

# COPA LOCAL ADVISORY COUNCIL 2020 ANNUAL REPORT

Ballad Health Certificate of Public Advantage  
Local Advisory Council Report on Public Comments

*February 6, 2020*

# 2019-2020 COPA Local Advisory Council

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## **Members:**

**Chair Dennis Phillips**, former Mayor of Kingsport

**Major General Gary L. Harrell**, US Army (Retired)

**Rep. David Hawk**, State Representative, Greene County

**Dr. Linda Latimer**, East Tennessee State University board of trustees

**Gary Mayes**, Director, Sullivan County Health Department

**Dr. Jerry Miller**, Founder Holston Medical Group

**Dan Pohlgeers**, former provider and current medical administrator and consultant with Sunesis Medical.

**Dr. Karen Shelton**, Director of Mount Rogers Health District, Virginia Department of Health

**Dr. Brenda White Wright**, Former CEO, Girls Incorporated

# **COPA Local Advisory Council**

## **2020 Annual Report**

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## LETTER FROM CHAIR

To: Larry Fitzgerald, COPA Monitor, and

Commissioner Lisa Piercey, MD, MBA, FAAP, Tennessee Department of Health

The Local Advisory Council (LAC) is tasked with facilitating input from residents of the Geographic Service Area (GSA), which is comprised of 21 counties in the Northeast Tennessee/Southwest Virginia region, who are impacted by the Certificate of Public Advantage (COPA). The LAC was created through the COPA's Terms of Certification that call for the LAC to hold four meetings during the fiscal year and a public hearing to provide a forum for the public to comment on Ballad Health's annual report.

The LAC is a volunteer-based group that is structured to be a listening body to compile information from the community and create recommendations. As you know, it is not an enforcement or investigative body.

This report is part of our charge for your review and includes community feedback from the public hearing the LAC held on January 7.

In addition to the LAC members, there were roughly 90 people in attendance at the public hearing with around 20 people making comments.

While the primary purpose of the public hearing was to discuss Ballad's annual report, there were no public comments related to the report. Most of the comments were not directly related to the COPA.

Many of the comments related to individual patient care experiences and were outside the scope of the COPA. Ballad has committed to Tennessee regulators to investigate each of the patient care issues raised at the LAC meeting, and we have requested that the State conduct its own independent investigation. It is notable that the Joint Commission did a surprise inspection of Holston Valley in 2019 and found no deficiencies. There seems to continue to be a general misunderstanding in the community about what issues relate to the COPA and what issues are outside of the scope of the COPA. It is also worth considering that the format of the public hearing may not provide a forum for a wider set of perspectives, positive comments, etc.

The LAC is committed to playing our part to provide opportunities for productive community input and to update you from our unique, local perspective along the way.

If you have any questions or need further information about this report, please let me know.

Sincerely,

Dennis Phillips  
Chair

## Background and General Information

The Local Advisory Council (LAC) is part of the Active Supervision Structure established under the COPA's [Terms of Certification](#) (TOC). The TOC was first published in September of 2017, when the COPA was approved. The [Execution Version](#) of the TOC was signed and posted to the Tennessee Department of Health's website on January 31, 2018, when the COPA was granted to Ballad Health.

As stated in the TOC, the LAC's main charge is to facilitate input from residents of the GSA.

The specific duties and responsibilities of the LAC outlined in the TOC include the following:

- Recommend to the Department how funds in the Population Health Initiatives Fund should be spent;
- In coordination with the Department, host an annual public hearing to allow a formal process for the public to comment on the New Health System's Annual Report and the ongoing performance of the New Health System; and
- Publish the Local Advisory Council Annual Report on community feedback for review by the COPA Monitor and the Department. Such report shall be published no later than thirty (30) days after the annual public hearing.

The Tennessee Department of Health Commissioner appointed the inaugural members of the COPA Local Advisory Council on April 6, 2018. Doug Varney, Former Commissioner of Mental Health and Substance Abuse Services, was asked to serve as the council's first Chair.

