling institution has to give up some control. When the buying institution offers to come in and settle most of the debts of the other institution. This is often how it plays out in mergers when negotiations are being discussed. The transfer of control could also include the transfer of knowledge during a merger integration process. This entails passing all the information about the institution which is necessary for the integration to the other party. The information which is passed across is purely for the benefit of the merger and nothing more. During a transfer of information, a lot can arise due to physical and cultural

distance, which makes knowledge transfer in a cross-border acquisition a key factor for its success. (Bresman, Birkinshaw and Nobel, 1999)

However, in the transfer of knowledge, there could be a line drawn between transfers of sensitive knowledge to the other party. Since the transfer of knowledge in a merger integration is similar to the partial transfer of control in a merger. This is because the dispersing of information during a merger can cause it to be leaked to competition.

For the transfer of control to be negotiated in a win-win format, the parties have to create a plan and make decisions based on what they are bringing to the merger. If it is a merger of equals, they can negotiate on the functions and how they can come to a realistic approach in the end. Transferring control is mostly designated to the buying parties because it is implied that they have more resources and finances.

6) THE GOALS OF THE institutions PRE-MERGER

For a healthcare merger integration to be successful, there must be goals for the institutions. This is the main reason that institutions seek to merge. The reasons for the merger vary from one goal to another, and it is imperative to talk about these terms before the post-close. The goals and checklist of each of the institutions can vary so it is necessary, that they decide on these matters before the merger is closed. With this communication, they can decide on how these goals affect their brand and in what way it affects their brand. If there is miscommunication between the healthcare institutions, it can spiral into confusion and chaos after the post-merger. The main goal of one institution for the merger might be to boost their communications systems and the other institution's goal for the merger may be to advance their brand. If these goals do not blend for both institutions, there is no reason to dive into a merger. Some smaller healthcare institutions who are deep in debt do not often have the choice of understanding and creating the goals for their institutions, and they end up diving into a merger that swallows them whole and leaves nothing for them. Even as a small selling institution, it is important that you create your deal thesis and checklist for the selling institution to see if they will be able to meet and agree with your deal thesis. Some small hospitals or bioinstitutions are undervalued because due to desperation, they can agree to a merger in fear of going into bankruptcy. There should also be plans on how these goals are going to be achieved post-merger. These guides ought to be evaluated and the best approach should be adopted to create a cohesive guideline.

These goals are to be told to the other members of the institution so they can tailor their functions to meet the new goals of the merger. The goals can be shared into the pre-merger goals and the post-merger goals. They can also be short-term or long-term goals. Once these goals can be classified according to the terms. Another discussion that is conversed is how the guidelines of achieving these goals will be presented to the clients.

Since this is a merger, both healthcare institutions and clients can come together to form one institution. To avoid confusion on the part of a institution during a merger, it is necessary to inform the clients of the recent developments and how the merger is going to be presented to the public.

7) SORT OUT THE CONSEQUENCES IF THINGS GO WRONG

One of the most popular adverbs is that "for every action, there is a reaction or consequence". This is the same in every part of our lives as it is in business. Every choice that an entrepreneur or a institution makes has a consequence to it, either positive or negative. This is why investors often want to know the risk allocated to a business proposal before they make investments in it. One popular phrase that any businessman is accustomed to is risks; therefore, they have to be flexible yet considerate of their expenses and trades dealings. Before a healthcare merger takes place, one of the terms which ought to be negotiated is how the consequences of whatever decisions are made will be handled among the parties. This is important because there ought to be someone who can take responsibility if anything goes sideways. It should be thoroughly considered among the parties to establish a cohesive system.

If there is an internal crisis in the hospital or bioinstitution during he merger, whom do the employees or physicians eet for complaints?

If the business venture does not take off as planned, who is held accountable?

If there is an external crisis between the patient service or management, who is to be held responsible?

If the merger causes a decline in the stock of the healthcare institutions?

During a healthcare merger integration, there is still a lot of confusion about who stays where and who coordinates what function. So, before the post-close of the merger, make a detailed agreement with the buying or selling institution on what and who is in charge of what operation. Ensure that there is active delegation and each employee knows what their function in the institution is. The consequences ought to be shared among each party. Not one party is supposed to take the blame when things go wrong. This will be an unfair act towards the party which takes all the blame.

8) TERMS ON PENDING LIABILITIES

This is another important factor to consider in healthcare merger integration. Although a merger integration can take many forms, one thing to take note of is the liabilities of the institution. Although this process is reviewed in the due diligence process.

It should be taken on with extra caution because a institution will not be safe if it takes on more liabilities than it is supposed to. So during this stage, the representatives of each institution should thoroughly understand the liabilities of the other party to decide if they can work through it. The liabilities may come in the form of extreme debt, immense litigation, or bad public review. Any littjle detail of any liabilities the institution might have is important to share. Lack of sharing this kind of information could cause a lot of problems and tension. it could also lead to a delay in achieving the goals which have been set out previously. After these liabilities have been shared the representatives can report back to their institution to decide on whether they can handle it. Liabilities on debt are a great gain for big healthcare institutions because they can quickly acquire the institution without losing any assets. After accepting the liabilities, they can move forward to inform the shareholders to know if they are comfortable with the risk and that the merger might come with. if they consent to this, they can begin to take a step forward towards creating a step-by-step guide on how to solve these liabilities for the betterment of their merger.

9) HOW TO MERGE THE INSTITUTION'S SUBSIDIARIES

This becomes an issue when big healthcare institutions decide to merge. It is not necessarily a factor that needs to be changed but it is supposed to be taken into great consideration to avoid mistakes in the long run. For the healthcare institution, the subsidiaries make up a big part of the institution. to merge effectively, they have to decide on how to settle and merge both subsidiaries without leaving any subsidiary out. This is a big merger to complete and so more experts and effective employees are integral to making this work. Since it is a large-scale merger, every detail ought to be decided upon before the completion of the merger. If any subsidiary is ignored, it can affect the totality of the merger and cause a decline in the effective implementation of the merger.

10) MODE OF PATIENT ERVICE

Healthcare institutions adopt different modes of relating with their patients. During a merger, it is often a subject matter of how the issue of patient service will be treated. In some cases, both institutions might retain one institution's mode of service. In other cases, they can decide to create a new approach to treating their patients . Questions like

What group of people are your major patients and what revenue can be benefitted from them?

Refund and exchange policies?

Information on any patient's litigation and advanced guidelines on how to deal with them.

How are patients litigation is dealt with?
Any changes in how sales are to be rewarded or compensated?
Any suggested changes to the motivations and incentives do the institution offers**?**
Any suggested changes on how to improve the satisfaction of the patients?
Can there be an Inclusion of the database of the institution's patients?

11) DAY-TO-DAY MODE OF OPERATIONS.

This doesn't necessarily include the morning-to evening schedule of the institution. This could include a change in the major aspects of the institution. It includes a change in the shareholder's meeting, how frequently it is held, and the issues in the meetings are addressed. The mode of adjournment and how the minutes of each meeting are recorded. These changes concern the corporate system of the institution and are necessary for the transition.

12) WHAT WILL NOT CHANGE

This is quite tricky to talk about because various aspects change during a merger and sometimes a few things remain the same in the healthcare institutions. And these may include the;

Functions of the Employees

Other than the fact that some employees, nurses or physicians can be let go during a merger or integration, the functions of everyone in the institution remain the same. The merger in no way affects the roles of individuals. Unless there is a cause for promotion, everyone's roles pretty much stay the same.

The Service of both Institutions

The main goal of a merger is to further the institution through the merger. During a merger, it is likely that the services of both healthcare institutions do not change. There continues in the rendering of pre-existing services. The only slight difference is that these services may be upgraded.

THINGS TO AVOID DURING A MERGER NEGOTIATION

- **POOR PLANNING**

A major reason some integrations fail is due to poor planning. Planning during the healthcare merger integration can either make or break a merger. Some healthcare institutions delay extensively when making decisions concerning its merger; this can result

to a failure in the system before it commences. Sometimes poor planning can apply to revenue projectors, market factors, cultural factors and other factors.

Poor planning does not only target the merger, but also targets the sectors of the institution that is functional during the merger There should be laid out plans specially designed to curb situations that could either arouse and/or affect the other parts in the process. If this is not taken into consideration, it could result in disorderliness in the institution's operation.

During a healthcare merger integration, it is required that the institutions select specific and capable individuals within the business who can draw up plans and make rational decisions that benefit the business in general. A business could become engulfed in its operational circumstances and may not remember to make some strategic plans that could affect the welfare of the business. Unfortunately, a situation like this that results from poor planning does not only affect the pre-merger business environment, but also affects the post-merger process. However, if these plans are made appropriately, after the merger; there would be no confusions regarding how the hospital or institution should operate going forward thereby avoiding a chaotic work environment.

The essence of effective planning both before and after the merger cannot be overemphasized as it ensures that every sector within the institution operates effectively and in sync. Planning could also address problems and risks that may come pre- and post-merger integration. Neglecting or considering any aspect of the merger as less important is not an appropriate way to oversee the merger.

"Who will be accountable if anything goes wrong before and after the merger?"

"What personnel will be in control of the departments and is there going to be absolute transfer control?"

Questions like these should be taken into consideration and can be mitigated with proper planning to aid the institutions during the merging process

- **POOR EXECUTION OF THE MERGER**

Another valid reason that healthcare merger integrations fail is because of poor execution of the integration. This happens when the outlined plan of action and process which have been made are not executed properly for the benefit of the merger. A reason this happens can be due to the lack of experienced personnel whose duty is to handle the merge integration process. Lack of these personnel can lead to poor execution of the merger plans.

Another factor which results to poor integration is the use of inexperienced staff in the fields.

Some institutions, in a bid to secure and save cost, use unqualified individuals to achieve this purpose. Although this seems reasonable for institutions who do not have enough resources, it will not be beneficial to them in the long run. it will be reasonable and fair for the healthcare institutions to hire qualified experts who can help with the decisions.

A core factor which affects the poor execution is the lack of motivation from the employees, nurses or physicians during the merger. During a healthcare merger, the work environment may be tensed because the employees are not sure if they will be retained, replaced, promoted, demoted or completely dismissed. This tension may lead to lack of motivation from the employees who might be pressured by the merger. Therefore, the executives who are directly in charge of the merger ought to address the employees on the plans they have towards them by making them aware of their stand within the business clearly stating if they are going to be retained, replaced etc. Once this situation is addressed, there will be a noticeable difference in the work environment enabling to work at ease.

