



**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

ANDREW JOHNSON TOWER, 5<sup>TH</sup> FLOOR  
710 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243

**BILL LEE**  
GOVERNOR

**RALPH ALVARADO, MD, FACP**  
COMMISSIONER

January 11, 2024

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 (Bristol Surgical Associates)**

Mr. Levine,

This is in response to your letter dated November 6, 2023, to the Tennessee Department of Health ("TDH") requesting a waiver under Section 5.05(e) of the Fourth Amended and Restated Terms of Certification, dated July 1, 2023 ("TOC") to employ general surgeons in Sullivan County, Tennessee.

TDH recognizes patients' needs for surgeons within the community. The most recent physician needs assessments provided to us indicate a deficit of general surgeons 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 exempted the 35% limit for specific specialties in the TOC and waived the 35% limit by letters addressing certain specialties 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 or for other reasons supporting patient access to care.

Ballad's letter notes that the surgeons of Bristol Surgical Associates provide general surgery, wound care and vascular services within the community and that if Ballad is not permitted to employ the physicians, one or more of them may relocate outside the community. We desire that these physicians remain in the community providing continuity of care for their patients. TDH has reviewed attestations provided to us by each of the surgeons of Bristol Surgical Associates expressing their desire to be employed by Ballad, and TDH has also

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discussed the proposed employment by Ballad with certain surgeons of Bristol Surgical Associates and the potential impact on the community.

Therefore, when reviewing this waiver request, TDH weighed the serious patient access and outcome implications associated with surgeons potentially leaving the community and not having enough general surgeons 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 general surgeons and needs of the community and relied heavily upon the attestations of the general surgeons of Bristol Surgery Associates.

**Therefore, I consent to the employment by Ballad of Bristol Surgical Associates with up to eight (8) general surgeons practicing in Sullivan County, Tennessee.**

Thank you for your continuing efforts to serve the needs of your patients.

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

Sincerely,

A handwritten signature in black ink, appearing to read "R. Alvarado", with a long horizontal flourish extending to the right.

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

Karen Shelton, MD, Commissioner  
Virginia Department of Health

Joe Hilbert, Deputy Commissioner for Governmental and Regulatory Affairs  
Virginia Department of Health

Erik Bodin, Office of Licensure and Certification  
Virginia Department of Health

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Kevin Meyer  
COPA Analyst, Virginia Department of Health

Allyson Tysinger  
Virginia Senior Assistant Attorney General

Larry Fitzgerald  
COPA Monitor

Kevin M. Kreutz, Deputy Attorney General  
State of Tennessee

Elizabeth Jones, Director, Health Planning  
Tennessee Department of Health

Jim Mathis, COPA Director  
Tennessee Department of Health

Judi Knecht, COPA Assistant Director  
Tennessee Department of Health

Claire C. Haltom  
Baker Donelson PC