The LAC held three working meetings in 2018: June 6, September 11, and October 25. The meetings consisted largely of presentations from the COPA Monitor, the COPA Compliance Office, the TDH Division of Health Planning, and the Office of the Attorney General as well as several discussions establishing and framing the LAC's role in the COPA process. A mission statement and a public input proposal were also developed and discussed during these first meetings. In February, the LAC hosted its first public hearing and subsequently published the 2019 LAC Annual Report.

Since the LAC's first Annual Report was published in March of 2019, the Council has held three working meetings: April 16, July 25, and October 29.

During the April 16, 2019 meeting, a proposed mission statement was approved. The LAC's mission is:

*To assist the Tennessee Department of Health in ensuring that the Certificate of Public Advantage issued to Ballad Health provides a public benefit for residents of Northeast Tennessee and Southwest Virginia by facilitating public input and reporting on information received.*

At the end of that April meeting, Doug Varney submitted his resignation as both chair and as a member of LAC. New Officers were named and a new member was appointed to the LAC for the 2020 Fiscal Year in July. (A list of the FY20 LAC Members with their current term expiration dates can be found in Chapter 3 of this report.)

Throughout 2019, working meetings largely focused on ways to elicit balanced, relevant and useful feedback from the community. The LAC reviewed a public input proposal developed by TDH staff in coordination with Chairman Varney in 2018 and determined that a subcommittee should be formed to discuss logistics and to develop recommendations for the full council. The recommendations were presented and approved at the October 29 meeting. (The Public Input Subcommittee's recommendations can be found in Chapter 2 of this report.)

In October, TDH staff gave a presentation to the LAC regarding the data challenges they were encountering with the COPA population health sub-index measures. The council members were also given information on the Virginia Department of Health's population health measures and approach to evaluating ongoing public advantage as well as information on a population health approach that the region's Accountable Care Community (ACC) had adopted. The council also engaged in a discussion about the COPA population health sub-index measures, at the request of the Commissioner of Health, and the appropriateness of Tennessee better aligning with those approaches. The member's thoughts were noted and shared with the Commissioner.

On January 7, 2020, the LAC hosted its second public hearing at Northeast State Community College Center for the Arts in Blountville, TN. The turn-out for the hearing was estimated to be between 75-125 attendees. That evening 20 members of the public presented oral comments to the LAC and one provided a written comment.

LAC meeting dates are announced on [the LAC's webpage](#). Meeting agendas and meeting minutes, once they are approved, are posted on the same page. Transcripts of public comments from the 2019 and 2020 public hearings are also available on [the LAC's webpage](#).

The LAC calendar for 2020 is provided on the following page:

# LAC & Health Planning calendar

Q1	Jan: -Host Public Hearing/Meeting	Feb: -Publish LAC Annual Report	Mar: - plan Quarterly meeting
Q2	Apr: - Quarterly meeting	May:	Jun: - plan Quarterly meeting
Q3	Jul: - Quarterly meeting	Aug:	Sept: - plan Quarterly meeting
Q4	Oct: - Quarterly meeting	Nov: - plan Public Hearing	Dec: -Review the Ballad Health Annual Report

## Public Input Subcommittee Recommendations

### RECOMMENDATION #1 – INITIATE PUBLIC INPUT DURING LAC QUARTERLY MEETINGS

- Communicate and allow for public input limited to COPA violations and focus areas adopted by the LAC or assigned by the TDH. **(See Recommendation #2)**
- Public comments will be limited to no more than 3 minutes per person (up to 10) on a first-come; first-served basis. Written comments will also be accepted.
- The LAC Role, public input process, and timeline will be clarified before the start of each meeting.

### RECOMMENDATION #2 – DURING LAC MEETINGS, MAINTAIN FOCUS ON THE PUBLIC ADVANTAGE FOCUS AREAS OUTLINED IN THE COPA LAC 2019 ANNUAL REPORT (PP. 14-15)

- Population Health
- Improving Access to Health Care Services
- Improve Health Care Quality
- Improving Financial Stability and Performance.

