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CONFIDENTIAL

The Honorable Morgan McDonald, MD, FACP, FAAP
Interim State Health Commissioner
Tennessee Department of Health
710 James Robertson Parkway, 5th Floor
Nashville, TN 37243

Re: Consolidation of Intensive Care Unit (ICU) and Progressive Care Unit (PCU) Services/Units at Sycamore Shoals Hospital with Johnson City Medical Center

Dear Commissioner McDonald:

Tennessee Code Annotated §68-11-1303 enumerates specific benefits of the authorization of a Certificate of Public Advantage. Some of the benefits stipulated in law include:

- *Enhancement of the quality of hospital and hospital-related care provided to Tennessee citizens;*
- *Gains in cost-efficiency of services provided by the hospitals involved;*
- *Improvements in the utilization of hospital resources and equipment; and*
- *Avoidance of duplication of hospital resources;*

To comport with the law, Section 4.03(c)(i) of the Tennessee Third Amended and Restated Terms of Certification (the TOC) of the Certificate of Public Advantage, which was restated July 1, 2022, and originally issued January 31, 2018, authorizes the deletion or repurposing of service lines at a hospital supervised under the TOC upon ninety (90) days prior notice of the deletion or repurposing to the Tennessee Department of Health (the Department). The section further stipulates that this action will not be taken if the Department withholds its consent, *which the Department shall not unreasonably withhold or delay*. The Section also stipulates that in determining whether to withhold its consent, the Department will consider repurposing employees associated with that Service Line as a factor which may weigh in favor of the Department's approval of such action.

For reasons articulated herein, Ballad Health is notifying the Department it intends to achieve the benefits enumerated in law and outlined above through the consolidation of the ICU and PCU units at Sycamore Shoals Hospital (SSH) with Johnson City Medical Center (JCMC), which is located nine miles from SSH. There is no elimination of services for the community, but rather, as referenced herein, an enhancement in the delivery of these high acuity services for Tennessee citizens through the provision of the service at a nearby and readily accessible state-designated safety net hospital with a high-volume ICU and already-existing specialized physician staffing dedicated to the support of ICU-level patients. This consolidation is being executed to provide the highest level of care for ICU patients in the market, improve the utilization of hospital resources such as nursing and physician resources, improve the cost-

efficiency of services and avoid the unnecessary duplication of resources where such duplication does not provide a benefit to the community (each of these purposes are directly tied to the statutorily-directed benefits of the COPA). Further, in compliance with the factor weighing in favor of approval implicated in Section 4.03(c)(i) related to repurposing of employees associated with the service line, Ballad intends to ensure all affected employees retain employment either at SSH in other roles they are qualified for, or may transfer to JCMC to continue working as ICU or PCU staff. Further, this move will help reduce reliance on contract labor, which by itself, meets the directive of several of the provisions of statute related to cost-efficiency, quality and improvement in the use of staffing resources.

Ballad respectfully requests swift consent of this consolidation and that the Department waive the ninety (90) day notice period under Section 4.03(c)(i) so that Ballad may move forward with the consolidation of the ICU and PCU units at SSH to JCMC the first week of January.

Ballad believes this letter contains future business plans that are proprietary, confidential and competitively sensitive information, which Tennessee Statutes direct remain confidential. Should this information become public before the Department provides its consent, or before Ballad has an opportunity to properly communicate it to the employees and community, this could undermine efforts to sustain the service at SSH before any action is taken by the Department or Ballad. Experience shows that if there is doubt about the sustainability of a service at a hospital, staff are likely to depart even before any change is made. Therefore, Ballad submits this document to the Tennessee Commissioner of Health as proprietary information that it requests remain confidential until consent is provided by the Department and plans are announced by Ballad.

Background:

SSH is a 121-bed community hospital located in Elizabethton, Tennessee that has an average occupancy rate of 40 percent (average daily census of 48 patients). Due to the severe national nursing shortage, which has disproportionally impacted rural communities and hospitals[1], the vacancy rates at SSH, as expected, are material (which have run between 44 percent and 59 percent throughout the facility and have been particularly high in the ICU and PCU areas with 100 percent vacancy in respiratory therapy on night shift). While the turnover rates have declined significantly in fiscal year 2023 due to efforts of Ballad to combat the shortages, the turnover rate for fiscal year 2022 was 29 percent – leaving significant vacancies it will take time to remedy as the pipeline of new nurses being produced takes several years in which to help close the gaps. Further, due to the unplanned departure of so many experienced nurses in the past two years, the majority of newly trained nurses do not have the same level of experience of those who have been at the bedside for so long and serving high-acuity patients. This requires an improved utilization of existing resources (as the law directs) to ensure patients are being treated in a setting with the highest level of support and experience, which, for reasons we explain below, we believe is achieved through the use of the existing resources at JCMC. In the past two years, staffing needs at SSH have been met through the utilization of significant contract labor. The ongoing concerns about the use of contract labor include, but are not limited to, the overall cost to the system, and the sustainability of maintaining contract labor at facilities with lower acuity patients. Within SSH, the ICU is an 8-bed unit that runs an average daily census of 5.47 patients. The PCU is a 13-bed unit that runs an average daily census of 6.93 patients. These units have been running with contract nurses hired to assist with vacancies created by turnover.

