

The Ministry of Justice, the Civil Affairs Bureau,  
the Commercial Affairs Division No.132  
September 1, 2016

To: The Director of the Legal Affairs Bureau

To: The Director of the District Legal Affairs Bureau

Director of the Commercial Affairs Division of the  
Civil Affairs Bureau, the Ministry of Justice  
(Official seal omitted)

Handling of Corporate Registration Affairs Accompanying the Enforcement of the  
Act for Partial Revision of the Medical Care Act (Notification)

The Act for Partial Revision of the Medical Care Act (Act No.74 of 2015; hereinafter referred to as the “Amendment Act”) in September 28 of 2015, and Cabinet Order on Arrangement of Relevant Cabinet Order and Transitional Measures Accompanying Partial Enforcement of Act for Partial Revision of the Medical Care Act (Cabinet Order No.82 of 2016; hereinafter referred to as “Arrangement Cabinet Order”) and the Ministerial Ordinance Revising a Part of Enforcement Regulations on the Medical Care Act (Order of the Ministry of Health, Labour and Welfare No.40 of 2016; hereinafter referred to as “Amendment Ordinance”) will be promulgated respectively in March 25 of this year, and all of provisions listed in Article 1, item (ii) of Supplementary Provisions of Amendment Act and Arrangement Cabinet Order, and Amendment Ordinance will come into effect in September 1 of this year (hereinafter referred to as “Enforcement Date”), so please inform the registrar under your jurisdiction of the following points regarding the handling of commercial and corporate registrations in connection with the above, taking necessary care to prevent unsatisfactory administer affairs.

In addition, in this notice, "Act" refers to the Medical Care Act (Act No. 205 of 1948) following amendment pursuant to the Amendment Act; “Association Registration Order” refers to the Association Registration Order following amendment pursuant to Arrangement Cabinet Order (Act No. 29 of 1964); “Enforcement Regulations” refer to Regulations on the Enforcement of the Medical Care Act (Order of the Ministry of

Health and Welfare No.50 of 1948) following amendment pursuant to Amendment Ordinance; “ Commercial Registration Act” refers to the Commercial Registration Act (Act of No. 125 of 1963); “General Corporation Act” refers to “Act on General Incorporated Associations and General Incorporated Foundations” (Act No. 48 of 2006), and all clauses cited regarding Act, Association Registration Order and Regulations for Enforcement refer to the clauses of amended Act, Order and Regulations, except for the case where the term “Former” is used.

## Notice

### Section 1. Amendment on Organizations of Medical Corporations

#### 1. Organization to be Established in Medical Corporations

##### (1) A medical corporation as an association

It was determined that a medical corporation as an association must have a general meeting of members, directors, a board of directors, and auditors (Article 46-2, paragraph (1) of Act).

##### (2) A medical corporation as a foundation

A medical corporation as a foundation must have councilors, a board of councilors, directors, a board of directors, and auditors (Article 46-2, paragraph (2) of Act).

##### (3) Articles of incorporation and act of endowment

As mentioned in (1) and (2), in accordance with determination that a medical corporation must have a board of directors, it was determined that the matters relating to a board of directors must be specified by articles of incorporation of a medical corporation or act of endowment (Article 44, paragraph (2), item (vii) of Act).

#### 2. A General Meeting of Members of a Medical Corporation as an Association

##### (1) Authority of a general meeting of members

It was determined that a general meeting of members may adopt resolutions on particulars provided for Act and particulars provided for in the articles of incorporation (Article 46-3, paragraph (1) of Act).

In addition, it was determined that the provisions in the articles of incorporation to the effect that other organizations other than the general meeting of members may decide on particulars requiring a resolution of the general meeting of members under the provisions of Act has no effect (paragraph (2) of the same Article).

##### (2) Voting Right

The provision that each member is to have one voting right (Article 46-3-3, paragraph (1) of Act) shall be the same as before.

##### (3) Quorum and requirement for resolution

###### A. Quorum

The provision that, except as otherwise provided in the articles of incorporation, no general meeting of members may be held and no resolution may be adopted unless a majority of all members are present (Article 46-3-3, paragraph (2) of Act) is the same as before.

#### B. Requirements for resolution

The provisions that except as otherwise provided in this Act or the articles of incorporation, the agenda of a general meeting of members is to be decided by a majority of the voting rights of those present, and in case of a tie vote, the chairperson is to decide (Article 46-3-3, paragraph (3)) or that in the case of the preceding paragraph, the chairperson may not participate in the voting as a member (paragraph (4) of the same Article) shall be the same as before.

#### (4) Minutes

It was determined that, with respect to the agenda of a general assembly meeting, the minutes that contain the features as agenda of the meeting of date and place when and where the general meeting of members was held and a summary of the decision making process and the results thereof etc. must be prepared (Article 57 of General Corporation Act and Article 31-2 of Regulations for Enforcement of Act as applied mutatis mutandis by replacing the terms under Article 46-3-6 of Act).

In addition, directors present at the meeting shall not be required to sign or affix their names and seals to the minutes.

### 3. Councilors and the Board of Councilors of a Medical Corporation as a Foundation

#### (1) Councilors

The provision that councilors shall be the persons selected as provided for in the act of endowment from among medical care professionals (Article 46-4, paragraph (1) of Act) shall be the same as before.

Additionally, it was determined that a councilor must not concurrently serve as an officer or employee of the relevant medical corporation as a foundation (paragraph (3) of the same Article).

