



**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

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GOVERNOR

**RALPH ALVARADO, MD, FACP**  
COMMISSIONER

June 15, 2023

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

RE: Ballad Health's ("Ballad") Request for Physician Waiver (Urologists in Sullivan County)

Mr. Levine,

This is in response to your letter dated May 12, 2023 to the Tennessee Department of Health ("TDH") requesting a waiver under Section 5.05(e) of the Third Amended and Restated Terms of Certification, dated July 1, 2022 ("TOC") to employ urologists in Sullivan County, Tennessee.

TDH recognizes patients' needs for urologists within the community. The most recent physician needs assessments provided to us indicate a deficit of urologists at the hospitals in Sullivan County to meet patient care demands. TDH further understands that without investment by Ballad, many needed specialties in the rural and non-urban region might not be available to serve those patient needs.

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 Sullivan County (the "35% limit"). TDH has waived the 35% limit for specific specialties in the TOC; however, urology has not been one of those specialties. 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, but no waiver has been granted for urology in Sullivan County, Tennessee.

Ballad's letter notes the number of urologists presently practicing independently in the community and states that if Ballad were not permitted to employ the requested physicians, there would be a severe gap in availability of urologists in Sullivan County. TDH has also reviewed attestations provided to us by each of the two (2) urologists practicing within the community expressing their desire to be employed by Ballad. We desire that these physicians remain in the community providing continuity of care for their patients.

Therefore, when reviewing this waiver request, TDH weighed the serious patient access and outcome implications associated with not having enough urologists to meet demand and coverage against the potential risks to competition of granting this waiver request. TDH has relied upon the representations in your letter regarding the existing urologists and needs of the community. Because the employment of up to three (3) urologists by Ballad will not currently exceed the 35% limit, **I consent to the employment of Drs. Ick and Payne and the recruitment and hiring of up to one (1) additional urologist by Ballad in Sullivan County, Tennessee. To the extent this consent so requires, I therefore waive Section 5.05(e) of the TOC to allow Ballad to make these hires permanent.**

Mr. Alan Levine, President & Chief Executive Officer

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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,



Ralph Alvarado, MD, FACP

Commissioner

cc: Julie Bennett, Chief Legal Officer  
Ballad Health

Marvin Eichorn, EVP, Chief Administrative Officer  
Ballad Health

Karen Seiden, COPA Compliance Officer  
Ballad Health

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Virginia Department of Health

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