The lack of clarity of goals during a healthcare merger is another troubling situation that could negatively impact its execution. When there is lack of vision or clarity during a merger, it is almost difficult for the merger to be completed successfully. Without clarity, there is no specification regarding the activities to carry out in a business. Some small healthcare institutions who are close to bankruptcy can decide to merge without taking proper consideration their different goals. If this is the case and they do not make clear plans and map out their goals for the merge, it will lead to a poor execution of a merger. To avoid this, institutions should endeavor to map out their plans and be clear with their goals to achieve proper execution.

Another reason for poor execution of plans will be a sudden withdrawal of either of the institutions involved in a merger. Although this is considered during a merger integration, it often causes a lot of confusion if any of the party drops out of the merger. This can be financially traumatic experience for a small hospital institution who is under debt as it could fall into a state of bankruptcy. For a institution in this situation, as a result of their reliance on the merger, they may only draft plans that are wholly reliant on the merger in hopes of it being successful. However, if it falls through, the party will have to look for other alternatives to help their business. It often causes the institution to lose focus on their personal growth while trying to look for another institution that is willing to merge with them. In order to avoid situations like this, it is imperative for institutions to make plans that will favor them even if the deal falls through and they do not merge; in other words, they should have a backup plan and not put their eggs in one basket. This way no

matter what happens, the institution can still have a means of progression without fear of shutting down completely.

Healthcare institutions during the merger integration should encourage teamwork by creating avenues and occasions for the different individuals from each side that are closely working on the merger to keep in touch and make decisions that benefit each party. There should also be frequent meetings to discuss not only the improvements but also to share their plans and contributions regarding the business' growth.

- **POORLY EXECUTED DUE DILIGENCE**

A poorly executed due diligence will lead to a hoard of problems in future. Therefore, it is to be considered with the utmost importance in order to effectively negotiate the terms of the merger. A due diligence is the phase where one party gets to know everything there is to know about the other before the merge. Although an arduous situation, it is of great importance as some institutions may not know the right questions to ask or they may not have enough manpower or experts who will help them navigate their way through the merger. Taking the due diligence phase is crucial to effectively negotiate the terms of the merger. If there are any mistakes during this part, it could lead to a more problematic predicament at a later timer. Hence, why it is important to not be hasty during the due diligence phase, the hospitals hould take the time and ask all the necessary questions and get to know if the other business has the attributes that their business truly needs at that moment.

There can be problems pertaining to the due diligence phase when one or both parties become extremely confident and fails to conduct adequate research that will be helpful to them. If this happens, they may miss out on information which could be integral to the deal.

One of the discussions the healthcare institutions have during the negotiations are matters pertaining to due diligence phase. During the conclusion of this stage, it is important for both parties not to set unrealistic goals which may prove fatal for them at the end of the day._During merger integrations, some businesses tend to get ahead of themselves by making plans which are not achievable in the long run. This does not imply that making long term plans are not advisable, it is. While making long term plans may be advisable, the institutions should each evaluate their resources and finances before these decisions are made. Making unrealistic plans could lead to failure in meeting any goal for the institutions. This is because the institutions might spend all their resources trying to fulfill a goal that is not achievable for the stage they are in. I would suggest_to merging healthcare institutions to make goals and priorities that they

After the due diligence phase is complete, you can go ahead and make decisions about the merger and how it can affect the both institutions.

- **HAVING DISHONEST INTENTIONS**

There are various reasons one may want to engage in a merger, and it goes without saying that all intentions cannot be honest. Therefore, extreme care and caution should be taken both before and after the merger. Some institutions may enter a merger with ulterior motives, and this may range from overtaking the institution to finding and leaking confidential information before the merger is complete. The biggest business ventures a healthcare institution could take will be to participate in a merger and this is because it falls through the root of the institution. Any mistake made during this process can alter the institution fundamentally. Extra caution should be taken, and close attention should be paid to identify and drop prospects which are not for the benefit of the institution.

There is still some belief that since it is a merger and both institutions are going to be combined, it is nearly impossible for the other parties to have ulterior motives for conceding to a merge. However, so many things can happen during the space time of mergers, the other institution could drop out of the merger after acquiring all the information they deem important to them.

In extreme cases, employees who have been expended either by their own volition or been let go can sell out institution secrets to their competitors. Although it can be constituted as an offence in corporate law, it is not impossible.

In takeover situations, the buying institution might come forward with an intention to transfer control of 50/50 in a merger of equal or 80/20 in an unequal merger. This may not be the case as there may be an instant takeover immediately the merger is complete. This is not to discourage anyone from participating in a merger, on the contrary, it is to caution and advice on the different ways a merger integration could turn out. Although the institution's intentions could be genuine, there is no harm in taking extra caution. This is the same for any selling institution, it is necessary to be honest and genuine about your books to the buying institution; to avoid any problems that might originate in the future. If there are any pending litigations during the merger, it is necessary to inform the other party during the due diligence phase. I have witnessed situations where selling institutions neglect informing the other corporation that they are in debt or close to a state of bankruptcy. Refraining from telling information like this cannot save the merger or the party involved. Although the executives in charge of the merger could have honest intentions for the merger, it is integral that only trustworthy employees are included in the functions relating to the merger. This way, the businesses can be rest assured that the

merger is in great hands and that the necessary steps have been taken to protect the institution.

- **FAILING TO RETAIN TOP TALENT**

This is one mistake most healthcare institutions make during a merger integration; they fail to retain their top talent in the institution thereby losing potential resources during the merger. Once there is a plan to merge, the next line of action Is to decide which talent and what employees are retained in the institution for the merger. During a merger, there is always the confusion of who is going to be retained and who is going to be laid off. In order to avoid the confusion which may lead to poor motivation among the workforce, it is necessary to address it before the merger for each employee to understand what their roles will be before and after the merger. This is a difficult time for most institutions because they tend to get sentimental with their employees and lack the motivation to let them go. To make it easier, it is necessary that they evaluate the employees who contribute actively and productively to the performance of the institution. When this is done, the needs of the institution should be evaluated along with what the employees will add to it.

Each employee or physician in the institution should be evaluated to understand their roles, once this is done, if there is still room for adjustments; the employees' functions should be tailored to how it will affect the merger. It is also important to identify what is necessary to keep these employees engaged

The decision on the retention of the employees could be made respectively by each institution or it could be a joint decision. However it may be, the only thing to avoid is delay in making a decision till the merger is over.

- **TERMS ON DELAYING COST REDUCTION DECISIONS**

Another mistake which institutions make is neglecting conversations regarding the cost reduction decision making. Since there is a merger which entails the addition of two corporation into one, it is expected that the costs of both healthcare institutions must be added together. When institutions fail to address these decisions during the pre-merger stage, it causes a lot of issues down the line as it may lead to wastage or misappropriation of funds which will not be of any benefit to the merger. During the merger, the hospital or institution might have underlying costs or sales which are pending, it is necessary for these ideas and concept to be addressed and discussed during the due diligence stage in order to aid the institutions come up with a definitive system. When the costs of each institution is examined, they could come together to make a decision on how to reduce their costs

and pull the resources towards the upcoming merger. The cost reduction could stem from their marketing, it could also stem from the branding and publicity department. Once each departments have been examined, the step to take is to evaluate what it costs to maintain each departments. Once this has been done, specialists who are skilled in finding the excessive costs in every department which are not needed should be called to assess the financial situation. Once these costs have been reduced, they can target their resources towards the merger and other costs the institution might need.

WHAT WILL CHANGE DURING A HEALTHCARE MERGER?

This is another factor which should be considered for the merger. This is important because since the merger construes a big change in both institutions; there must be an assessment of what changes will occur both internally and externally.

Changes like these should be addressed

The transfer of control: This constitutes a solid change in the institution because the institutions are going to become a big corporation due to the merger. The merger might be one of equals which includes that control could be divided among themselves. In a merger where they are not equals, the buying party might have more control in the institution. These are changes which are bound to occur after the merger so it should be discussed.

The machinery of work: This is another point which is bound to change in a merger. As different healthcare institutions, it is expected that they exercise two different workforces but, in the merger, they are expected to bring their workforce together to create a cohesive system. There is often the question of whose system is to be adopted. Each hospital or institution must assess their system, pick out their strengths and apply them to the new corporation they seek to create. During this process, they should each listen and understand the other party's perspective for the values they have and make sure to come to a decision in favor of both parties. The decision making differs depending on the kind of merger. In a merger of equals, they evaluate their systems and select aspects which work for both. In the midst of conflict, they can create a cohesive and realistic approach for the merger.

Change of branding: Although not necessary, it is important if there is an intent to include the functionality of both institutions. For example if a pharmaceutical and a hospital wishes to merge, it has to change their branding to represent both the pharmaceutical and the hospital. These changes mainly represent the functionality of both institutions.

Sometimes, the branding extends to the name of the institution, after the merger, the other institution can decide to adopt the name of the other institution.

The location of the institution:. There is no one rule on how to decide the location of the new merger. If the buying institution has a more established institution than the selling, the location of the merged institution moves to the buying institution. If both healthcare institutions are established, they can independently pick which location works best for them based on the accessibility to the customers, the functionality of the building to accommodate all the employees, and so much more. After all these has been evaluated, the institution location that checks more boxes under items stated above can be used as the location. The other institution can be used as another subsidiary that serves the institution or it could be let out.

Patient Care policies:

If the healthcare institutions who are about to merge are both institutions who offer patient care differently, there should be a close evaluation of both institutions to understand which system will work better for them. If both institutions are not comfortable with the system which have previously been in place, they can create a new care policy that can be beneficial to them and acceptable to their patients. This is another change which can occur during a merger.

Marketing and Sales strategies:

This includes one of the major changes which can occur during a merger. This is also an important subject which should be discussed for proper understanding of both institutions. Every institution and corporation can pride themselves for creating a distinctive marketing strategy that works for them. During a merger, the marketing strategy for the institutions are bound to change even slightly. In order to easily achieve this, the marketing and sales departments of each institution are expected to come together to create a sale and marketing strategy that works for both institutions. If one institution has a previously marketing strategy that has proved effective in the past, it is ideal that the same strategy is adapted in the new institution but with an upgrade. There is a question of if the marketing strategy should be introduced during the merger or after the merger. To start afresh, it is necessary that it is introduced after the merger has been concluded.

