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COPA Monitor
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Mr. Dennis Phillips
Acting Chairman of the COPA Local Advisory Council
Tennessee Department of Health - Local Advisory Council
710 James Robertson Parkway, 5th Floor
Nashville, TN 37243

Dear Mr. Phillips,

I am completing the first year as the independent COPA Monitor retained by the State of Tennessee. The Terms of Certification governing the certificate of public advantage issued to Ballad Health require that Ballad Health adhere to its terms, and it establishes an Active Supervision Structure to help ensure compliance by Ballad Health. My role as the independent COPA Monitor is a component of the supervision along with the Local Advisory Council and the COPA Compliance Office.

In March 2019, the COPA Local Advisory Council issued its annual report as required by the Terms of Certification. Chapter 7 in the report includes 6 recommendations to the COPA Monitor. I have completed a review while on site at the Ballad Health corporate office in Johnson City, Tennessee, and at several hospitals owned by Ballad Health in Kingsport, Bristol, Johnson City, and Greenville, TN. I was assisted by the COPA Compliance Officer. While doing my review, I had the complete cooperation of everyone employed by Ballad Health that includes the Executive Chairman, President and Chief Executive Officer of Ballad Health, several senior executives and managers, and a number of employees who are not a member of management. Ballad Health made available all information requested in a timely manner. This report will address each of the 6 recommendations.

1. Citizens reported price increases for a variety of conditions and services.

Local Advisory Council Recommendation: Consider reviewing billing records to confirm that Ballad Health's Annual Report is correct with regard to global price increases. (The Annual report states that during FY18 legacy, Mountain States Health Alliance entities implemented a 5% global price increase while legacy Wellmont Health Systems entities did not implement a global price increase for FY 18.)

The legacy Mountain States hospitals implemented a 5% increase to its charges on July 1, 2017, which is before the merger and therefore is not subject to the Terms of Certification. The legacy Wellmont Health Systems last increased their charges in 2012.

The Terms of Certification establishes a cap to the percentage that Ballad Health can increase its charges. Following the rules established by the Terms of Certification, the cap for the year one was 4.2%.

To determine that the increase to charges in FY 19 was compliant with the Terms of Certification, I performed the following tests:

- Reviewed with Ballad Health managers the process they followed to implement the charge increase
- Reviewed the schedules supporting the charge increase
- Randomly selected patient invoices, with specific patient identification redacted, and tested the invoices to determine on a detailed basis if management's representation that the charge increase of 4.2% was accurate
- Reviewed a written complaint from a citizen that suggested the price increase was greater than 4.2%

I found that Ballad Health effectuated an increase to its charges on September 1, 2018, on average of 4.2%. The charge increase was not applied evenly across all services and departments. There was no increase to charges for nursing homes, critical access hospitals, and the Black Lung Clinic. One department increased charges by 4.85% while another increased its charges by 3.82%, but on average, the charge increase was 4.2%. Charge increases were rounded up or down to the nearest dollar which means that small dollar items were increased more or less than 4.2% due to rounding. The work I completed supports the information provided by Ballad Health that charges were increased on average 4.2%. Due to the fact that the charge increase was not applied evenly to all services and departments and small dollar items were rounded, all individual services were not increased exactly 4.2%.

Conclusion: The average increase to charges effectuated on September 1, 2018, was in compliance with the Terms of Certification.

2. Several employees expressed concern over staffing changes.

Local Advisory Council Recommendation: Consider asking Ballad for information concerning the departure of FTE's and the total number of new hires from February 1, 2018 through June 30, 2018.

The Terms of Certification Section 3.08, Employee Benefits and Protections, is the agreement that Ballad Health made with the state of Tennessee with respect to its employees. Section

3.08 (a) requires that Ballad Health shall, “continue the employment at-will of all then-active employees of any Ballad Health entity upon similar or improved terms and conditions.”