**Consider adding a 5<sup>th</sup> Focus Area - Improving Communication with the Public**

### RECOMMENDATION #3 – ESTABLISH ANNUAL PUBLIC LISTENING MEETING LIMITATIONS

- Communicate and allow for public input during the Annual Public Listening Session to be limited to Ballad Health’s Annual Report.
- Public comments will be limited to no more than 3 minutes per person on a first-come, first-served basis, with a time limit of 90 minutes. Written comments will also be accepted.
- The LAC Role, public input process, and timeline will be clarified before the start of each meeting.

### RECOMMENDATION #4 – ON AN AS-NEEDED BASIS, THE LAC CHAIR WILL INITIATE CALLED EXECUTIVE SESSIONS BETWEEN SCHEDULED MEETINGS.

### RECOMMENDATION #5 – ADD THE FOLLOWING STANDING AGENDA ITEMS FOR LAC QUARTERLY MEETINGS:

- Population Health Initiatives Fund Report (Violations/Fines) – Presented by TDH Rep
- Year-to-date Account of Monetary Commitments as defined by Exhibit B in the Terms of Certification (TOC) - Presented by the Compliance Officer
- Report on TOC Appraisals, Waivers, and Modifications – Presented by the Compliance Officer
- COPA Monitor Quarterly Report – Presented by the COPA Monitor

*Note: The Subcommittee met October 7, 2019 and October 21, 2019. Members asked for and received feedback from the TDH legal team and staff regarding the LAC’s role and guidelines for receiving public input during the meetings. Their feedback regarding the need for transparency in all government proceedings guided these recommendations.*

## LAC Member Terms

- Members whose term expires June 30, 2020  
Gary Mayes  
Dan Pohlgeers  
Dr. Jerry Miller
- Members whose term expires June 30, 2021  
Dennis Phillips, Chair  
Linda Latimer, Vice Chair  
Dr. Brenda White-Wright, Secretary
- Members whose term expires June 30, 2022  
Retired Major General Gary Harrell  
Karen Shelton  
Rep. David Hawk

*Note: Each Member may be reappointed for a full three-year term after expiration of current term.*

## **Summary of Written and Public Comments received by the LAC Related to the COPA**

Twenty individuals provided public comments at the annual public hearing. In addition, the LAC received a number of written comments from the public. As noted previously, a number of comments dealt with personal experiences or issues outside the scope of the LAC's review. Below is a summary of the comments the LAC received that were related to the COPA.

1. Neonatal Intensive Care Unit (NICU) Downgrading: Some members of the public expressed disagreement with the state's approval of Ballad's decision to downgrade the NICU at the Holston Valley Medical Center (from Level 3 NICU to a level 1). Concerns were expressed about longer transport times for high risk babies and the possible separation of families between hospitals.
2. Increased Costs to Patients: Some comments included concerns about a perceived increase in cost of care at Ballad facilities, including cancer treatment care and other drug costs.
3. Suing Patients Over Unpaid Bills: Some comments included concerns about Ballad's collection practices, such as timing of billing cycles, handling of payments, and the use of collection lawsuits.
4. Relocation of Staff: Several individuals expressed concerns that medical providers may be relocating out of the Northeast Tennessee region or leaving Ballad Health to work for other health care organizations in the community.
5. Quality of Clinical Care: Some comments from the public included concerns about the quality of care that they or others had personally received at Ballad facilities.
6. Local Advisory Council and the Tennessee Department of Health Communications: Several individuals expressed frustration with the lack of communication they've received from the Local Advisory Council and the Tennessee Department of Health and the lack of enforcement and Active Supervision witnessed.