Policies surrounding each department in the new institution:

This is another change which is bound to take effect after the merger is complete. Each department in every hospital has a policy that they strictly adhere to for the success of

their institution. During the negotiation period of the institution, this subject matter tends to come up. This is because, every branch of the institution needs to understand the new policies that guide them after the merger. The sales department, human resources, legal department, finance department all have standing rules that guide them in the institution. For the merger to move forward, the members of each department from the individual hospitals can come together to discuss on the plans they have for the merger. Members of the human resources department can come together to examine their policies and suggest ways they can adopt to improve the policies. Some policies can be let go during the stage of the merger integration and new ones can be adopted if it speaks to the new merger. When renewing these policies, each institution should have an equal representation of the members.

QUESTIONS THAT BOTH PARTIES HAVE?

This phase mostly involves conversation among both institutions on the questions they may have for each other. These questions may have been discussed in detail in the due diligence phase and when negotiating the merger. Since this is the last stage of the merger, they have to lay everything out to assess if the merger will fall through. The questions that are being focused on can be seen in great detail in the due diligence phase. This phase is mainly to address any questions that were not addressed. Although we have expanded on these, we will examine some of these questions to fully understand the kind of questions that may be required. It could be called a merger checklist.

Questions like these are expected to be on the checklist.

- Will the merger produce a partnership of both corporate entities or will it form a new healthcare corporation?
- How will the assets of existing practices or institutions be accounted for?
- Will there be any buy-in issues or capital requirements from the existing owners?
- At the date of the final closing of the merger, how will the pre-existing debts be handled?
- Review any potential issues which are bound to arise later after the deal?
- What are the first goals of the healthcare institution after the merger?
- Are there any pending litigations from each institution, and if there are, what is the plan to sort it out?
- What will the compensation plan of the newly merged institution be?
- How will the doctors of each practice be scheduled?
- Who will be the administrator of the new merged practice?
- How will patients be referred to and serviced after the merger?

- In hospital mergers, who will be the managing physician of the merged group, and what will their specified duties be?
- How will each managing physician be elected each year?
- Will the managing physician be compensated each year, and if so, how will he be compensated?
- What are the billing collection policies and procedures for a merged corporation?
- Will there be a change of vendors or distribution institutions after the merger?
- What new plans, goals, and priorities will be created after the merger?
- What guidelines will be used to achieve the goals and priorities which have been set?

CHALLENGES OF HEALTHCARE MERGER INTEGRATION.

a. The migration of data. Healthcare merger integration falls far from the normal merger integration we see nowadays. This is because data is imperative to understand the institution that is being acquired or partnered with. It is very time-consuming and expensive as experts from both parties have to take longer to evaluate and access the data. It is so more error-prone because a slight mistake in the data could affect the information. From the third person's point of view, it seems easy, but it could be extremely difficult because they could have an identical system but a different data model. Although the migration of data cannot hold until the merger is complete, they can start to make data governance and migration plans[86]. This form of planning can be done when the institution is conducting its due diligence, that way they can make appropriate plans on the next steps to take post-merger integration. There is also the risk of leaking information during the migration of data. It is important that when scanning and accessing data that it is done in a way where your institution is not opened up to vulnerabilities. Be sure that the data being used is secure on both ends to avoid any leakage.
b. Access to reproductive services may be curtailed. This is when there is a merger between two hospitals with different standards and values. One might have a secular view and the other may have a very strict religious view. In situations like these, there is a lot to consider and this may cause some challenges for women who are being administered treatment administered in the hospital[87]. During merger integrations and due diligence, some factors are to be considered unless a carve-out is requested that will protect the patient's right to access reproductive health services. In a case like this, the ideal and standard of the other institution will not influence how the patients of the other institution are being treated.
c. Early discharge of infants. During a merger, it is easy for everything to get out of hand quickly and this resonates with discharges. If optimum care and consideration are not taken for the patients during the merger. It may lead to an easier discharge of the patient.
d. Physician retention and recruitment. Merger integration in healthcare is very different from normal merger integrations because even in a hospital merger\, lives are involved and any little mistake can cause things to go out of hand. Extra caution ought to be taken when considering whom to retain in the institution. The roaster of the physician plays a very significant role in maintaining the reputation of the institution. A light indifference can

[86] Jordan scott. How to manage healthcare IT integration during a merger During an M&A deal. *Healthtechmagazine.* [Accessed 30 January 2022] Available at https://healthtechmagazine.net/article/2021/07/how-manage-healthcare-it-integration-during-ma-deal-perfcon

[87] 5 challenges when hospital systems merge. *mba-healthcare-management.* [Accessed January 30, 2022] Available at https://www.mba-healthcare-management.com/lists/5-challenges-when-hospital-systems-merge/

cause everything to fall out of place. It is not something that someone can change at any point in time. If the roaster is not taken seriously, it could cause a clog in the systematic experience of the institution. There is also the factor of retaining the top health care providers. If this is not considered, there would be a high surge of instability in the hospital, and among the patients too. If this is not addressed, the top-tier client could see this as a form of instability and choose to look for jobs elsewhere. It is also a very difficult process to attract or recruit new talent if, during the merger, the institution is in a state of flux and lacks coordination.

e. Autonomy of units. In a hospital, there exist different units in the hospital which sometimes have to work independently because of the decisions that they have to make. In departments like the trauma unit, because of the severity of cases that may come their way, they have to make some decisions with their discretion. During a merger, it may be difficult for the institutions to have a centralized system to work with. With this challenge, it may ruin the ability, of frontline workers to make choices at their discretion.
f. Clash of corporate cultures. Each institution prides itself on its history and growth and a clash of this during a merger can cause quite a challenge. Corporate culture has an impact on organizational growth and a glaring difference between both healthcare systems can cause a slow run during the merger and derail the effective integration of the institutions undergoing a merger integration.
g. Regulatory compliance.

CONCLUSION

We've examined the phases that one goes through when starting a healthcare merger, from the concept phase to the letter of intent and the due diligence stage. For one to successfully go through with the merger, one must follow these steps and guidelines to achieve their optimum goal. There are bound to be some fall-backs and setbacks, but with resolve from the institution and the staff. It can be done perfectly. A merger is not something that one can hastily decide to engage in. To indulge in a merger it is necessary to research the needs of your institution and also examine if the buying or selling institution can truly understand your needs. The letter of intent is vital because it relays the intention of the buying institution. If the buying institution is not represented correctly, the merger might not go through. This part focuses on the representation of the institution. With this representation, the other institution can be able to understand if there could be a possibility of a merger. After this phase has been settled, the due diligence phase aids the institutions to know more about each other as they make inquiries about themselves.

If they can complete this phase, they move to the negotiation stage where they can shed more light on their institutions by asking some questions and talking about their concerns. This is one of the last phases before the merger is complete. Some healthcare institutions fail to make some inquiries during this phase, which in turn leads to a lot of problems down the line. After these points which have been stated in these chapters, I hope that corporate healthcare entities and institutions can take caution when making decisions about mergers.

CHAPTER 8

PHASE V: PRE-SETTLEMENT AND SETTLEMENT PHASE

The Pre-Settlement and Settlement phases provide the parties with a limited period of time after they exchange documents to ensure that all conditions are completed before the transaction is finalized and the deal closed. If there are no requirements that must be met, the completion will take place at the same time as the signing or exchanging of the documents.

To complete a transaction, both the seller and the buyer will need to complete all of the tasks that must be completed before the transaction can be completed. The length of the pre-settlement period will vary depending on the closing conditions that must be met before the transaction can be completed.

When someone buys a new television, for example, the contract and the transfer of ownership may occur virtually simultaneously, depending on the circumstances. On the other hand, every businessperson is aware of the legal separation of agreement and transfer in other situations, such as when someone purchases a house or a car and needs to register the transaction with the government. Furthermore, because firm shares must be registered with the firm registrar before they can be sold, they are not normally available for purchase straight once.

The signing of the SPA is only the beginning of the process; the next step is to notify the regulatory authorities in all of the markets in which the firm conducts business. There are occasions when the decisions made by regulators are influenced by political considerations, and it is nearly hard to determine why. But, for the most part, you can anticipate what might go wrong before you begin. Before making an offer, you should conduct extensive investigation to see whether or not there are any issues with the transaction.

There are two critical dates in the actual process of selling a business: the date on which the agreement is signed and the date on which the agreement is completed. Contracts are executed on the same day they are written and signed, unless otherwise stated. The decision on when to sign is left to the discretion of both parties. The majority of the time, the parties collaborate to establish a date (for example, January 1) on which the firm will be sold. It is only on this date that the transaction is completed (closed) and the new owner takes over control of the firm. When you purchase something, you do not become the legal

owner of the item until you sign for it. Due to the fact that you do not have any rights to it, you do not possess it.

The main activities of the pre-settlement and settlement phase is the 'signing' and 'closing' and we will talk about each explicitly:

Signing

The process of agreeing on the terms and conditions of a transaction in writing is referred to as signing. By signing, you acknowledge that you have read and understand the terms and conditions. According to Anglo-Saxon law, the date on which the agreement was signed is referred to as the "signing date."

In most cases, both the buyer and the seller will sign a written agreement. A contract is used to spell up the conditions of a transaction, as well as the rights and duties that come with transferring ownership of a firm to another person or entity. When the transaction involves the purchase of assets, the contract is referred to as "asset purchase agreement" (APA). People who purchase stock in a corporation enter into a contract known as a "share purchase agreement," or "SPA."

When you sign a contract, it is far more difficult to back out of an agreement.

The act of signing does not always imply that the item will be delivered to the person who owns it. It is possible that there are other conditions that must be met first. Known as "closing conditions," these requirements are stipulated in the purchase agreement and must be completed before the seller grants the buyer the legal ownership of a piece of real estate.

Closing

The term "closing" refers to the completion of a transaction and the transfer of ownership. There are many various ways to put this: it is the date on which the new owner becomes legally entitled to own or operate anything.