#### (2) Board of Councilors

##### A. Authority of Board of Councilors

The provision that the board of councilors are to consist of the number of councilors that exceeds the fixed number of directors (in the case of a medical corporation approved under the proviso of Article 46-5, paragraph (1), three or more councilors) (Article 46-4-2, paragraph (1) of Act) shall be the same as before.

In addition, it was determined that the board of councilors may adopt resolutions only on the particulars provided for in this Act and the particulars provided for in the act of endowment (paragraph (2) of the same Article).

Additionally, it was determined that provisions in the act of endowment to the effect that the directors, the board of directors, or other organizations other than the board of councilors may decide on particulars requiring a resolution of the board of councilors under the provisions of Act are to have no effect (paragraph (3) of the same Article).

#### B. Quorum and requirement for resolution

##### (a) Quorum

The provision that no meeting of the board of councilors may be held and no resolution may be adopted unless a majority of all councilors are present (Article 46-4-4, paragraph (1) of Act) shall be the same as before.

##### (b) Requirements for resolutions

The provision that, except as otherwise provided in this Act, the agenda of a meeting of the board of councilors is to be decided by a majority of the voting rights of those present, and in case of a tie vote, the chairperson is to decide (Article 46-4-4, paragraph (2)) or that in the case of the preceding paragraph, the chairperson may not participate in the voting as a member (paragraph (3) of the same Article) shall be the same as before.

#### C. Minutes

It was determined that, with respect to the agenda of a board of councilors, the minutes that contain the features as agenda of the meeting of date and place when and where the general meeting of members was held and a summary of the decision making process and the results thereof etc. must be prepared (Article 193 of General Corporation Act and Article 31-4 of Regulations for Enforcement of Act as applied mutatis mutandis by replacing the terms under Article 46-4-7 of Act)

In Addition, councilors present at the meeting shall not be required to sign or affix their names and seals to the minutes.

#### 4. Officers

##### (1) The number of officers

The provisions then in force shall remain applicable to the ones that number of officers of a medical corporation (which refer to directors and auditors; the same applies hereinafter) (three or more directors and one or more auditors as its officers; provided, however, that if the approval of the prefectural governor has been obtained, it is sufficient to have one or two directors) (Article 46-5, paragraph (1) of Act) and the term of an officer (which must not exceed two years; provided, however, that this must not preclude reappointment) (paragraph (9) of the same Article).

(2) Appointment of officers

A. A medical corporation as an association

It was determined that an officer of a medical corporation as an association shall be appointed by a resolution of the general meeting of members (Article 46-5, paragraph (2) of Act).

B. A medical corporation as a foundation

It was determined that the officer of a medical corporation as a foundation shall be appointed by a resolution of a board of councilors (Article 46-5, paragraph (3) of Act).

(3) Dismissal of officers

A. A medical corporation as an association

It was determined that an officer of a medical corporation as an association may be dismissed at any time by a resolution of the general meeting of members (in the case of dismissal of auditors, resolution by approval of two-thirds or more of those present or if a higher ratio is specified in the articles of incorporation, that ratio) (Article 46-5-2, paragraph (1) and (3) of Act).

B. A medical corporation as a foundation

It was determined that, when an officer of a medical corporation as a foundation falls under any of the following, the officer may be dismissed by a resolution of the board of councilors (in the case of dismissal of auditors, resolution by approval of two-thirds or more of those present or if a higher ratio is specified by act of endowment, that ratio) (Article 46-5-2, paragraph (4) and (5) of Act).

(a) When the officer has violated or neglected their duties; or

(b) When the officer is unable to properly perform their duties due to a mental or physical disorder.

(4) A person who succeeds rights and obligations of an officer

It was determined that, in the event a situation arises in which the number of officers is less than the number prescribed in this Act or the articles of incorporation or act of endowment, an officer who has retired due to expiration of the term of office or resignation is to continue to have the rights and obligations as an officer until a newly elected officer (including a person who is to perform the duties of a temporary officer set forth in the following paragraph) assumes office (Article 46-5-3, paragraph (1) of Act), and in accordance with this, the system to appoint provisional director in case where there is any vacancy in the office of a director was abolished (Article 46-4, paragraph (5) of the Former Act).

In addition, it is determined that, in case of provision of Article 46-5-3, paragraph (1), if there is a risk of damage due to delay in the business of the medical corporation,

the prefectural governor must appoint a person to perform the duties of a temporary officer at the request of an interested party or by the authority of the governor (paragraph (2) of the same Article).

## 5. President

### (1) Electing and dismissing the president

It was determined that the president of a medical corporation shall be elected and dismissed by the board of directors (Article 46-7, paragraph (2), item (iii) of Act).

### (2) Qualification of president

The provisions that the president shall be elected from among the directors who are physicians or dentists (Article 46-6, paragraph (1) of Act); provided, however, that in the case where approval has been obtained from the prefectural governor, the president may be elected from among the directors who are neither physicians nor dentists, and that in the case of a medical corporation that has one director with approval under the proviso of Article 46-5, paragraph (1), the director is deemed to be the president (Article 46-6, paragraph (2) of Act) shall be the same as before.

### (3) Representation of president

It is determined that the president has the authority to represent the medical corporation and to perform any and all judicial or extrajudicial acts concerning the business of the medical corporation, and that the restrictions placed on the authority set forth in the preceding paragraph cannot be asserted against a bona fide third party (Article 46-2, paragraph (1) and (2) of Act).