To determine compliance with the Terms of Certification concerning staffing changes, I performed the following tests:

- Reviewed staffing standards and other human resource topics with members of management including Ms Debbie Dover, Senior Vice President, Talent Engagement and Chief Human Resource Officer
- Interviewed six nurse managers from three hospitals
- Interviewed fifteen staff nurses chosen at random from different hospitals and different departments within each hospital
- Reviewed in the Ballad Health financial statements the statistics and information regarding employees, salaries, and benefits

During the twelve months ending January 31, 2019, Ballad Health hired 2,457 new employees. For the twelve months before the merger and the twelve months after the merger, involuntary terminations were 73 and 91, respectively. Ballad Health employees approximately 15,500 individuals, so involuntary terminations represent about .5% to .6% of the employees. Inpatient registered nursing hours per patient day averaged 7.08 hours per day in FY 18, and for the first six months of FY 19, they have averaged 7.63 hours per patient day. These statistics, which were extracted from the records of Ballad Health, do not, at least on a global basis, indicate any major change in staffing levels.

Hospital managers will manage most departments, especially nursing, following a staffing standard normally expressed as a ratio of nurses to patients being treated with adjustments for the acuity of the illness of the patients. Management stated that overall there had been no changes to staffing standards since the merger.

Everyone I interviewed stated that there was a nurse shortage, but the shortage was not different in any significant manner in the post merger period as compared to the premerger period. There is a nationwide nurse shortage, and Ballad Health is impacted with a shortage of nurses like virtually all hospitals. Studies indicate that the shortage will worsen over the next ten years.

Conclusion: Ballad Health has complied with the provisions in the Terms Of Certification as they relate to employees. While Ballad Health has complied, it does have nurse shortages like virtually all hospitals in America that can lead to a feeling among some employees that the staffing ratios have been changed.

3. Several Complaints were made concerning reduction in nursing specialty training and recognition (salary differentials), caps being placed on salaried positions, unequal changes in performance raises and bonuses, and changes to shift differential.

Local Advisory Council Recommendation: Consider reviewing Ballad's records to evaluate whether changes in employee pay and benefits complies with the TOC.

The Terms of Certification Section 3.08, Employee Benefits and Protections, is the agreement that Ballad Health made with the State of Tennessee with respect to salary and benefit changes. The agreement is that Ballad Health will invest over ten years \$70,000,000 of incremental money to achieve equalization in pay and benefits across the two legacy systems. This does not include the normal annual inflation and merit raises which are in addition to the \$70,000,000. The goal for Ballad Health is to offer competitive salaries and benefits for all Ballad Health employees.

To determine that changes in employee and benefits complies with the TOC, I performed the following tests:

- Received a thorough briefing on the changes that Ballad Health has implemented to salaries and benefits
- Interviewed six nurse managers from three hospitals
- Interviewed fifteen staff nurses from different hospitals and different departments within each hospital
- Reviewed in the Ballad Health financial statements the statistics and information regarding employees, salary, and benefits.

For the 12 months ending January 31, 2018, and January 31, 2019, the salary and benefit cost for employees was \$50,401 and \$52,125, an increase of 3.4%. Annual normal compensation and other routine salary adjustments were approximately 2.7%, so one could estimate that the impact from the salary and benefit equalization program for the first 12 months was .7% that is over \$4,000,000 for the first year.

Ballad Health recently announced an increase in direct patient care nursing and supporting staff wages totalling \$10,000,000 annually.

Ballad Health has made a number of changes to salary and benefits in their effort to equalize the pay and benefits across the two systems. Generally, Wellmont Health System paid higher salaries and provided richer benefits than Mountain States Health Alliance, so a legacy Mountain State Health Alliance employee might have a better feeling about the salary and benefit equalization program than a legacy Wellmont Health System employee. In its effort to equalize salary and benefits, Ballad Health has generally moved the salary and benefit structure to the higher of the two legacy systems.

Ballad Health has made some work operational changes that are not popular with everyone, but they are not in violation of the Terms of Certification. For example, newly hired nurses are hired as a 1.05 employee. They must work in one week 3 twelve hour shifts and the next week 4 twelve hour shifts. Thus they work 84 hours every two weeks, but they get paid overtime pay for 8 of the hours.

The Terms of Certification suggest that Ballad Health must pay, “competitive compensation and benefits for all Ballad Health employees.” We asked each nurse we interviewed if nurses were leaving Ballad Health for compensation reasons. We learned that nurses who do not have an obligation to live in the Ballad Health service area will sometimes become a traveling nurse. Traveling nurses make more money than employed nurses, so losing nurses in this manner is a problem for all health systems. Ballad Health is losing some nurses to Mission Hospital as it does offer higher pay. The Medicare Wage Index is an index that contributes greatly to what Medicare pays the hospital, and it has a cascade impact on all payors. The Mission Hospital wage index in Asheville, NC, is over 20% higher than the wage index at Holston Valley Hospital. Mission Hospital is in a financial position, due to its wage index, to pay more for salaries than Ballad Health. Ballad Health has some employees or potential employees who live more or less equidistant from a Ballad Hospital or Mission Hospital, so working at Mission Hospital for higher pay may be an attractive alternative. Overall, I Ballad Health is not losing employees just for salary alone, although there are exceptions.