Once a contract has been signed, the parties concerned are responsible for taking all necessary steps to ensure that the contract is successfully closed. Before signing the contract, both parties must agree on the terms of the conditions precedent. They may also be based on rules that are peculiar to a certain country. Many times, obtaining an antitrust clearance is the only thing that needs to be done to proceed to closing. All other aspects

of the transaction that are not mandated by law are left to the discretion of the buyer and seller. This is mostly dependent on their ability to negotiate.

They also specify a closing date, either in the purchase contract or shortly after signing it, at which point it is possible to predict that is the day on which all criteria will be met. A large majority of the time, the purchase payment is not due until all of the requirements have been met. This is predicated on the fact that neither party intended to leave any of the requirements out of the agreement.

There are a slew of rules that must be followed in order to complete a transaction.

Closing Condition is a term that is used to define all of the critical items that must be completed before a transaction can be completed successfully. They are included in the letter of intent (LOI) by either the buyer or the seller, but it is usually the buyer who adds them in the first place.

When a seller is prepared, most closing requirements can be met by him or her. Having spent a significant amount of time preparing for the sale and having the majority of the due diligence information available is the optimum scenario for a seller. *It is usually preferable to have a well-organized and well-documented due diligence package than to scramble to put things together at the last minute.*

From the time they sign the contract, the buyer only has the right to the transfer of the property, not the ownership of the property itself. From the moment he executes the contract to purchase the property after signing he becomes the legal owner. The absence of closure conditions, or the fulfillment of those circumstances, is required.

A legally binding agreement to buy and sell a home is signed by both the seller as well as the buyer. However, the closing costs are frequently borne equally by both parties.

A closing condition is a requirement that both parties must adhere to during the period of time between the signing of the purchase agreement and the closure.

There are "closing conditions" that both the buyer and the seller must meet or waive in order for the transaction to be completed, as well as "joint closing conditions," which are conditions that both the buyer and the seller must meet or waive in order for the transaction to be completed.

The permission of antitrust authorities is one of the most common and crucial closing criteria, and it is one of the most important. The majority of the time, antitrust investigations begin when a transaction crosses a certain threshold. While this occurs more frequently with large transactions, it can also occur with smaller transactions. When it comes to this, it all relies on what the cartel authority considers to be the "relevant market." Because the scope and duration of the review might differ from transaction to transaction, both parties are left with a great deal of ambiguity.

The following are examples of closing conditions that are less common:

- Obtaining official approval, such as from the building control law or antitrust authorities, before proceeding.
- Change-of-control scenarios, such as a firm being purchased or sold, should be defined such that significant contractual partners retain their right to terminate the contract.
- Meet with important customers to demonstrate to the buyer that the potential purchase will not have an adverse effect on the relationship.
- Check that any financial accounts used to determine the worth of a target have been either audited or verified by an outside firm of professional accountants before putting a dollar amount on it. Confirm that the target can be subjected to due diligence and that there are no substantial difficulties that could impair the target's worth before proceeding.
- As soon as the authorization of the stock exchange is received, equipment, real estate, and net working capital are examples of what is included in this category. Check to see that they are all appraised at their fair market worth and that the seller owns 100 percent of the assets in the transaction. It is customary to perform an asset valuation. This covers things like transferring ownership of stock, appointing a new director, and establishing a new corporate venture.
- Getting support from other shareholders who have an interest in the enterprise in addition to the main agreement, side letters, such as employment agreements, non-compete agreements, and other agreements, may be signed.
- Making sure that customers who want to continue working with the new owner must write "waiver letters" to express their willingness to do so.

- Making provisions stating that each party's warranties and representations are still in effect as of the closing date
- All parties involved have met the provisions stating warranties and representations.
- If applicable, approval from a government agency for the transaction to take place.
- Joint conditions recognizing the legality of the transaction
- Buyer requires that the seller obtain third-party approval, such as from suppliers.
- Joint conditions include the absence of any pending legal issues that would prevent the transaction from closing.
- Buyer-specific conditions requiring that certain issues be resolved prior to closing
- Enable the buyer to obtain the debt or equity financing that is most appropriate for them.
- After the transaction is completed, make certain that all of the seller's key workers sign employment agreements with the buyer.

What Is the Importance of Closing Conditions?

Closing requirements must be met during the period of time between the signing of the contract and the closing date. All parties involved want to ensure that the value of the business or home is maintained, and they want to ensure that the transaction is protected. There are numerous pre-closing actions that have been pledged and that everyone involved must adhere to:

- The seller is prohibited from negotiating with or seeking other bidders.
- In addition, the seller is prohibited from forming a competitive firm, requesting that clients switch to another supplier, or hiring staff from the business into another business. Even after the closing, the terms of this agreement remain in effect for a specified amount of time.

- Before taking any activities that may have an impact on the value of the business, the seller must obtain the buyer's approval. This can include making a significant financial investment, making a restricted conventional capital investment, or signing a significant contract. The buyer must reply in a reasonable and timely manner if any of these situations arise and the seller needs to request the buyer's approval from the buyer to proceed.

- It is possible that the seller will be required to take steps to allow the buyer to take advantage of post-sale prospects.

- Neither party is permitted to disclose the specifics of the transaction without the approval of the other party. The only time this is not the case is when they are obligated to do so by law.

Naturally, a buyer needs some assurance that the business's worth would continue to be as high as it was at the time of signing the agreement. As part of these closing conditions, the seller must provide certain reassurances in the form of warranties and representations, including the following:

- All of the pre-closing behaviors that were agreed upon have been met between the signing and closing dates.
- At the time of closing, all warranties and representations agreed upon are accurate. There are some exceptions to any adjustments to disclosure schedules that may be implemented.

- Since the signing of the Purchase Agreement, there have been no changes that could have a negative impact on the firm.

- Ensuring that there hasn't been any legal action brought against the transaction that could prevent it from going through.

Deliverables are also taken into consideration when the buyer guarantees certain post-closing measures, such as the provision of an employee benefit plan for a specified period of time. These are documentation that the buyer will need to complete the purchase but will not be available until after the Purchase Agreement has been signed. As part of the closing requirements, the seller is required to provide certain documents on the day of the closure.

The following are examples of typical deliverables:

- Licenses, approvals, permits, and other forms of regulatory authorization
- The deal has been approved by the board of directors and stockholders.
- Agreements pertaining to staff retention and finance are examples of this.
- A certificate certifying that the firm's formation was completed correctly.
- Contracts and leases, for example, are examples of third-party consent forms.
- Liens and settlements from litigation are released.
- Typical transaction documents, such as asset purchase agreements and escrow agreements, are included.

The right to terminate a transaction is an important component of closing conditions. The parties have agreed that the transaction can be canceled under the following circumstances:

- If both parties agree on the termination, the agreement is binding.
- In the event that one party fails to complete the closing conditions within a reasonable timeframe In the event that the other party fails to perform in accordance with an agreed closing condition In the event that one party breaches a warranty or fails to perform in accordance with an agreed closing condition
- If a legal issue renders the transaction void, the transaction is void.

At the end of the process, the tendering of representations and warranties ensures that the other party's representations and warranties are accurate at the time of the closing. Everyone has complied with the terms of any pre-closing agreements or covenants that were made. It is possible that additional negotiations may take place on whether the bringing-down of reps and warranties should take place on the closing day or on both the closing date and the signing date.

Still and all, the fact that the buyer pays the agreed-upon price is, of course, the most essential thing for the seller. This should be made clear in the purchase agreement as a need for completion of the transaction. When a firm is purchased using money from a bank, the bank often pays the seller immediately and requires that the firm purchase agreement be signed in advance of the transaction.

Although the antitrust clearance procedure can take a long time, many purchase agreements contain a phrase known as a "substantial adverse change" clause that protects the buyer in the event of a material adverse change (MAC). This section states that if something occurs that is detrimental to the firm, the agreement can be modified. This MAC provision allows you to cancel the contract if your financial situation deteriorates significantly between the time of signing and the time of closing. Therefore, a close frequently involves a "bring down" of the promises made throughout the signing process in order to demonstrate that the aim is still in reach.

Only if all of the previously agreed-upon requirements are met can the transaction be completed. This can take anything from a week to three or more months, depending on the circumstances.

However, it is still unclear whether the closing circumstances will be beneficial to both the buyer and the seller. They do, however, contribute to the uncertainty around whether or not the purchase will actually go through. As a result, both parties may wish to restrict the number of conditions to a minimum and the period between signing and closing to a minimum in order to complete the transaction as quickly as feasible. In the event that one party fails to meet a closing condition, the other party cannot be forced to complete the transaction.

Depending on how long it takes to complete the transaction, a corporate acquisition agreement grants the buyer more or less comprehensive rescinding rights during the period between the signing and the closing. Buyers frequently seek to establish a relationship between labor law notice periods and asset transactions, so that if a key employee objects to the transaction, the buyer has the option to terminate the transaction. The majority of buyers desire a large number of control choices and the ability to create a framework library of permitted transactions in order to keep things operating smoothly during the transition process.

People who are purchasing a home agree on a date for the closing. When that date arrives, they will be able to take possession of the residence under the terms that have been agreed upon. In most cases, there are numerous processes that must be performed before the purchase agreement can be completed, which is why the period between signing and closing is typically lengthy. Many stages are completed during the closing process, but it is only on the closing day that all of the assets or shares of the firm are transferred or sold.

When a transaction is completed, it is completed in accordance with the terms that have been agreed upon.

If there aren't any further restrictions, signing and closing can be completed on the same day.

When a transaction is completed, it is referred to as "closing."

A new business acquisition can be a challenging and time-consuming endeavor; therefore, after a successful contract negotiation, the parties are usually anxious to purchase a business as soon as possible after the transaction is completed. The reality is that, due to the complexities of these transactions, it is normal for the actual economic shift to occur a long time after the contract is signed.

When talking about 'settlement', you have to think about pricing, of course. How is value placed on the firm at closing? It is done using purchase adjustment mechanisms. Although it can stretch to after closing, most times, the period between signing the Share Sale and Purchase Agreement and completion is when pricing (purchase price adjustments) is done and the locked box or closed accounts are frequently employed in mergers and acquisitions to implement price adjustment. The key distinction between the two mechanisms, aside from the possibility of price adjustments, is the time at which money is exchanged. Retroactively, it can occur at a specific time before or after the conclusion of the transaction.