It was determined that in case where there is any vacancy in the office of a president, the provisions on succession of rights and obligations of the directors (Article 46-5-3, paragraph (1) and (2)). See the aforementioned provision of 4 (4)) shall be applied *mutatis mutandis* thereto (Article 46-6-2, paragraph (3)).

Additionally, as the provision on succession of rights and obligations of the president has been established, the handling in the notification of Ministry of Justice, Civil Affairs Bureau, Commercial Affairs Division No.31 as of January 11, 2007, shall not apply to a medical corporation.

### (4) Transitional measures on representation of president

It was determined that the provisions then in force remain applicable to the one that the representative of the president of actually existing president on Enforcement Date shall be effective until the president selected assumes office after Effective Date (Article 4 of Supplementary Provisions of Amendment Act).

## 6. Council

### (1) Authority of a board of directors

It was determined that the board of directors is composed of all directors and performs the following duties (Article 46-7, paragraph (1) and (2)).

- A. Deciding the execution of business of the medical corporation;
- B. Supervising the execution of the duties by the directors; and
- C. Electing and dismissing the president.

Additionally, the board of directors may not delegate important decisions on the execution of business to the directors (paragraph (3) of the same Article).

### (2) Convening a board of directors, resolutions etc.

#### A. Convener

It was determined that Board of directors meetings are called by the directors; provided, however, it was determined that if the articles of incorporation, or act of endowment or the board of directors prescribe a given director to be the one who calls board of directors meetings, such director calls meetings (Article 93, paragraph (1) of General Corporation Act as applied mutatis mutandis by replacing the terms under Article 46-7-2, paragraph (1)).

#### B. Procedures for Convening Board of Directors

It was determined that a convener must issue notice thereof to each director and auditor at least one week (if a shorter time period is prescribed in the articles of incorporation or act of endowment, that time period) prior to the planned date of that board of directors meeting (Article 94, paragraph (1) of General Corporation Act as applied mutatis mutandis by replacing the terms under Article 46-7-2, paragraph (1)).

Additionally, it was determined that a board of directors meeting may be called without due convocation procedures, provided that there is a consensus among all directors and auditors (Article 94, paragraph (2) of General Corporation Act as applied mutatis mutandis by replacing the terms under Article 46-7-2, paragraph (1)).

#### C. Requirements for resolutions

It was determined that resolutions at board of directors meetings are to be adopted made by majority vote (if a larger ratio is provided in the articles of incorporation or act of endowment, that ratio) with the presence of a majority (if a higher ratio is provided in the articles of incorporation or act of endowment, that ratio) of directors who are qualified to participate in resolutions (Article 95, paragraph (1) of General Corporation Act as applied mutatis mutandis by replacing the terms under Article 46-7-2, paragraph (1)).

#### D. Minutes

It was determined that with respect to agenda of board of directors meetings, the minutes that contain the features as agenda of the meeting of date and place when and where the general meeting of members was held and a summary of the decision making process and the results thereof etc. must be prepared, and that the attending directors (if the articles of incorporation or act of endowment provide that the director who must sign or affix a seal to the minutes is designated as the representative director who has attended the board of directors meeting, such representative director) and auditor must sign them or affix their names and seals thereto (Article 95, paragraph (1) of General Corporation Act and Article 31-5-4 of Enforcement Regulations as applied mutatis mutandis by replacing the terms under Article 46-7-2, paragraph (1)).

#### E. Omission of a Resolution

It was determined that the article of incorporation or act of endowment may prescribe that, if a director has made a proposal on a matter that is the subject of a resolution at a board of directors meeting, and all directors (limited to directors who are qualified to vote on the matter) have provided a manifestation of intent of agreement either in writing or in electronic or magnetic records (except when an auditor has stated an objection to the proposal), there is regarded to be the resolution of the board of directors meeting to adopt the proposal (Article 96 of General Corporation Act as applied mutatis mutandis by replacing the terms under Article 46-7-2, paragraph (1)). In case where there is regarded to be the resolution of the board of directors meeting, the minutes that contain the features as the contents etc. of matters for which there is regarded to be the board of directors meeting must be prepared (Article 31-5-4, paragraph (4), item (i) of Regulations for Enforcement).

### Section 2. Amendment on Change in Articles of Incorporation and Act of Endowment

#### 1. Procedures for change in articles of incorporation of a medical corporation as an association

It was determined that, in order for a medical corporation as an association to change its articles of incorporation, a resolution of the general meeting of members must be adopted (Article 54-9, paragraph (1) of Act).

#### 2. Procedures for change in act of endowment of a medical corporation as a foundation

The provision that, in order for a medical corporation as a foundation to change its act of endowment, it must hear the opinion of the board of councilors in advance (Article 54-9, paragraph (2)) shall be the same as before.



### 3. Approval of change in articles of incorporation or act of endowment

The provisions that changes to the articles of incorporation or act of endowment (excluding those pertaining to particulars on the location of its office (Article 44, paragraph (2), item (iv) of Act) and means of public notice (item (xii) of the same paragraph).) must not take effect unless approved by the prefectural governor (Article 54-9, paragraph (iii) of Act, Article 33-26 of Regulations for Enforcement) shall be the same as before.