## CHAPTER 5

### Transcripts from the Annual Public Hearing

Full transcripts from the LAC's January 7, 2020 Public Hearing may be accessed at this link:

<https://www.tn.gov/content/dam/tn/health/documents/copa/2020.01.07-COPA-LAC-Public-Hearing-transcripts.pdf>

## LAC Member Comments

### **Comments on the Ballad Health Annual Report for FY 2020** (July 1, 2018- June 30, 2019)

This year Ballad Health's Annual Report included information on many projects, programs and work that the health system engaged in during its first full fiscal year. In some sections, the information provided was in a narrative form, while in others, the information provided was quantitative and consisted of pages of data filled tables.

Four attachments were designated as confidential under Tenn. Code Ann. 68-11-1310.. The remainder of the report totaled 278 pages. A five-page Executive Summary was also provided for the public.

The following is a review of the Ballad Health Annual Report broken down by the COPA's four Public Advantage focus areas (Sub-Indices):

**Population Health.** LAC members noted three significant accomplishments by Ballad Health in this year's report related to population health. One was the expanded work and reach of the system's Population Health Department this fiscal year. According to Ballad's Annual Report (and as personally observed by many LAC members) the Population Health Department was very active in community events across the system's 21 county footprint. Secondly, LAC members were impressed by the progress made by the ACC that was created in partnership with Healthy Kingsport and the United Way of Southwest Virginia. The report states that over 270 agencies from all communities in Northeast Tennessee and Southwest Virginia participate. The third major population health achievement was the development of an umbrella wellness program called "Ballad as an Example" that contains multiple smaller evidence-based interventions designed to help Ballad Health employees achieve their health goals. The report explains that while Ballad employees would be the first population with access to these programs, if proven highly successful, a broader roll-out into communities across the geographic service area would follow.

**Improving Access to Health Care.** According to the report, though there have been several areas of consolidation of services as noted in the report, the radius of access to care is mostly stable. LAC members consider the opening of an urgent care in Lee County a positive achievement. Ballad also stated its plans to open a new critical access hospital in Lee County later this year. The opening of the Unicoi County Hospital, while indeed improving access for rural residents in the region, was initiated prior to the merger and cannot be said to be a benefit provided through the COPA. Ballad Health

has been actively restructuring services in two counties that each have two hospitals in close proximity: Greene County, TN, Norton, VA, and Kingsport, TN. LAC members took note that four urgent care centers were also consolidated because they were in close proximity of other services but that because all locations were within 10 miles of each other, access was not impacted.

Regarding recruitment and retention of physicians and staff, Ballard claims to have recruited 150 healthcare providers, however, the LAC has not been able to get information on how many physicians have left the area as a result of the merger or for other reasons. Only one detail under recruitment/retention is clear to the LAC: specialty physicians have been recruited in Wise County to Norton Community Hospital.

Under the access heading, LAC members noted finding information on rural health access but none specifically on behavioral health access or pediatric access plans in this report.

**Improving Healthcare Quality.** Many attachments related to health care quality were submitted as part of the Ballard Health Annual Report, but LAC members did not find all of them meaningful. The quality of care metrics in Attachment 11, for example, compared Ballard Health to other hospital systems using CMS 2019 Hospital Compare data. However, the 2019 numbers relate to care provided from 2015 – 2018. Ballard was not formed until February 1, 2018, so numbers from that time period are not useful for gauging Ballard’s performance. The quality metrics (labeled target measures) on page 128 of Attachment 9 show Ballard improved over baseline in 11 out of the 16 measures listed. According to Attachment 12 of Ballard’s report, patient satisfaction scores have declined in two of the three metrics.

**Improving Financial Stability.** Ballard lists many efforts to streamline and consolidate services that have resulted in significant cost savings. LAC members have questions about why Ballard’s financial statements are considered a confidential section of this report.