• The Locked Box Mechanism

Locked box mechanisms are methods of determining the purchase price for a share sale by taking into consideration the target firm's debt and working capital at a specific point in time in the past. When a share transaction is completed, the purchase price is defined by the point in time at which the sale occurred (the "locked box date"). Consequently, a price is fixed, and the buyer takes advantage of or risks losing money with a target firm at a specific moment, which is when the box is closed and sealed, as described above (not from completion).

When a deal is set at a fixed price, it's the first thing that comes to mind for those on the buying end to be concerned about. This exposes the buyer to the possibility of the vendor altering the finances of the target firm. It is understood that the seller has agreed not to take any money, assets, or other benefits from members of the target firm during the time period beginning with the locked box date and ending with the conclusion of the transaction. "Leakage" is a term used to describe this behavior, and the seller commits not

to engage in it save for a few much specified items that the buyer consented to and that were included into the acquisition agreement (referred to as "permitted leakage").

An equity value change is performed to a balance sheet that was created before the firm was completed using the Locked Box process. A "locked box balance sheet" is what this type of balance sheet is referred to as. People in Europe are increasingly reliant on secured boxes. Locked boxes may be a suitable alternative for multi-bidder sales because they eliminate the need to waste time after the sale figuring out how to complete the transaction and because they provide both parties with an idea of how much equity they will possess at the end of the transaction.

Typically, the forms of leakage that are permitted are subject to stringent regulations governing how much money they can cost and how much they can leak at any given time. If they are not considered "business as usual" things for which value has already been paid, buyers will typically exclude them from the equity value they offer; nevertheless, if they are considered such items, buyers will normally include them in the equity value they offer (see "Pricing the deal" below).

The acquisition agreement will often state that the seller would reimburse the buyer for any leakage that occurs because of a breach of contract. The seller will almost always be required to reimburse the buyer in full for any leakage that was not permitted, but the buyer will almost always be required to file a claim for reimbursement within a short period of time after the transaction is completed (usually between 6 and 12 months).

Firms will be priced more conveniently via "locked-box" procedures in an environment where sellers are encouraged to sell their businesses. As long as the buyer is able to conduct thorough financial due diligence and negotiate an agreement in which the box is effectively secured, these methods can be beneficial to both sellers and buyers alike.

With the help of a locked box mechanism, a buyer submits an offer that is based on a previous balance sheet (the "locked box balance sheet"). To put it another way, when you buy a business, you get all of the money and losses that it makes and loses at a point in time before you sign the purchase agreement with the seller.

• Closing Accounts Mechanisms

When the transaction goes through the process of closing accounts, it appears in a somewhat different manner. In a closing accounts method, money flows at the time of

closing, rather than at the time of the balance sheet's preparation. When there are conditions that must be met before a merger or acquisition can be considered effective, the signing and closing of a merger or acquisition deal do not occur at the same time as the transaction itself. In that instance, the closing – and, consequently, the access to the profits – is postponed until later.

It is possible to have a closing accounts scenario where the "original" purchase price was specified in the Share Purchase Agreement that was executed (or SPA). The "final" purchase price, on the other hand, is only estimated based on the balance sheet of the target firm that was prepared at the time of the transaction.

As part of the closing accounts procedure, the parties agree on a valuation for the entire firm, which is then adjusted based on the amount of cash, debt, and working capital the business had on hand at the time of the transaction. People agree to a price for equity that is based on previous balance sheets that are set at the outset of a transaction, which is referred to as a locked box pricing in the industry.

This has always been the way things have been done. It is based on the financial statements of the firm that was purchased at the time of the acquisition. This means that even after the closing date, there will still be work to be done in order to determine the price of the property. Right now, more and more transactions are being completed using the "locked box price" method. They agree on a fixed price based on the balance sheet of the target at an effective economic ownership date before they sign the contract, which is a date that is before the effective economic ownership date of the contract. A locked box mechanism causes a delay between when money transfers and when it is paid for the transaction, resulting in the buyer being required to pay interest during that period of delay. In addition, the seller must reimburse the buyer for any value loss that occurred at the same time as the loss of ownership, which occurred when money flowed to the seller during the period in which the buyer held economic possession.

The locked box is primarily utilized in Europe, and it is only occasionally used in the United States. Recent years have seen a significant increase in the use of the locked box by large private equity companies in the United States. The fact that the seller retains control over the period of time between the locked box date and closing date increases the risks for purchasers; nevertheless, it also provides them with additional information about how the financing will function at the moment they sign the contract. Locked-box agreements are less cumbersome, take up less time, and eliminate the need to prepare a second set of

financial statements. They are also more cost-effective. This means that the management team will be able to devote more time to maximizing the benefits of integration and bringing their business plan to fruition.

Conclusion (Signing Versus Closing)

The processes of signing and closing are vastly different from one another. The act of signing signifies agreement on the terms and circumstances, and the act of closing signifies the sale of the shares or assets. There are numerous events that must occur between the time of signing and the time of closing in order for the transaction to be completed. Only after all of the conditions have been met can the seller transfer ownership of the shares to the buyer. Because of the complexity of the transaction, the time between signing and closing can range from a few days to many months.

In contrast to signing the contract, which signifies the completion of the transaction, closing refers to the act of delivering the business as a contractual object. In the course of this procedure, the "close conditions" are established, and closing impediments are removed in order for the firm's ownership to be transferred. It is not always possible to avoid a lapse in time during this operation. In more complex cases, it might persist anywhere from a few days to several months. During this time, the previous owner is still free to do whatever he or she wants, but the new owner is usually keeping a close eye on him or her. He also has a duty of care to the buyer, who has the right to cancel the contract in certain circumstances, as long as the contract expressly states that he may do so.

Because neither party knows how long it will take them to sign and then close the contract, the period between signing and closing should be kept to a minimum as much as possible. Therefore, the agreed-upon right to cancel and the conditions for accomplishing this should be limited to a bare minimum, according to this theory.

The signing and closing of a contract are the most essential phases of a transaction for professionals who work in mergers and acquisitions. Despite the fact that many transactions are being worked on simultaneously, not every one of them will be completed. If there is a lot of competition from other bidders, or if the buyer and seller can't agree on what they want from one other, that could be the reason. The signing of the official purchase agreement, on the other hand, is the first and most crucial step. This is due to the fact that the signed contract demonstrates that the terms and conditions that were agreed upon were followed. Even if the signing and closure can take place at the same time, there may be a significant amount of time between the two events.

It is during this period that the parties can meet the closing conditions, complete technical processing, comply with accounting obligations, and obtain official approvals, among other things. It is also more convenient for accounting purposes to complete the transaction at the end of the month or on the date of the balance sheet. This usually results in a significant reduction in accounting work.

Again, a short period of time between signing and closing is recommended because there are so many things that can go wrong during this process. The seller should request a down payment at the outset of the transaction; if the buyer fails to complete the transaction or fails to pay the purchase price, the seller has the right to cancel the transaction and keep the down payment as a penalty. Even more so, rights of rescinding and promises should be limited to the smallest amount possible when they are agreed upon. Sellers should exercise extreme caution when running their businesses, documenting significant business transactions, and coordinating these transactions with the buyer. As a result, the seller has sufficient security even during the most critical phase of the transition, and nothing stands in the way of the sale of the firm.

The transaction phase of the acquisition of a firm comes to an end once the purchase agreement has been written and accepted by both parties. It is completed and the firm is transferred after the agreement is signed. By signing a purchase agreement, the parties acknowledge that they are agreeing to relinquish ownership of the item they are purchasing. In the case of a stock transaction, this is referred to as "closing." This indicates that the real transfer of ownership of the shares or assets that are being sold or given away is taking place at the time of the transaction. It could take several weeks or even months before you finally sign and seal the deal. Commonly, there are practical and/or complicated reasons behind this. For example, the transaction isn't wanted, viable, or legally permissible at this point in time.

Other practical considerations for the transitional period include obtaining finance for the purchase price from the buyer or ensuring that the transfer runs smoothly after it has been completed. In reality, this entails putting in place the appropriate organizational structures (administration, IT infrastructure, and bookkeeping). If the change takes place at the end of a financial year or at the end of a month, it is generally much easier for everyone involved.

When it comes to small transactions, signing and closing are frequently completed at the same time because there are no closing conditions or steps to make the transition more convenient in these situations.

When it comes to the terms of the closing, sellers and buyers frequently have very different objectives in mind. When selling a home, the seller prefers to keep the closing procedures as simple and brief as possible. The buyer, on the other hand, wishes to increase the certainty of the transaction from his perspective by imposing additional closing conditions. Providing an option for the buyer to waive the closing conditions is a smart move.

Even if there is a period between signing and closing, it is typical to enter into additional agreements, such as covenants that prevent the seller from doing certain things, rights of withdrawal, compensation, and provisions regarding material changes, during this period. When the economic status of a firm, or in certain situations, the entire economy, changes significantly to the detriment of the firm, this is referred to as "negative economic changes."

During the final few days before the closing, all of the tasks that have been agreed upon are completed, and the final deliveries are made as well as possible. For example, payment of the purchase price and verification that it has been paid are two items that must be completed. Other tasks include the appointment of new members to boards of directors and other bodies, the resignation of officers, and the transfer of more centralized papers. As soon as all of the closing conditions have been met and all of the closing acts have been completed, the legal and economic transfer of the firm to the new owner has been completed and is complete. According to legal standards, this marks the conclusion of the acquisition. When a transaction comes to a close, it is typically documented in a closing memorandum of agreement.

CHAPTER 9

PHASE VI: THE POST-MERGER PHASE

There is an old adage, which compares the process of mergers and acquisitions to an illustration, where one tries to get both right and left hand to work together into completing a large puzzle, when they never have worked together before now. To put it in simpler terms, mergers and acquisitions revolve around an excessive amount of moving parts. But then, it gets all complicated to the fact that there is suddenly a need for two companies and additional stakeholders to fairly and without interruptions or distractions, work and communicate together in order to bring the deal to completion.

But what then happens after the deal has been finalized, and what is post-merger integration?

From earlier context, post-merger integration, how it works, it's functions, benefits, has all been explained in full details. But reminiscing, we were made to know that Post-merger integration or PMI, according to Wikipedia, is a complex process of combining and rearranging businesses to materialize potential efficiencies and synergies that usually motivate mergers and acquisitions. When a merger does not go the right way, it cause deals to fail, or probably, results in the incapability to extract true value from deals - no one is in need of a deal that looks only good on paper. With this in mind, post-merger planning, must kick start at the beginning of the deal, and best practices, integral team members, and merger integration plans must be established before the deal closes.

