



**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

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COMMISSIONER

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GOVERNOR

August 1, 2022

Mr. Alan Levine  
Chairman, President and Chief Executive Officer  
Ballad Health  
303 Med Tech Parkway, Suite 300  
Johnson City, TN 37604

RE: Waiver Request for Gynecologic Oncologist in Sullivan County

Mr. Levine,

This is in response to your letter dated June 23, 2022 in which you ask the Tennessee Department of Health (“TDH”) to grant a permanent waiver of Section 5.05(e) of the now Third Amended and Restated Terms of Certification, dated July 1, 2022 (“TOC”) to permit Ballad Health (“Ballad”) to employ an additional 1.0 Gynecologic Oncologist in Sullivan County, Tennessee to improve access, reduce wait times and so that adequate gynecologic oncology coverage is available for patients.

TDH recognizes the need of patients for oncologists trained specifically in the gynecologic subspecialty. Moreover, TDH understands that without investment by Ballad many needed specialties in the rural and non-urban region served by Ballad would not be available. Ballad’s letter states that current wait times for non-emergent patients may be as long as three (3) weeks.

Section 5.05(e) of the TOC imposes a thirty-five percent (35%) limit on employed physicians practicing in any specialty at the Certificate of Public Advantage (“COPA”) Hospitals in Washington County and also a thirty-five percent (35%) limit on employed physicians practicing in any specialty at the COPA Hospitals in Sullivan County (the “35% limit”). In the interest of continued access to services, TDH waived the 35% limit for specific specialties upon issuance of a prior version of the TOC to grant an exception to the 35% limit for the physician specialty of oncology generally, but the subspecialty of gynecologic oncology is not specifically listed. In addition, TDH granted Ballad’s request to employ one (1) gynecologic oncologist practicing at Ballad hospitals in Sullivan County, Tennessee as recently as the March 3, 2022 letter from TDH to Ballad granting a 35% limit waiver restatement.

Throughout the term of the COPA, upon a finding that the number of employed physicians in any specialty has not reached a level that would materially or adversely affect existing competition, TDH has further waived the 35% limit for certain stated specialties or subspecialties. Ballad’s letter states

that hiring another fellowship trained Gynecologic Oncologist would allow Ballad to provide improved staffing and coverage for emergent and urgent needs of patients and referring physicians. Further, the addition of this second Gynecologic Oncologist would improve access to care; reduce wait times; and allow for service availability at potential additional locations within Sullivan County.

Therefore, when reviewing this waiver request, TDH weighed the serious patient access and outcome implications associated with not having enough Gynecologic Oncologists to meet demand and coverage against the potential risks to competition of granting this waiver request, along with the recommendation of the COPA Monitor. TDH has relied upon the representations in your letter regarding the existing and the preliminary data from the new physician needs assessment in your geographic service area. TDH notes that Ballad currently employs one hundred (100%) percent of the Gynecologic Oncologists in Sullivan County such that an increase in employed Gynecologic Oncologists will not alter that percentage. Accordingly, I have determined that the likely benefits of this waiver outweigh the potential adverse impacts. **Therefore, the request to waive Section 5.05(e) of the TOC to allow Ballad to hire permanently one (1) additional Gynecologic Oncologist for Sullivan County is granted.** As a result of granting this waiver request, Ballad shall not employ more than two (2) Gynecologic Oncologists in Sullivan County.

Thank you for your continuing efforts to serve the needs of your patients. While TDH takes our supervision role under the COPA very seriously, we also see ourselves as partners with Ballad in working through the various issues that will invariably arise in this unprecedented process. TDH is confident that granting this waiver request will provide benefits to patients and referring physicians in the region in the form of improved access and outcomes. Ballad's success is imperative to the residents of Northeast Tennessee and Southwest Virginia, and we want to do our part to help make that success possible.

Please let my staff know if you have any additional questions or need further clarification.

Sincerely,



Morgan McDonald, MD, FACP, FAAP  
Commissioner

Cc: The Honorable Colin M. Greene, MD, MPH  
State Health Commissioner  
Virginia Department of Health

Tim Belisle, General Counsel  
Ballad Health

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