### 4. Transitional measures on change in articles of incorporation and act of endowment

(1) It was determined that in case where change in articles of incorporation or act of endowment is required for an actually existing a medical corporation with partial enforcement of Amendment Act, approval of such change must be applied within two years from Enforcement Date (Article 6 of Supplementary Provisions of Amendment Act)

(2) It was determined that the provision of Article 44, paragraph (2), item (vii) (provision of the matters on a board of directors due to articles of incorporation or act of endowment. See the above mentioned 1-1(3).) does not apply to the articles of incorporation or act of endowment of actually existing medical corporation on Enforcement Date until the date 2years after Enforcement Date (for medical corporations that apply for the approval of (1), the date when such application is processed) (Article 6, paragraph (2) of Supplementary Provisions of Amendment Act).

## Section 3. Amendment to Merger of Medical Corporations

### 1. General rules

While the provision then in force that medical incorporations may conduct absorption-type merger or consolidation-type merger shall remain, it was determined that medical incorporations to conduct merger must conclude a merger agreement (Article 57 of Act).

In addition, the provision that a medical corporation as a foundation may conduct an absorption-type merger only when its act of endowment provides that it may do so (the same paragraph as applied mutatis mutandis to Article 58-2, paragraph (2), Article 59-2) shall be the same as before.

### 2. Procedures for absorption-type merger

#### (1) Absorption-type merger agreement

It was determined that, when a medical corporation conducts an absorption-type merger, the following matters must be specified in the absorption-type merger agreement (Article 58 of Act, Article 35 of Regulations for Enforcement).

- A. The names and locations of the principal offices of the medical corporation that will survive the absorption-type merger (hereinafter referred to as the "surviving medical corporation in the absorption-type merger" in this Division) and the medical corporation that will dissolve as a result of the absorption-type merger (hereinafter referred to as the "dissolving medical corporation in the absorption-type merger" in this Division);
  - B. Business plan for 2 years after a absorption-type merger of surviving medical corporation in the absorption-type merger or the summary there of; and
  - C. The date when an absorption-type merger takes effect.
- (2) Consent to absorption-type merger agreement
- A. A medical corporation as an association

It was determined that A medical corporation as an association must obtain the consent of all members of the relevant medical corporation for an absorption-type merger agreement (Article 58-2, paragraph (1) of Act).

- B. A medical corporation as a foundation

It was determined that a medical corporation as a foundation must obtain the consent of two-thirds or more of its directors for an absorption-type merger agreement, unless otherwise provided for in its act of endowment (Article 58-2, paragraph (3) of Act).

- (3) Approval for an absorption-type merger

It was determined that an absorption-type merger must not take effect unless approved by the prefectural governor of the location of the principal office of the surviving medical corporation in the absorption-type merger (Article 58-2, paragraph (4) of Act).

- (4) Procedures for protection of creditors

The provision that a medical corporation, within two weeks, is to make a public notice on approval of (3) to its creditors to the effect that any objection, if any, should be stated within a certain period of time (such period is not to be less than two months), and must notify each known creditor separately (Article 58-4, paragraph (1) of Act); if creditors do not object to the absorption-type merger within the period set forth in the preceding paragraph, it is to be deemed that they have approved the absorption-type merger (paragraph (2) of the same Article) ; and when a creditor has made an objection, except for the case where the absorption-type merger is unlikely to harm the creditor, the medical corporation must pay or provide reasonable security to the creditor or place reasonable property with a trust company, etc. for the purpose of having the creditor

receive payment (paragraph (3) of the same Article) shall be the same as before.

(5) Effect of a absorption-type merger

The provision that the surviving medical corporation in the absorption-type merger is to succeed to the rights and obligations of the dissolving medical corporation in the absorption-type merger (Article 58-5 of Act) shall be the same as before.

(6) Effectuation of an absorption-type merger

The provision that an absorption-type merger becomes effective when the surviving medical corporation in the absorption-type merger registers the merger at the location of its principal office pursuant to the provisions of a Cabinet Order (Article 58-6 of Act) shall be the same as before.

3. Procedures for a consolidation-type merger

(1) Consolidation-type merger agreement

It was determined that When two or more medical corporations conduct a consolidation-type merger, the following matters are to be stipulated in the consolidation-type merger agreement (Article 59 of Act, Article 35-4 of Regulations for Enforcement).

- A. The name and location of the principal office of the medical corporation to be dissolved as a result of the consolidation-type merger (hereinafter referred to as the "medical corporation dissolved in the consolidation-type merger" in this Division);
- B. The purpose, name and location of the principal office of the medical corporation to be established as a result of the consolidation-type merger (hereinafter referred to as the "medical corporation established in the consolidation-type merger" in this Division);
- C. Particulars specified in the articles of incorporation or act of endowment of the medical corporation established in the consolidation-type merger; and
- D. Business plan for 2 years after a consolidation-type merger of medical corporation established in the consolidation-type merger or the summary thereof; and
- E. The date when a consolidation-type merger takes effect.

(2) Consent to consolidation-type merger agreement

A. A medical corporation as an association

The provision is the same as 2(2)A as mentioned above (Article 58-2, paragraph (1) of Act as applied mutatis mutandis by replacing the terms under Article 59-2 of Act).

B.A medical corporation as a foundation

The provision is the same as 2(2)B as mentioned above (Article 58-2, paragraph (3) of Act as applied mutatis mutandis by replacing the terms under Article 59-2 of Act).

(3) Approval for a consolidation-type merger

The provision is the same as 2(3) as mentioned above (Article 58-2, paragraph (4) of Act as applied mutatis mutandis by replacing the terms under Article 59-2 of Act).

(4) Procedures for protection of creditors

The provision is the same as 2(4) as mentioned above (Article 58-4, paragraph (4) of Act as applied mutatis mutandis to Article 59-2 of Act).