There are several things that must be done when a merger has reached the actualization stage. Only until these things are done, will a merger integration be termed complete. In this chapter, we would focus on some of these activities and guide you through our POST-MERGER CHECKLIST.

Who are those responsible for merger integration and post-merger activities?

1. Top Executives and stakeholders

The top success factor for post-merger, is placing value around merger from top to bottom. During the commencement of the merger process, a company's executives should gather all of the potential stakeholders involved in a deal, ie, consultants, top medical personnel, etc. and begin from the start, the details of the post merger integration. Also, every communication in the integration phase, should also have an eye on the post merger deal integration period.

2. Due diligence team members

From earlier context, it has been shown the commitment of the due diligence team. As they also are noted to be among those responsible for the merger and post merger activity, the first priority in the due diligence process, is to assemble a diverse due diligence team, as to the fact that every deal is distinct. The team's collective expertise should cover the various areas unique to the deal at hand. This means, it is necessary, to not only assemble the appropriate legal team, but also, to ensure that the team involved, has appointed the appropriate contacts to address questions that may arise concerning any matter at hand.

The due diligence process, is both a joint effort and a representing responsibility, which will bring about, a more effective and thoroughly efficient process, that brings forth a higher quality result and reduces the probability of key issues being overlooked or inappropriately addressed or negotiated. It is important that in order to get the best integration practice, the people involved in the diligence doings, should become part of the team in order to sustain and revise necessary information without redoing work or engaging in redundant tasks.

The benefits of making use of the same individuals for diligence and integration, is to the fact, that there would be continuity, which is of great value during the often chaotic time of deal closing and post acquisition integration. And the advantage of this continuity are numerous. Consider for instance, the time at which it would take for the diligence team members to do a full data transfer to the team.

Would every single bit of information get transferred?

What about the missed notes on writing pads that do not get passed on?

Clearly, even the best intended data transfer, would end with some gaps and omissions.

In addition, let's set a scenario, where a particular line of information is passed on from the diligence team and does get to the integration team, will the members really go over all of the work? As a result, the best, and the most efficient, way of integrating is to have an overlap between the diligence and the integration team. This way, it also increases the probability that the team will maintain its momentum and capture synergies of the deal, thus making it a key merger and acquisitions integration strategy.

3. Human Resources

Merger and acquisitions practitioners are made to understand the importance of merger integration planning. Yet, most of the time, operations, still get to miss the mark, because the all too 'important persons' factor can get lost in the reorder of recent business life.

This error, can amount to the loss of employees and clients during the extremely important start up days of integration, when both the employees and clients of the company, tend to be the target, competitors go after.

With this in mind, practitioners ought to be ready to communicate and execute important information from the day one of integration, about their targets, the positioning of employees, their benefits, and the future of the company. And this obviously is the vital role Human Resources plays, in the human piece of integration.

4. A Change Management Expert

The human resource is not capable to do it all. However, the acquisition transition plan will not be successful if it does not take into account, change management. The first rule related to change management, is making it, it's own role.

The bigger the acquisition, the more the processes, job roles, structures and culture can change.

Traditional managers do not have the experience or time, to oversee this transition, that is where change managers come in.

What are the benefits of having a change management expert on your post merger and merger acquisition team?

Having a change management expert on your team, gives the clients access to gaining valuable information about the target company and in this context, the medical institute, which can aid in maximizing potential deal value. With the right expert, the target medical institute feels cared for and employees morale improves, and necessary information, is brought to light that current leadership may be totally unaware of. All of which will aid in avoiding major and costly problems.

WHAT TO DO IN THE POST-MERGER PHASE

i. Establish Committees

The purpose of establishing committees in this phase is to review the Merger and Acquisition, the assets and other parts as proposed by the Board of Directors. The Committee would report to the board and work at their discretion.

Usually, the Post-Merger committee is made up of people carefully selected by the board and run by a chairman who establishes the rules of the committee, yet under approval from the higher authority.

Their roles may also include to;

• Provide the Board of Directors with additional information major transactions and

material that requires their attention.

• Review the integration with management and access the relative success of the Merger and Acquisition

All these would be handled during meetings convened periodically, or as necessary and in accordance with the laws of the institution. Decisions taken during this meeting like on any other committee, must be approved my members, and then the Board of the establishment. Committee members are entitled to fees, as well as reliance on the establishment's information, opinions or reports.

ii. Role Clarification

Managing Director Partners, Board, Employees; for every merger and post-merger activities, it is important that roles of the aforementioned, should be efficiently addressed, as they play a major role in the whole integration process.

iii. Team Building

In any merger and acquisition transaction, the institution's senior management team is charged with a lot of responsibility. Their directions is taken from the Board of Directors, and assistance gotten from the company's legal and financial advisors. The senior management team is basically the instrument of the institution, in the landing and negotiations of deals, in the best interests of the institution. The management team also, should be open minded and expectant of the key issues that will unavoidably arise in attempting to get to a successful completion of any merger deal.

If the selling institution, are to continue on with the buying of the institution interested in merging, the members of the management team will naturally have a number of questions, to how the merging company will treat the team at the post-merger stage, with respect to compensation and employment motivated arrangements of the employees. However, so as to avoid any future potential conflict of interest claim, members of the management should make sure to be sensitive to knowing when the time is right to asking some of their questions.

Merger and acquisition integration planning must kick start at the beginning since the deal and goals need to be constantly evaluated throughout integration. Thus, teams must be assembled around the same functional goals. By this, it enables everyone to have a view of the big picture, and get rid of common cross functional dependency issues.

At the commencement of the deal, an official start up meeting should be held. And in this meeting, a list of people that would be included in this phase must be created. During this

stage, it is very important to ensure the clarification of governance and to determine the operating post merger integration framework, on how teams will work together, such as setting up meetings, sharing necessary information, and managing dependencies.

Synergies ought also to be reviewed and confirmed, as teams and team leaders should be established alongside.

- A post merger kick off meeting should be held.
- Reporting up from institute communication channels should be made monthly, or weekly.
- Reviews should be made from teams and the post acquisition integration should be evaluated throughout constant short variations. As new information comes up, this would make it easier to realign a team and their goals.

A game plan needs to be created by the teams and merger integration checklist for the employees. Goals ought to be set, progress tracking, and having an open communication is necessary too. For a successful merger to be put in place, and common risks avoided, a thorough plan would have to be put in place before the deal can be sealed.

iv. Cancel Registration of Entities that no longer exist

We must first of all be reminded that a merger is the combination of two firms, and as such, these two subsequently form a new legal entity under the banner of one corporate name. This is an important procedure as it ensures that the merger is properly reflected in every place where the newly acquired healthcare institution was previously recognized. It is easy to imagine the consequences that lie with failing to do this.

Besides the fact that cancellation of entities is a legal requirement after a merger, failing to do so would imply that state obligations like tax payments would still apply to the acquired entity. To avoid the confusion that arises with this, it is important therefore to;

- File a Certificate that Withdraws the Entity (often called a Certificate of Withdrawal or Certificate of Surrender).
- File Evidence of the Merger. Many states require that a certified copy or certificate evidencing the merger from the domestic state is filed. In some cases, the certificate can be filed on its own to terminate the existence of the

non-survivor, in other cases, it should accompany the Certificate of Withdrawal or Surrender.[88]

- File an Amendment

v. *Negotiate New Contracts*

During the contract process, your ability to act fast is being hinged by the value of a merger, not only in union defining but in identifying shared opportunities and risks also, once the ink dries on the agreement. You could miss the deal on bringing out important contract intelligence and other deep views from historical and inherited data, by simply lifting and shifting your documents, without attention been given to the value of the locked data.

It is very essential to identify risks that are laid within the contracts, in order for compliance mandates meeting. But then, additional insights should not be overlooked by organizations, as contract analysis can surface. Contract analytics must be treated more than just a risk management tool, so as to improve on decision making and enhance contract performance.

Your ability to achieving strategic objectives, depends on the company to which your company merges with. However, it is the approach you take into merging that will ultimately determine your success. Contract intelligence is a more detailed strategic value example that a corporate marriage can bring.

Why it is problematic to use the lift and shift approach?

You probably have encountered the stress of packing, and moving unlabeled boxes that collect dust from place to place, if you've moved homes more than once. Also similarly, when there is a merge between two companies, or a business is being acquired by another, each company brings its own set of 'moving boxes' in form of numerous of legacy paperwork and documents. Thus distinct information may not survive on compatible systems, hereby making the challenge of utilization increase.

[88] Teri Mayor, (2018) "The Importance of Post Merger Clean-up" in *Cogency Global. https://www.google.com/amp/s/www.cogencyglobal.com/blog/updating-the-public-record-the-importance-of-post-merger-cleanup%3fhs_amp=true*

After the deal, as you sort through the various business units that attention is being needed, storage space of contracts may not seem like top priority at that point, therefore the tendency to just lift and shift this information would be on the high side.

When two companies are successfully merged together, an agreed effort is required to move and improve data, by transiting it into a searchable, structured data with excess strategic value. By value addition to contract documents before, during and after the move, important insights such as contract intelligence can be obtained during the process.

Caution: Move contracts with care!

Some of the highest value and risk data in an organization's possession, is being represented by contracts, even though they make up of just a small portion of the overall merged content. Sensitive and risky data, relating to personally identifiable information (PII), regulatory and compliance documentation are often contained in the agreement. A collection of insights are also contained in contract documents, that could help your organization with identifying new revenue wells, and even improve the customer's experience. But then, pulling out and acting upon the insights burrowed within the contract documents, is like trying to grasp a really slippery object. This is because, scrutinizing contracts documents, can be difficult for organizations, since they live on different systems in different formats, most often than none.

Due to its complications, predictable layouts, rarely structured documents, simpler data tools which are some times not up to the task, it us what is being used for long term corporate agreements. Organizations can barely identify or act on hidden risk and value buried within their contract without the right technology in place.

In order to lessen contract risks before, during and after a merger (post-merger) and maximize opportunities, your organization must ensure that a strong contract analytical tool is being adopted.

