

**EMPLOYED PHYSICIAN WAIVER  
PULMONOLOGIST – BRISTOL REGIONAL MEDICAL CENTER AND  
JOHNSTON MEMORIAL HOSPITAL**

WHEREAS, the Tennessee Department of Health (“Department”), Ballad Health, a Tennessee nonprofit public benefit corporation (“Ballad”) and the common parent entity of Applicants for a Certificate of Public Advantage (“COPA”) Mountain State Health Alliance, a Tennessee nonprofit public benefit corporation (“Mountain States”), and Wellmont Health System, a Tennessee nonprofit public benefit corporation (“Wellmont”) entered into that certain Terms of Certification (“TOC”) dated January 31, 2018 governing the COPA; and

WHEREAS, capitalized terms not defined herein shall have the meaning set forth in the TOC;

WHEREAS, the Department approved the application of Mountain States and Wellmont for a COPA on September 19, 2017 (the “Approval Date”) and issued the COPA on January 31, 2018; and

WHEREAS, Section 5.05(e) of the TOC requires that “(n)o more than thirty-five (35%) of the physicians practicing in any specialty at any COPA Hospital that is not a Rural Hospital at any time may be “Employed Physicians” (the “355 limitation”);

WHEREAS, said Section 5.05(e) further states that the Department agrees to waive this requirement for specific specialties upon issuance of the COPA provided that (i) Ballad Mountain States, and Wellmont (the “COPA Parties”) jointly provide to the Department a list of each specialty in which the COPA Parties collectively exceeded the 35% limitation as of the Approval Date of the TOC, and (ii) there have been no additional hires in any such specialty since the Approval Date; and

WHEREAS, the COPA Parties provided to the Department the list of each specialty in which the COPA Parties collectively exceeded the 35% limitation as of the Approval Date and confirmed that they had no additional hires in these specialties since the Approval Date; and

WHEREAS, the list provided by the COPA Parties specifically identified the specialty of pulmonary disease and 4.5 FTE at Bristol Regional Medical Center (BRMC) and 0.20 FTE at Johnston Memorial Hospital (JMH); and

WHEREAS, on January 31, 2018, the Department executed and delivered a Waiver of the 35% limitation for each specialty identified by the COPA Parties, and the number of Employed Physicians for each such specialty (“Employed Physician Waiver”); and

WHEREAS, on December 4, 2019, Ballad sent the Department a written notification that the outpatient pulmonary clinics at Bristol Regional Medical Center (BRMC) are at capacity with new out patient visits having to be scheduled several months out; that the employed critical care

pulmonologists at Johnston Memorial Hospital (JMH) only provide limited outpatient clinic for patients diagnosed with lung nodules; that the only outpatient pulmonary clinic in Abingdon, Virginia is offered by Dr. Emory Robinette, who is retiring in the summer of 2020; that based on the latest strategic data, there is a current shortage of 1.0 FTE pulmonary physicians in the JMH market and a shortage of 1.65 pulmonary physicians in the BRMC market, which will only increase as the 2016 Virginia Needs Assessment identified the catchment areas of Russell, Buchanan and Tazewell for BRMC and JMH as a high priority target area for pulmonary disease; and that the only alternative to recruiting one pulmonologist to BRMC and two pulmonologists to JMH would be to hire a locums firm at an estimated cost of \$3,800/day for routine outpatient coverage.

NOW, THEREFORE, after review of the Request and the information provided, pursuant to Sections 5.5(e) and 9.06 of the TOC, the Department hereby grants the request for a continuation of the waiver of the 35% limitation for pulmonary disease at BRMC and JMH. This waiver is based on the completeness and accuracy of all relevant information provided by Ballard to the Department, and the Department may revise or withdraw the waiver if it determines that Ballard failed to provide complete and accurate information.

ISSUED this 14<sup>th</sup> day of January, 2020.

By:   
LISA PIERCEY, MD, MBA, FAAP  
Commissioner  
Tennessee Department of Health