(5) Effect of a consolidation-type merger

The provision that a medical corporation established in the consolidation-type merger is to succeed to the rights and obligations of the medical corporation dissolved in the consolidation-type merger (Article 59-3 of Act) is the same as before.

(6) Effectuation of a consolidation-type merger

The provision that a consolidation-type merger is to become effective when the medical corporation established in the consolidation-type merger registers the merger at the location of its principal office pursuant to the provisions of a Cabinet Order (Article 59-4 of Act) is the same as before.

4. Transitional measures on merger

(1) It was determined that the provision on merger of Chapter 6, Section 8, Subsection 1 (from Article 57 to 59; the same shall apply hereinafter.) for a medical corporation as an association shall be applied in case where the consent of all members of a medical corporation for a merger is obtained after Effective Date, and that the provisions then in force shall remain applicable in case where the consent of all members of a medical corporation for a merger shall be obtained before Effective Date (Article 7, paragraph (1) of Supplementary Provisions of Amendment Act).

(2) It was determined that the provision on merger of Chapter 6, Section 8, Subsection 1 for a medical corporation as a foundation shall be applied in case where such medical corporation as a foundation obtains the consent of two-thirds or more of its directors for the merger after Effective Date (in cases where otherwise provided for in its act of endowment, that the procedures under such provision are performed; the same applies hereinafter.), and that the provisions then in force shall remain applicable in case where the consent of two-thirds or more of its directors for the merger shall be obtained before Effective Date (Article 7, paragraph (2) of Supplementary Provisions of Amendment Act).

## Section 4. Incorporation of split system of a medical corporation

### 1. General rules

It was determined that a medical corporation may conduct an absorption-type split. In this case, an absorption-type split agreement is concluded with the medical corporation that succeeds to all or part of the rights and obligations (hereinafter referred to as the "succeeding medical corporation in the absorption-type split" in this Division) held by the relevant medical corporation with respect to its business (Article 60 of Act).

Furthermore, it was determined that one or two or more medical corporations may conduct an incorporation-type split and that, in this case, an incorporation-type split plan must be prepared (Article 61 of Act).

In addition, it is determined that a medical corporation as a foundation may conduct an absorption-type split only when its act of endowment provides that it may do so (Article 61-3 shall be applied mutatis mutandis to the same paragraph.).

### 2. Procedures for absorption-type split

#### (1) Absorption-type split agreement

It was determined that, when a medical corporation conducts an absorption-type split, the following particulars must be stipulated in the absorption-type split agreement (Article 60-2 of Act, Article 35 of Regulations for Enforcement).

- A. The names and locations of the principal offices of the medical corporation that conducts the absorption-type split (hereinafter referred to as the "medical corporation conducting the absorption-type split") and the succeeding medical corporation in the absorption-type split;
- B. Assets, liabilities, employment contracts and other particulars concerning rights and obligations to be succeeded to by the succeeding medical corporation in the absorption-type split from the medical corporation conducting the absorption-type split as a result of the absorption-type split;
- C. Business plan for 2 years after a consolidation-type merger of medical corporation conducting the absorption-type split and the succeeding medical corporation in the absorption-type split or the summary there of; and
- D. The date when an absorption-type split merger takes effect

#### (2) Consent to an absorption-type split agreement

##### A. A medical corporation as an association

It was determined that a medical corporation as an association must obtain the consent of all members of the relevant medical corporation for an absorption-type split agreement (Article 60-3, paragraph (1)).

## B. A medical corporation as a foundation

It was determined that a medical corporation as a foundation must obtain the consent of two-thirds or more of its directors for an absorption-type split agreement, unless otherwise provided for in its act of endowment (Article 60-3, paragraph (3)).

### (3) Approval for a absorption-type split merger

It was determined that an absorption-type split does not take effect unless approved by the prefectural governor or the governors of all the prefectures where the principal offices of the relevant medical corporation conducting the absorption-type split and the relevant succeeding medical corporation in the absorption-type split are located (Article 60-3, paragraph (4) of Act).

### (4) Procedures for protection of creditors

It was determined that a medical corporation, within two weeks, shall be to make a public notice on approval of (3) to its creditors to the effect that any objection, if any, should be stated within a certain period of time (such period is not to be less than two months), and must notify each known creditor separately (Article 60-5, paragraph (1) of Act); that, if creditors do not object to the absorption-type split within the period set forth in the preceding paragraph, it is to be deemed that they have approved the absorption-type split (paragraph (2) of the same Article); and that, when a creditor has made an objection, except for the case where the absorption-type split is unlikely to harm the creditor, the medical corporation must pay or provide reasonable security to the creditor or place reasonable property with a trust company, etc. for the purpose of having the creditor receive payment (paragraph (3) of the same Article).

### (5) Effect of an absorption-type split

It was determined that the succeeding medical corporation in the absorption-type split, in accordance with the provisions of the absorption-type split agreement, is to succeed to the rights and obligations of the medical corporation conducting the absorption-type split (Article 60-6, paragraph (1)).

### (6) Effectuation of an absorption-type split

An absorption-type split becomes effective when the succeeding medical corporation in the absorption-type split registers the split at the location of its principal office pursuant to the provisions of a Cabinet Order (Article 60-7 of Act).

## 3. Procedures for incorporation-type split

### (1) Incorporation-type split plan

It was determined that, when one or two or more medical corporations conduct an incorporation-type split, the following particulars must be specified in the incorporation-type split plan (Article 61-2, Article 35-10 of Regulations for Enforcement).