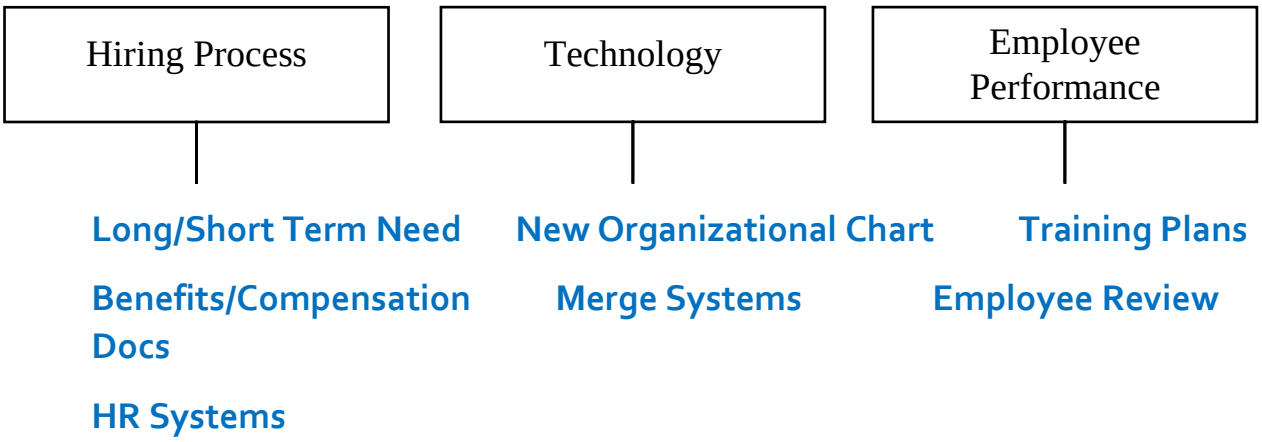
A golden opportunity is exactly what mergers and acquisitions present for organizations, especially the medical organizations, in order to extract vital contract intel adopted. To ensure that the right solution for your organization

is chosen, do make sure to analyze through the pros and cons of the types of contracts.

THE POST-MERGER INTEGRATION CHECKLIST

A post-merger integration checklist is important for getting through the final phase of any merger or acquisition. The checklist goes through the final phase in a step by step agenda, in order to be kept in track.

Plans for hiring processes for short and long term needs , systems merging, tracking the performance of employees, merger internship integration, redundancies, turnovers, employee retention etc. all need to be included in the checklist. It is important also, for those in key roles to take a post-merger integration questionnaire to help them understand and align goals.



Although taken into consideration in the previous phases, some other areas must not be overlooked as this is still a phase in the merger integration process, and it is important to leave no stone unturned during the healthcare merger and acquisitions.

1. ***Data and Knowledge.*** It is important to put into consideration, how to integrate knowledge, relating to medical services, products and customers.

2. ***Internal Policies.*** This involves setting up ways on how both integrating companies will handle internal policies such as new employee training, salary changes, employee exits etc.

3. ***Company Culture.*** This obviously, is the backbone of any business, firm or establishment and is definitely the core of healthcare institutions. There sure would be crashes, if one company is a Monday to Friday, 7am - 4pm work plan schedule, while the other, has flexible hours and work days, there are sure to be clashes. To complete the merger

integration, both companies need to decide on which company's culture would emerge the post close.

4. ***Technology and Systems***. Integrating healthcare institutions need a strategy on how to combine both their technology and systems, in order to avoid future complications.

5. ***Company* Procedures**. This area includes the need for a plan for future business operations such as sourcing new company ideas and probably future mergers too.

6. ***Organizational Structures.*** This part involves the reorganizing of department structures. For example, will both the human resources departments of each company become one, or will each one take on different responsibilities?

1. It is very necessary to set a detailed budget and have honest conversations, in order to eliminate workload friction. Rather than having a separate company merger team for all companies, which isn't even possible, there are some things that can be done, in order to have a balanced and manageable workload. For post acquisition tasks to receive the attention they need, honest conversations between workers and supervisors in charge, should be made.

What can actually be accomplished?

The budget would be looked at very closely, with realistic eyes, and it would also be built to ensure that day to day tasks or projects can be handed off to other employees while certain workers, work on merging.

2. The lack of clear and precise expectations can bring chaos and negative outcome to mergers and acquisitions. Good enough, expectations can be placed out, for the sake of the business integration plan, when tasks are prioritized.

More particularly, asking the right questions, at the right point in time, can be harnessed through daily, or almost daily, being placed in the right order, and prioritizing with the target company. This might go scary at first for the target company, and probably you too, but the benefits are supreme.

If this order is followed, the focus would still be on the objective, and tasks relating to the objectives. Unnecessary workload is being gotten rid of, therefore reducing fatigue or stress.

Although, the target company, might probably grow tired of the daily contact, they surely would get to see the benefits in no time, and tasks becomes smaller with time.

One other advantage of following the order of things, from the points above, is that the increased contact with the target company on priorities, would give birth to critical conversations, placed on the table, at the early stage of the deal.

Due to the fact that not everything, can be placed in high priority, limiting some priorities, would allow stakeholders to see the deal's reality, of what and what not is likely to occur in the future, which tends to reduce the stir, as it becomes clear at the early stage, that not everyone is likely to gain what he/she wants from the deal.

It is necessary to note that, a strong company's morale is vital to any post merger integration framework. Emotions are inevitable. The same way individuals react with different range of emotions in their personal lives, the same pattern is followed also, in their work lives. Experts have come to the observation that when workers are bring faced with a major challenge at work, they often transit from denial, to anger, depression, and then, when they are able to move off that phase, they move into the phase of acceptance, hope and probably commitment.

In a more explanatory term, when they are implemented changes, or merger and acquisition takes place, the worker's morale is deflated, and they become preoccupied with fears, doubt and productive work slacks. At this point, the company's morale is meant to be at it's strongest, to aid the workers, into not feeling as though their entire worlds is being changed within a short period of time, by implementing the merger changes slowly and systematically based on their priority ranking.

Also, take advantage of merger tools that can be used also as post merger integration tools. Though a tool can not be the panacea for any team’s merger and acquisition problems, but the right tool and merger software can hasten up the merger integration process and produce valuable data for teams. Project management platforms designed specifically for merger and acquisition, is able to keep all teams and new fellow workers, on the same page.

Post merger integration tools, can be used also for merger needs, since it is a process management tool, with an application for the due diligence management. A common hazard, that tends to slow down the whole process and wastes valuable employees time, is work's duplication. But then, it can be avoided, using the right tools, and even data can be reused.

A one on one interview with employees from the target company should be put in place. Successful merger and acquisition merging practices does not overlook the fact that focus on change management as suggested above. It is a very important part of the merger integration plan.

A climate survey using a post merger integration should be conducted as well, after about six months, approximately. Present findings to executives and possibly questionnaires could be used too. Many stakeholders tend to have poor judgement on change management, and then, overlooks the power of the management plan and integration practices. Undoubtedly, most times, when smaller deals are being conducted, the buy side, can get away with loose, imprecise methods and disregarded leg work, relating to

proper change management. Yet still, as the deals gets bigger, ignoring change management will surely lead to post merger problems. The basics of the matter is, big deals require robust change management practices. Experts recommends that around six months mark, employees should be given a survey. Also, data collected, should be analyzed and feedback should be delivered, in a report to the upper management.

This allows the institution's leadership to efficiently take a good look on what is going on, and what still needs to be worked on, or addressed, in order for the progression of integration and to also move in the right direction.

Other aspects of the Post-Merger checklist to be considered would be discussed below.

✓ ASSISTANCE

Assistance, in simple terms, can be regarded as the act or result of rendering help or assisting. Assistance in post-merger, offers advisory service that would help in generating increased value from the deal. Post-merger advisory services render multidisciplinary assistance which enables generated increased value from the deal.

WHAT ASSISTANCE OFFERS

- ***A detailed understanding of the sources of revenue in place and the cost synergy potential.***

From experience, it is noted that companies tend to be a little chaotic when revenue synergies are being identified. Lack of clarity in the understanding of where the value sources are, could be interpreted that significant pools of opportunities are being overlooked. A thoughtful approach, which identifies, examines, and prioritizes opportunities is required, while capturing revenue synergies.

Also from research, it is noted that most companies which achieve their targets for revenue synergies, ensures that leaders, and those operating, take claim of the effort from start.

- ***Preparation for integration***

We would agree by now that this the key for the success of a post-merger. The day one preparation of the effective merging of the target company is extremely necessary. Day one, is the key milestone in a merger. As the first day of legal ownership, extreme planning, to acquire and obtain a level of control during any agitated time for both companies, as they merge together, is highly required. A successful day one, would require lots and lots of preparation.

Depending on the deal, it's size and complexity, the level of preparation needed, will also depend on, the merger experience of the company and other factors.

No matter the magnitude, for a successful day one to be achieved, focused set of actions, carried out flawlessly, is required. Immediate or significant changes to the company's organizational structure, would require a much more complicated day one preparation.

- **Identifying and realizing 'quick wins';**

According to Johnathan Caforio [89] quick wins, are most often the immediate operational decisions, that can be capitalized on, with little efforts or investment. Quick wins are generally focused around integrating technology and back office functions such as finances, risk, human resources and facilities functions. Numerous studies tend to prove that the majority of significant transformation efforts fail. Could be the implementation of a new quality control system, or a complete post-merger re-engineering of an organization. Setting up and rewarding quick wins, will undoubtedly keep the team up and doing. It gets them going with something tangible, and renders valid new ways of achieving the goal, which will then be rooted in the system and transition vision. When a transformation mission, is being assigned to a team, they ought to be fully responsible for what ever the outcome would be, but more importantly, they must be rewarded publicly, when they successfully carry out the mission. The result, would aid in everyone into visualizing what winning looks like.

- ***Identifying, prioritizing and tackling of the first days post completion issues;***

Every year a merger integration survey among hundreds of companies that have performed some form of merger integration in the past year is being carried out. And though, the result gotten every year, are slightly different, but what each year has in common, is a number of respondents that feel their integration wasn't a success.

While merger practitioners, have adopted the widespread pose that integration is a necessity, in achieving a long-term merger success, the process is still nevertheless filled in with difficulties.

