

**BALLAD HEALTH EMPLOYED PHYSICIAN WAIVER
NEUROSURGERY**

WHEREAS, the **Tennessee Department of Health** (the “Department”), **Ballad Health**, a Tennessee nonprofit public benefit corporation (“Ballad”) and the common parent entity of Applicants for a Certificate of Public Advantage (the “COPA”) **Mountain States 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;

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

WHEREAS, the Department issued the COPA as of January 31, 2018;

WHEREAS, Section 5.05 (e) of the TOC requires that “(n)o more than thirty-five percent (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,” as that term is defined under the TOC (the “35% limitation”);

WHEREAS, said Section 5.05 (e) further states that after the issuance of the COPA Ballad may apply to the Department for a waiver of this 35% limitation for a specific specialty;

WHEREAS on February 1, 2018 Ballad sent the Department a written request for a waiver of the 35% limitation for the employment of the four neurosurgeons and two physical medicine and rehabilitation physicians practicing in the Tri-Cities area with East Tennessee Brain and Spine (“ETBS”), as Ballad’s employment of these ETBS physicians would exceed the 35% limitation on both the employment of neurosurgeons and of physical medicine and rehabilitation physicians, respectively (the “ETBS Request”), and, on February 28, 2018, the Department granted the ETBS Request subject to certain conditions (the “ETBS Waiver”); and

WHEREAS, on August 23, 2018, pursuant to conditions in the ETBS Waiver, Ballad notified the Department that it intends to hire at least one neurosurgeon to cover the demand for head and spine surgery at the Level 1 Trauma Centers at Holston Valley Medical Center and Johnson City Medical Center due to the departure of Dr. David Wiles, and requested an expedited waiver from the Department for that purpose (the “August 23 Request”);

NOW, THEREFORE, after review of the August 23 Request, pursuant to Sections 5.05(e) and 9.06 of the TOC, the Department hereby grants the August 23 Request for an exception to and waiver of the requirement that Ballad not exceed the 35% limitation on Employed Physicians for neurosurgery upon the following terms and conditions:

(a) This waiver is only applicable to the hiring of one new neurosurgeon. If Ballad determines that such new hire is not sufficient to meet the need specified above, Ballad must promptly request an additional waiver and provide all information supporting such request prior to entering into any commitment for an additional neurosurgeon;

(b) This waiver is based on the completeness and accuracy of all relevant information provided by Ballad to the Department, and the Department may revise or withdraw the waiver if it determines that Ballad failed to provide complete and accurate information; and

(c) This waiver shall be effective on the issue date indicated below, and be subject to revision or withdrawal in the event the Department determines that actions taken in response to this waiver have resulted in an adverse effect upon any competing Independent Physicians in the GSA.

ISSUED this 26th day of September, 2018.

By:



JOHN J. DREYZEHNER, MD, MPH, FACOEM
Commissioner, Tennessee Department of Health