### **Comments on the LAC’s Annual Public Hearing (January 7, 2020)**

The LAC’s annual public hearing is held to allow a formal process for the public to comment on Ballard’s Annual Report and the ongoing performance of Ballard Health.<sup>1</sup> The LAC, in coordination with the Tennessee Department of Health’s Division of Health Planning, held its second annual public hearing on January 7, 2020 at Northeast State Community College’s Center for the Arts, in Blountville, TN. There were approximately 100 people in attendance, and

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<sup>1</sup> Terms of Certification

roughly 20 of them spoke at the meeting. Of those who spoke, none commented on Ballard's Annual Report.

The majority of speakers spoke unfavorably about the merger, Ballard, or the Local Advisory Council, although one began his comments with a positive statement about Franklin Woods and Ballard's efforts to address addiction in the region.

Additionally: at least eight citizens complained about the "board" or the advisory council and one called for elimination of the council; three citizens advocated for a Hospital Authority to replace the LAC; three citizens stated they would not go to a Ballard Hospital because they did not trust in the care that would be provided; three speakers complained about Ballard suing patients for unpaid bills; two individuals complained about the moved NICU and three complained about emergency care.

There were also comments on ER wait times, the cost of oncology infusions, Ballard's communication problems, billing problems, a lack of trust in the Tennessee Department of Health, there being "no advantage" to the COPA, the delay in COPA scoring, and a lack of trust in certain LAC members.

LAC members considered these public comments when they developed recommendations to the COPA Monitor and the Department of Health. (The LAC's recommendations can be found in Chapter 8 of this report.)

## Population Health Initiatives Fund

The Population Health Initiatives Fund is defined in the TOC as, “account or accounts, for which the Department shall be the custodian, into which fines, certain past-due Monetary Obligations and other amounts are to be paid by the COPA Parties, pursuant to the Terms and Conditions.”

Further, Section 6.06 of the Terms of Certification states:

Population Health Initiatives Fund. The Local Advisory Council shall, on at least an annual basis in conjunction with its review of the Annual Report, review the amount of cash on deposit in and owed to the Population Health Initiatives Fund. The Local Advisory Council shall recommend to the Department how such amount should be spent within the Geographic Service Area or otherwise for the direct benefit of the Population.

**As of the publication date of this report, no monetary penalties have been assessed. Monetary penalties fund the Population Health Initiatives Fund. Since no monetary penalties have been assessed, the current balance of the Population Health Initiatives Fund is \$0. This Fund is separate from the \$75 million that Ballard Health has committed to spending on population health under the COPA over ten years.**

## Themes and Considerations

The following represent either issues brought forward by the public that may warrant review by the COPA Monitor or opportunities identified by certain members of the LAC that may be useful for the Tennessee Department of Health.

1. In the Ballad Health Annual Report, Ballad states that the condition from Virginia, to increase risk-based models is in conflict with Tennessee's requirement to employ no more than 35% of physicians in any specialty. Ballad likely has the tools and resources to accomplish their end goal of 30% risk-based contracting while staying under the 35% cap on physician employment.

***Recommendation to the COPA Monitor:*** Consider reviewing the impact of the 35% cap on Ballad Health's ability to increase its engagement in risk-based contracting as well as the cap's impact on access and competition in the region. Additionally, the COPA Monitor should consider monitoring Ballad's use of Locum Tenens to ensure that Ballad is not circumventing the physician cap through Professional Service Agreements or Co-Management Agreements with independent providers.

2. Based on comments from the public hearing, the LAC's role needs to be better communicated to the public.

***Recommendation to the Tennessee Department of Health:*** Consider assisting the LAC in better defining the role of the LAC to the public, media, etc. making it clear that the LAC is not charged with overseeing the merger, which has been a common misconception. The role of the LAC is to facilitate public input, recommend to TDH how certain funds should be spent, hold an annual public hearing and publish an annual report with community feedback.

3. There should be more alignment between the Tennessee Population Health Measures and the Virginia Population Health Measures that Ballad is held accountable for.

***Recommendation to the Tennessee Department of Health:*** Consider reducing the number of Population Health Measures to 13 at the most, to better align with Virginia's evaluation of Public Advantage in this focus area.