In many cases, the easy part on a transaction, is the signing on the dotted line. Drawing of the value from integration, is where the complexity comes in. Listed below, are some of the biggest post-merger integration challenges and ways in which the assistance advisory service, can help in overcoming.

a) Maintaining momentum:

This is an issue that supports from below, all integration challenges in mergers. It is quite easy to overlook the daily operations of the healthcare institutions, while carefully

[89] Johnathan Caforio (2017), Failing to plan is planning to fail. https://www.linkedin.com/pulse/post-merger-integration-failing-plan-planning-fail-jonathan-caforio

addressing each of the integration issues which follow. In addition to business as normal, the integration effort has to happen.

Overcoming this demands, both for the business and the integration process, an advisory service will allow you to realize whether the integration process has fallen behind, and where exactly to focus more attention on, if there is a slack in the integration process, during the period which follows.

b) Employee Engagement:

In most or all cases, the list of the integration problems in mergers and acquisitions begins with employees and how they are being engaged as part of the integration process. In some cases, companies are lucky when the human resource issues that they encounter after a merger or acquisition double. More frequently, they multiply.

The best way to overcome the employee and people related issues that any business faces during an integration, is to implement a change management program.

And that, it requires hiring a change management expert to oversee the process.

c) The Culture Shift:

To most organizations, the word culture, might just be termed as, 'the way things are being done here' and this is probably one of the reasons to which too many companies tend to treat it with a light hand when addressing merger integration issues. When it is been phrased this way, one can see that it's an important topic to address in post-merger.

The, 'The way things are being done around here' phrase, should be one of the concerns of the change management expert the company appoints, and at this, it is very necessary that there should be a good flow of communication between the experts and the team as a whole.

In all, overcoming cultural issues begins with communication.

d) Technology Integration:

The older a healthcare institution is, there more likely for it to have attained some legacy systems, also the bigger a company, the more likely it is to have some custom built technological solutions.

These may likely bring up issues, when a contrast and compare of systems is made with the company that is about to be merged with.

First of, a good way of overcoming these issues would be writing out the technology stack of each institution and establishing there may be training gaps among staff, then bringing in a technology consultant from outside could also site a good way of resolving any technological conflict involved.

Chipping in the new technology should ideally commence before the transaction closes to ensure a smoother transition thereafter.

e) Synergy Implementation:

The main aim and motivation for getting involved and performing merger integration is the ability to achieving synergies. But unfortunately, most synergies go up in dust, because they have been an over ride of optimistic estimate..

One of the keys to achieving more value in the integration process is overcoming this.

For this synergies to be realized, one needs to know that achieving synergies, is not about just identifying them, but understanding how to fix in the changes. It shouldn't just look good on paper, it ought to also be achievable.

f) Communication Challenges:

Communication, just as with maintaining momentum at the beginning of this list, is a necessary flow through the whole integration process.

So as such, both internal or external communication challenges, can hinder the success of an integration. If people don't know what's happening, not cause they won't engage with the integration but because they can't, due to the lack of proper communication, it can greatly affect the integration process.

Avoiding this, it is advisable that setting regular briefs, either weekly or daily, would do much good for the integration sake.

Having d-aily briefs, might be quite tacky, so a weekly brief is more advisable. If there's nothing to say on a weekly basis, then it would be assumed that much isn't being achieved in the integration as it should. Ensure that this briefs be very informative and transparent. Doing so, it reduces the insecurities that comes in with all stakeholders, after a transaction.

✓ ASSET AND LIABILITY DETERMINATION

The juicy part of a healthcare merger indulging in asset acquisition strategy, is the fact that the acquiring institution gets to pick and choose the parts of what they like and feel will benefit their theirs, from the institution that is to be acquired. It is very beneficial to the acquiring healthcare institution, as it differs from a stock acquisition strategy, where the obtaining institution has no other option but to purchase the all parts of a company, including the certain areas that might be poor fit, not beneficial for the growth of the acquiring company, and might likely have to be striped off later, in the future.

Asset choosing, and even chosen liabilities, picked by the acquiring institution, enables unexpected issues that may have not been discussed before the acquisition, that could

make sour the trade, or even cause more problems that can greatly affect the acquisition, can be avoided and the risk of potential losses reduced. For this strategy to be well effective, the target market should be focused on bankrupt facilities, where the acquiring institution would not have to buy or acquire the parts that no longer provide any value or aid in the growth of the institution, but instead, acquire the profitable parts.

Another strategy element, is determining on how there would be integration of the acquired asset, and then tracked in terms of contribution to profits. It is necessary, that a method sound enough, is out in place to monitor the contribution of the acquired asset to the sheet existing institution's cash flow and earnings, or any other financial targets, so that they can be a bit in template for future asset acquisitions. It will also be put into consideration by the management, the steps needed to successfully close an asset acquisition strategy, be it a long term cultural fit in regards to personnel.

The purchase price paid for the assets and how it is to be allocated amongst the assets is set forth by the Internal Revenue Service (IRS)[90]

✓ DOCUMENTS AND CONTRACTS

From the Us English dictionary, a document, can be said to be an original or official paper used as the basis, proof, or support of anything else, including any writing, book, or other instrument conveying information pertinent to such proof or support.

And contract on the other hand, is An agreement between two or more parties, to perform a specific job or work order, often temporary or of fixed duration and usually governed by a written agreement.

Under this context, we will get to know the types of documents necessary for a merger and post-merger, it uses also, how it functions and how it can be applied in the post-merger process.

Asset Purchase Agreements

The primary transaction documents that is being used to govern the sales of asset, are the asset purchase agreements. In this agreement, terms and conditions are established, by which both assets and liabilities will be moved from the target company to the acquiring company, rather than a provision for shares transfer. Asset purchase agreements, are quite similar to stock purchase agreements, only except that specific account of the assets and liabilities being transferred, where the use of necessary legal instrument for ownership transfer, is been provided for. Instruments such as bills of sale, for personal property, real property transfer documents, assignment and assumption agreement for permits and contracts and so on. Representations such that acquired assets are made sufficient, in other to enable running of the acquired business, and the governed treatment of assets

[90] Internal Revenue Service. Improvement of Act 1976.

that are used both in the target company's business and that of the acquired company too, are been provided for, thus acting as shared assets.

Confidentiality agreement are the documents that are being signed before principal transaction agreements takes place. At commencement of parties discussions, merger confidentiality agreement are usually entered, to ensure the fact that while discussions are being commenced, the terms are being discussed, and each of the parties respective businesses information, will be maintained in confidence.

Third Party Consents

A number of target companies are always being subjected to a third party agreement, which tends to restrict their consummation ability to a deal. This may likely include customer contracts, loan agreement and so on. Hindering the transaction may depends on the governing law of the agreement, the transaction structure and the specific terms of agreement. For example, while there may be prohibition of a contract direct assignment, which will surely interfere with an asset sale transaction or a change in control of target, it may not be so restricted.

Merger parties must obtain written consents from third parties, that probably has rights that can be triggered by a deal when contract restrictions cannot be avoided. The consents are simple instruments that must be cut to the terms of the agreed subject, and they are rarely opposing. But then, it is time consuming and sometimes securing the required consents might prove difficult, as some opposing parties may use the advantage they have to extract value from the requesting party.

Legal opinions:

This are documents delivered at or made effective after closing:

From time to time, the target company's attorney may be called on, to deliver a written legal opinion for the purchasing company to be brought in at the deal's closing.

The purchasing company tends to be provided with additional assurance through the opinion, that certain legal matters are exactly as they have been described by the selling company, in it's representations and warranties. An overall opinion might cover the following;

-The target company was duly formed.

-The target company's capital structure is outstanding.

-There would be no violation of the target company's charter and any other organizational documents or contract material.

-There is no pending or threatening litigation against the target company and any stock insurance.

-The target company is in good standing in relevant states.

-All securities in the transaction are in compliance with the federal and state security laws.

In the past, still at the ordinary place, purchasing companies seldom requested the opinion of legal selling companies, but now, on the legal fees account, the purchaser's ability to independently confirm on most or all of the matters, would be brought about and addressed by the opinion.

CHAPTER 10

CONCLUSION

At this point, it is clear that just one size, would not be fit enough for all. For many medical organizations, the best way to keep moving ahead, is expanding their ownership boundaries through mergers, while for others, separating the public ownership offers more advantages. But then, in mergers, synergies are being created and economies alongside, making wide their operations and cutting off unnecessary cost. And in this case, medical practitioners can take comfort in the idea that a merger, will deliver an enhance growth of their medical organizations merged together.

In accepting to be merged, your organization will get to enjoy an improved operating performance, drastic growth and economical value, due to the redesigned management motive. Also, additional capital that would be recovered once both organizations are merged, can organically fund the growth of the now merged organizations. There also would be an improved information flow from the organization.

Merger happens to come in various forms and types and it is important that both organization's stakeholders, first of all consider the pros and cons involved in the merger they are about to engage in, before carrying on with the process. The most beneficial form of impartial structure for both organization, involves a complete analytic process of all the costs and benefits that is being associated with the deal they are to embark into.

On a quick recap on what has been said so far in this manual;

- A merger is carried out when two companies or organizations comes in agreement to combine into one entity or when a company purchases another. While an acquisition always involves a company buying another. For healthcare mergers, this means that when two healthcare institutions come together, one organization is formed.

- There are four medical merger options, and an organization is given the freewill to choose which option best suits with them and their organization.

- A merger integration process, is the step by step format, that has to be thoroughly carried out before a merger agreement can be concluded.

- They are numerous reasons that can cause the failure of mergers. Some include: a lack of management foresight, not being able to overcome practical challenges and loss of revenue momentum from neglecting to get updates of day to day operations.

  The processes listed in this book must thus, be aptly followed through all the stages to actualize a successful merger. Throughout this book, you must have noted that synergy is very relevant in any merger, as it is the key logic behind mergers and acquisitions. Synergy function, allows an enhanced cost efficiency for the new entity made from both organizations. That is to say that even after a merger has been actualized, acquired employees, strategies and technologies must synergize to produce the desired result.

  We agree that Healthcare Mergers and Acquisitions could be quite complex, and so setting up this step-by-step guide has been funded with the desire to meet your complexity with ease. Aiding the right decisions on choosing the right type of merger or acquisition that will suit your practice, knowing the right steps and strategies to be taken, the complete processes and procedures to follow, documents and contracts to look out for as well as tips to follow in order to achieve the desired merger or acquisition.

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