- A. The purpose, name and location of the principal office of the medical corporation to be established as a result of the incorporation-type split (hereinafter referred to as the "medical corporation established in the incorporation-type split" in this Division);
- B. Particulars specified in the articles of incorporation or act of endowment of the medical corporation established in the incorporation-type split;
- C. Assets, liabilities, employment contracts and other particulars concerning rights and obligations to be succeeded to by the medical corporation established in the incorporation-type split from the medical corporation that conducts the incorporation-type split (hereinafter referred to as the "medical corporation conducting the incorporation-type split" in this Division) as a result of the incorporation-type split;
- D. Business plan for 2 years after a medical corporation conducting the incorporation-type split and the medical corporation established in the incorporation-type split from the medical corporation or the summary there of; and
- E. The date when an incorporation-type split takes effect.

(2) Consent to an incorporation-type split plan

A. A medical corporation as an association

The provision is the same as 2(2)A as mentioned above (Article 60-3, paragraph (1) of Act as applied mutatis mutandis by replacing the terms under Article 61-3 of Act).

B. A medical corporation as a foundation

The provision is the same as 2(2)B as mentioned above (Article 60-3, paragraph (3) of Act as applied mutatis mutandis by replacing the terms under Article 61-3 of Act).

(3) Approval for a consolidation-type split

The provision is the same as 2(3) as mentioned above (Article 60-3, paragraph (4) of Act as applied mutatis mutandis by replacing the terms under Article 61-3 of Act).

(4) Procedures for protection of creditors

The provision is the same as 2(4) as mentioned above (Article 60-5, paragraph (4) of Act as applied mutatis mutandis by replacing the terms under Article 61-3 of Act).

(5) Effect of a consolidation-type split

It was determined that the medical corporation established in the incorporation-type split, in accordance with the provisions of the incorporation-type split plan, is to succeed to the rights and obligations of the medical corporation conducting the incorporation-type split (Article 61-4, paragraph (1)).

(6) Effectuation of a consolidation-type split

It was determined that an incorporation-type split becomes effective when the medical corporation established in the incorporation-type split registers the split at the location of its principal office pursuant to the provisions of a Cabinet Order (Article 61-5).

Section 5. Registration of a medical corporation

1. Registration of establishment

(1) Matters to be registered

The matters to be registered in establishing a medical corporation shall be the same as before (Article 2, paragraph (2), appended table, item of a Medical Corporation of Association Registration Order).

(2) Document to be attached

Document to be attached for application of registration for establishing a medical corporation shall be the same as before (Article 18, 19 and 48 of the Commercial Registration Act as applied mutatis mutandis in Article 16, paragraph (2) and (3) and Article 25 of Association Registration Order).

2. Registration of change of president

(1) Document to be attached

The following documents must be attached to the applications for registration of change of president of a medical corporation as the documents evidencing the change to matters to be registered (Article 17, paragraph (1) of Association Registration Order).

A. Documents evidencing retirement of president

In accordance with grounds for retirement of president, minutes of a board of directors or general meeting of members, or a board of councilors and a letter of resignation etc. shall be applicable.

B. Documents evidencing assumption of office of president

The minutes of a general meeting of members or a board of councilors where a president was selected, documents attesting to the director's consent to assume the role, and the minutes of a board of directors where the president was selected and documents evidencing that the president has agreed to assume office shall be applicable.

In addition, seal registration certificates prepared by a mayor for the seal affixed by directors and auditors who attended at the board of directors (if the articles of incorporation or act of endowment provide that the director who must sign or affix a seal to the minutes is designated as the representative director who has attended the board of directors meeting, such representative director) to the minutes of the board



of directors must be attached (Article 61-4 of Regulation on Commercial Registrations (No.23 of Order of the Ministry of Justice of 1964; hereinafter referred to as “Regulation on Commercial Registrations”) as applied mutatis mutandis to Article 5 of Regulation on Registration of Corporations (No.46 of Order of the Ministry of Justice of 1964; hereinafter referred to as “Corporations Registration Regulations”). In addition, the provision that document evidencing that a president is a physician or a dentist or a written permission by a prefectural governor for a medical corporation that has obtained approval of proviso of Article 46-6, paragraph (1), or a written permission by a prefectural governor for a medical corporation that has one director with approval under the proviso of Article 46-5, paragraph (1) (see notification by Director of the Commercial Affairs Division of Ministry of Justice, Civil Affairs Bureau, No.132 as of April 22 of 2003), as a part of documents evidencing the change due to a president’s assumption of office (including reappointment.) must be attached shall be the same as before.

Additionally, in Act, as the appointing authority for directors and president has been provided (see 1-4(2) and 6-(1) mentioned above), the document of articles of incorporation or act of endowment for evidencing appointment authority of directors or a president shall not be required to be attached as a part of documents evidencing the change due to a president’s assumption of office.

However, in case where the articles of incorporation or act of endowment provide that the director who must sign or affix a seal to the minutes is designated as the representative director who has attended the board of directors meeting (see 1-6(2) D mentioned above), in case where the representative director is elected or dismissed due to omission of resolutions (see 1-6(2) E mentioned above) pursuant to the provision of articles of incorporation or act of endowment, or in case where otherwise provided in the articles of incorporation for quorum and resolution requirements of a general meeting of members (see 1-2 (3) mentioned above), articles of incorporation or act of endowment must also be attached in order to evidence these provisions (Article 61, paragraph (1) of Regulation on Commercial Registration as applied mutatis mutandis under Article of Corporations Registration Regulations).