Conclusion: The changes Ballad Health has made are not in violation of the Terms of Certification. Compensation and benefits is a series of complex practices, and it is possible that a small subset of employees believe they have lost compensation.

4. At the public listening session, several attendees stated that physicians are leaving the area due to changes at the hospital.

Local Advisory Council Recommendation: Consider investigating retention for the last 4 years of independent groups v. hospital owned groups. Often when an independent group recruits a new physician, partnership and practice ownership is part of the equation. This arrangement not only produces a legacy for the group but also incentivizes the physician to stay in the area. Hospital employment contracts may not offer the same incentives, leading to physicians relocating to the area for limited amounts of time. While these arrangements may satisfy government quotas for these specialties, it does not build a strong network of community physicians. Additionally, consider comparing retention levels at hospitals pre-COPA and then post-COPA, and then surveying the physicians who have left as to their reasons for leaving.

My work on this request is in progress.

5. Members of the public noted that certain proposed health care delivery changes do not comply with the TOC, including the proposed downgrade of Bristol Regional Medical Center and the relocation of the Wellmont Cancer Center.

Local Advisory Recommendation Recommendation: Consider confirming that the proposed downgrade of Bristol Regional Medical Center and the relocation of the Wellmont Cancer Center do not comply with the TOC, and if one or both do not, advise the Tennessee Department of Health.

The Terms of Certification Section 4.03 (c) Deletion or Repurposing of Other Service Lines and Facilities represents the commitment made by Ballad Health with respect to changes to a service line. A material change to a service line requires State of Tennessee approval.

The State of Tennessee has approved the downgrade from Level II to Level III of the trauma center at Bristol Regional Medical Center that makes this question irrelevant at this time.

I do not consider the relocation of the Wellmont Cancer Center to Indian Path Hospital to be a material change to a service line. Additionally legal counsel opined that this was not a material change to a service line. I do recognize that the change in location means that it is now classified as a hospital service and therefore the cost for the service to the community has increased. However, the financial benefit that accrues to Ballad Health, and by proxy to the community, from the drug discounts that only a hospital based service can enjoy, far outweighs the increased charges for the service. Also, patients who were receiving treatment at the time of the change were not billed increased charges associated with a hospital-based service.

Conclusion: In my opinion, the Terms of Certification were not violated for these two changes.

6. Several employees mentioned that their pay and benefits had been reduced subsequent to the merger. The TOC requires pay to be equalized across the merged health system that does not necessarily translate to all salaries and benefits rising to the highest level, nor to all salaries and benefits falling to the lowest level.

Local Advisory Council Recommendation: Consider reviewing the pay equalization process for reasonableness.

The Terms of Certification section 3.08 (b) Employee Pay/Benefits Equalization requires that Ballad Health invest over ten years \$70,000,000 of incremental money to achieve equalization in pay across the two legacy systems. This figure does not include the normal annual inflation and merit raises which are in addition to the \$70,000,000. The goal for Ballad Health is to offer competitive salaries and benefits for all Ballad Health employees.

Management reviewed with me three changes that have been made to achieve the goal for employee pay/ benefits equalization: increased employer pension contribution; addition of a

base pay adjustment for Mountain State Health Alliance employees instead of a bonus that was paid inconsistently; and, pay adjustments. The three changes above add annually \$7,630,278 to salary and benefit cost that over ten years exceeds the Terms of Certification requirements. The impact was estimated by management. To provide independent verification, I will retrospectively compute the actual incremental payments to employees later in FY 2020 and FY 2021

Conclusion: It appears that the terms of Certification have been fulfilled, subject to retrospective testing that can only be done accurately after the changes are fully reflected in the salary and benefit cost of Ballad Health.

This letter only captures a fraction of the work I have completed. I am readily available to answer any questions or concerns and to provide a more detailed review in person at your request.

Sincerely,

Larry L. Fitzgerald
COPA Monitor

CC Janet Kleinfelter
Jeff Ockerman
Judi Knecht