## (2) Transitional measures

### A. Transitional measures on electing officers

It was determined that the provision of paragraph (2), Article 46 of Act (election of officers of a medical corporation as an association. See 1-4(2) A mentioned above) and paragraph (3) (election of officers of a medical corporation as a foundation. See 1-4(2) B mentioned above) shall be applied to election of officers of a medical corporation carried out after Effective Date (Article 2 of Supplementary Provisions of Amendment Act).

Accordingly, in case where a president is elected as an officer before Effective Date, as the documents of (1)B mentioned above, articles of incorporation or act of endowment must also be attached for evidencing appointment authority of directors.

### B. Transitional measures on the term of officers

It was determined that the provision of the term of actually existing officers of a medical corporation on the Effective Date shall be the same as before (Article 3 of Supplementary Provisions of Amendment Act).

## 3. Registration of merger

The provision of procedures for registration of merger of medical corporations shall be the same as before (Article 18, 19, 79, 82 and 83 of the Commercial Registration Act as applied mutatis mutandis under Article 8, 11, 13, 16, 17, paragraph (1), 20, 21 and 25 of Association Registration Order).

## 4. Registration of split

It is determined that, in case where a medical corporation conducts a split, registration of change to medical corporation conducting the absorption-type split, or medical corporation conducting the incorporation-type split and succeeding medical corporation in the absorption-type split and registration of establishment for medical corporation established in the incorporation-type split must be filed at the location of its principal office within two weeks from the date when the procedures for approval for a split and others required for a split are completed (Article 8-2 of Association Registration Order) and that in case of establishment of secondary offices of medical corporation established in the incorporation-type split upon incorporation-type split, registration at such secondary offices of medical corporation must be conducted within three weeks from the date when the procedures for approval for a split and others required for a split are completed (Article 11, paragraph (1), item (iii) of Association Registration Order) .

In addition, it was determined that, while change to registration of establishment of

secondary offices of medical corporation conducting the absorption-type split, succeeding medical corporation in the absorption-type split or medical corporation established in the incorporation-type split upon incorporation-type split must be filed at such secondary offices within three weeks from the date when the procedures for approval for a split and others required for a split are completed (Article 13 of Association Registration Order), that such change to registration shall be filed only in case where there is any change to the matters prescribed in the items of Article 11, paragraph (2) of Association Registration Order) (Article 13 of Association Registration Order).

(1) Registration of a absorption-type split

A. Matters to be registered

It was determined that, In the registration of a change due to an absorption-type company split by a succeeding medical corporation in the absorption-type split, the fact that the company split has taken place as well as name and location of the principal office of the medical corporation conducting the absorption-type split must be registered and that in the registration of change due to an absorption-type company split by a medical corporation conducting the absorption-type split, the fact that the company split has taken place as well as name and location of the principal office of the succeeding medical corporation in the absorption-type split must be registered (Article 84 of the Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

B. Application of registration

It is determined that, in case of application for registration of change due to an absorption-type company split by succeeding medical corporation in the absorption-type split, if such succeeding medical corporation in the absorption-type split does not have its principal office within the jurisdictional district of such registry office, such application must be filed via the registry office having jurisdiction in the location of the head office, and the application of registration of such change and the one of registration of change due to an absorption-type company split by a succeeding medical corporation in the absorption-type split must be filed simultaneously (Article 87, paragraph (1) and (2) of Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

### C. Document to be attached

- (a) Registration of change due to an absorption-type company split by a succeeding medical corporation in the absorption-type split

It was determined that the following documents must be attached to the application of registration of change due to an absorption-type company split by a succeeding medical corporation in the absorption-type split (Article 21-2 of Association Registration Order)

- a. Certificate of registered information of a medical corporation conducting the absorption-type split (paragraph (1) of the same Article)
- b. A document evidencing that the company has given the public notice and the notices to the effect that it shall make an objection to a creditor and if any creditor has raised an objection, a document evidencing that the company has paid its debt or provided suitable collateral to the creditor, that it has placed suitable property into a trust so as to enable the creditor to receive full payment for the debt, or that the share exchange is not likely to harm the creditor (hereinafter referred to as “Relevant Document of Procedures for Protection of Creditors”.) (paragraph (2) of the same Article); and
- c. A written permission by a prefectural governor or its transcript certified by such prefectural governor (Article 19 of Association Registration Order as applied mutatis mutandis under Article 25 of Association Registration Order).

Additionally, if any change in the total amount of assets of a succeeding medical corporation in the absorption-type split and such change is to be registered as well, the document evidencing the change in in the total amount of assets must be attached thereto (Article 17, paragraph (1) of Association Registration Order).

- (b) Registration of change due to an absorption-type split by a succeeding medical corporation in the absorption-type split

It is determined that certificate of their seal impression of the president of medical corporation conducting the absorption-type split prepared in registry office must be attached to the application of registration of change due to an absorption-type split by a medical corporation conducting the absorption-type split, and that, in this case, no document, other than one as referred to in Article 18 of the Commercial Registration Act, is required to be attached to the application for registration (Article 87, paragraph (3) of the Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

In addition, if any change in the total amount of assets of a medical corporation conducting the absorption-type split and such change is to be registered as well, the document evidencing the change in in the total amount of assets must be attached thereto (Article 17, paragraph (1) of Association Registration Order).

#### D. Examination for registration

It was determined that, if any of the grounds set forth in the items of Article 24 excluding the item (xvi.) is applicable to any of the applications for registration due to an absorption-type split by a medical corporation conducting the absorption-type split or the one due to an absorption-type company split by a succeeding medical corporation in the absorption-type split, a registry office having jurisdiction in the location of the principal office of the company succeeding in the absorption-type company split must reject both of those applications, and that, in the cases referred to in Article 87, paragraph (1) as applied mutatis mutandis under Article 25 of Association Registration Order, if a registry office having jurisdiction in the locality of the head office of the company succeeding in the absorption-type company split has registered a change due to an absorption-type company split, the registry office must, without delay, enter the date of the registration on the application for registration of change due to an absorption-type by a medical corporation conducting the absorption-type split and send it to the registry office having jurisdiction in the location of the principal office of a medical corporation conducting the absorption-type split (Article 88 of the Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

#### E. Record of registration

Appended Record Example 1 shall be applied to the record of registration pertaining to an absorption-type split of a medical corporation.

### (2) Registration of incorporation-type split

#### A. Matters to be registered

It was determined that, in the registration of establishment due to an incorporation-type company split, the fact that the company split has taken place as well as the name and principal office of the medical corporation conducting the incorporation-type split must also be registered and that, in the registration of change due to a registration of incorporation due to an incorporation-type company split by a company incorporated in the incorporation-type company split, the fact that the company split has taken place as well as the name and principal office of the medical corporation established in the incorporation-type split (Article 84 of the Commercial

Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

B. Application of registration

It is determined that, in case of application for the registration of a change due to an incorporation-type company split by medical corporation conducting the incorporation-type split, if such medical corporation established in the incorporation-type split does not have its principal office within the jurisdictional district of such registry office, such application must be filed via the registry office having jurisdiction in the location of the head office, and the application of registration of such change and the one of registration of change due to an absorption-type company split must be file simultaneously (Article 87, paragraph (1) and (2) of Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

C. Document to be attached

(a) Registration of establishment due to an absorption-type company split

It was determined that the documents listed in Article 16, paragraph (2) and (3) and the items of Article 21-2 of Association Registration Order must be attached to the application of registration of change of establishment due to an absorption-type company split (Article 21-3 of Association Registration Order).

The specific documents to be attached shall be as follows:

- a. Articles of incorporation or act of endowment (Article 16, paragraph (2) of Association Registration Order);
- b. Documents evidencing qualifications of a person having representation (the same paragraph);
- c. Documents evidencing the matters listed in Appended Table (paragraph (3) of the same Article);
- d. Certificates of registered matters of medical corporation conducting the incorporation-type split (Article 21-2, item (i) of Association Registration Order);
- e. Relevant Document of Procedures for Protection of Creditors (item (ii) of the same Article);
- f. A written permission by a prefectural governor or its transcript certified by such prefectural governor (Article 19 of Association Registration Order as applied mutatis mutandis under Article 25 of Association Registration Order).

(b)Registration of a change due to an incorporation-type company split by medical

corporation conducting the incorporation-type split

It is determined that seal registration certificate of the president of a medical corporation conducting the incorporation-type split prepared in registry office must be attached to the application of registration of change due to an incorporation-type split by a medical corporation conducting the incorporation-type split, and that, in this case, no document, other than one as referred to in Article 18 of the Commercial Registration Act, is required to be attached to the application for registration (Article 87, paragraph (3) of the Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

In addition, if any change in the total amount of assets of a medical corporation established in the incorporation-type split, and such change is to be registered as well, the document evidencing the change in in the total amount of assets must be attached thereto (Article 17, paragraph (1) of Association Registration Order)

#### D. Examination for registration

It was determined that, if any of the grounds set forth in the items of Article 24 (excluding the item (xvi).) is applicable to any of the applications for registration due to an incorporation-type split by a medical corporation conducting the absorption-type split or the one of establishment due to an incorporation-type split, a registry office having jurisdiction in the location of the principal office of the medical corporation established in the incorporation-type split must reject both of those applications, and that, in the cases referred to in Article 87, paragraph (1) as applied mutatis mutandis under Article 25 of Association Registration Order, if a registry office having jurisdiction in the locality of the head office of the medical corporation conducting the absorption-type split has registered a change due to incorporation-type company split, the registry office must, without delay, enter the date of the registration on the application for registration of change due to an incorporation-type by a medical corporation established in the incorporation-type split and send it to the registry office having jurisdiction in the location of the principal office of the medical corporation established in the incorporation-type split (Article 88 of the Commercial Registration Act as applied mutatis mutandis under Article 25 of Association Registration Order).

#### E. Record of registration

Appended Record Example 2 shall be applied to the record of registration pertaining to an incorporation-type split of a medical corporation.

### 5. Registration of incorporation-type split based on the provisions of

Agricultural Co-operatives Act (Act No. 132 of 1947)

Due to new establishment of incorporation of split system of a medical corporation, while general provisions on registration of company split were established in Association Registration Order (Article 8-2, 21-2, 21-3 and 25 of Association Registration Order) and all of special provisions on registration of incorporation-type split based on the provisions of Agricultural Co-operatives Act were amended, the provisions on handling on registration of incorporation-type split based on the provisions of the same Act (see Ministry of Justice, Civil Affairs Bureau, Commercial Affairs Division No.31, notification 1-6(4) as of March 8 of 2016) shall be the same as before.