[1] Econ Focus, Federal Reserve Bank of Richmond; https://www.richmondfed.org/publications/research/econ_focus/2022/q1_feature_1

JCMC, which serves as the Level 1 Trauma Center for the 29 county service area and is the region's state-designated safety net institution, providing trauma, high acuity services and teaching, is licensed for 501 acute beds (including Niswonger Children's Hospital and Woodridge Hospital). In fiscal year 2022, JCMC had an average occupancy rate of 67 percent (average daily census of 336 patients). As a tertiary and teaching hospital, JCMC experiences significant vacancy rates, which is problematic for the delivery of high acuity health care. Access to this tertiary hospital is extremely important to the region, and staffing limitations related to the national shortage of nursing has contributed to concerns about the availability of services. As of November 30th, 2022, JCMC had 35 beds closed (Med/Surg and PCU) that are capable of housing patients if staff were available. In addition, JCMC has the physical space to flex up the ICU by 10 beds if staff were available. Importantly, **patients from the service area zip codes of SSH are already utilizing JCMC for these services** – underscoring that access to care will not be impacted by this decision, while access to high acuity services for all patients will be enhanced.

From an employed team members perspective, the chart below summarizes the number of employed team members in the SSH PCU and ICU:

	Employed RNs	Manager	Unlicensed/CNAs
SSH ICU	14	.5	0
SSU PCU	9	.5	8

The ICU at SSH currently employs 14 RNs. Due to several RNs being part time/PRN the actual number of RN FTEs equates to 11.5 (based on 72 hours worked per pay period). It is the intent of Ballad that all employed RNs and support staff retain their employment either at SSH in other roles where there are vacancies (thus helping to stabilize staffing and/or eliminate contract labor in those roles) or transferring to JCMC to continue working in the ICU/PCU setting. For the latter, this will provide additional depth of support for the RNs, as JCMC has 24-7 critical care physicians and advanced practice providers, more depth in respiratory therapy, and a bench of subspecialists to help manage complex critical care patients.

Given the proximity to JCMC and the increased physical bed capacity at JCMC, the consolidation of ICU services at JCMC from SSH would permit JCMC to run an additional ICU census of 6-7 patients per day and would do so with more efficient use of limited staffing resources. If SSH team members do not wish to transfer to JCMC, they would be welcome to fill other positions at SSH or within Ballad, which would also help fill other vacancies or reduce contract labor at SSH. Thus, this plan will help improve the utilization of resources and staff potentially at both hospitals.

Similarly, the PCU at SSH currently employs 9 RNs and 8 unlicensed team members. The current vacancy rate is 46 percent. These team members would be offered positions at JCMC in various units or in open positions at SSH or within Ballad. Relocating team members to JCMC would give the opportunity to open an additional 8-9 PCU beds that are currently closed due to staffing without adding contract labor.

As it relates to physician coverage at SSH, Team Health, the hospitalist service currently covering SSH, will continue to provide the same services they provide today to support the Surgical Care Unit and

the Med/Surg Unit. These providers also support JCMC, and any excess providers not needed at SSH due to the consolidation will be transitioned to JCMC at minimal disruption to Team Health.

SSH will continue to offer breast care services with three surgeons, outpatient and inpatient surgery and medical services and emergency room care. SSH will also continue to offer the same general surgeries. This change will not impact the current surgical coverage.

Ballad does not expect any impact to the Essential Services, as defined in Section 4.03(b)(i) and exhibit E of the TOC, that are currently provided out of SSH, including diagnostic imaging, laboratory and the emergency department. SSH will continue to grow outpatient services, admit medical/surgical patients and perform inpatient and outpatient surgeries.

Commitment to ETSU and Teaching

This move will enhance the teaching experience for medical students and residents. JCMC is the primary teaching hospital for ETSU Quillen College of Medicine. Medical Students and residents rotate with frequency in the ICU and PCU at JCMC, while the ICU at SSH does not provide the level of volume to support robust teaching. The additional volume at JCMC will make more efficient use of teaching resources, and expand the number of patient contacts available to ETSU students and residents.

Statutory Provision requiring Enhancement of the quality of hospital and hospital-related care provided to Tennessee citizens

Increased research focus has reached compelling conclusions about the relationship between volumes and outcomes in Critical Care medicine. A 2015 paper concluded that, based upon 63 percent of the studies reviewed, there was a "statistically significant association between higher admission volumes and improved outcomes" for patients[2]. This paper concluded that critically ill patients generally benefit from care in high-volume centers, with more substantial benefits in selected high-risk conditions, such as cardiovascular, respiratory, severe sepsis, neurologic and postoperative admission diagnoses. This paper is consistent with the overwhelming majority of findings, which are not surprising, given the magnitude of support available at a center like JCMC – which has depth in respiratory coverage, numerous subspecialty supports and full time critical care medicine specialists to oversee care in the ICU. *While Ballad believes the quality of care provided by the staff at SSH is excellent*, the evidence supports the depth of experience and breadth of specialty supports for patients similar to that which are available at a facility like JCMC are simply not possible at a small community hospital the size of SSH. In fact, to the degree any nursing staff at SSH were to transfer to the ICU at JCMC, these nurses will benefit from the depth of support available to them, elevating the level of care for all patients.

Another publication stated that regionalization of ICU care, as Ballad is proposing, is found to be more effective when there is a strong central authority to regulate and manage the system, as well the necessary infrastructure[3]. This publication concluded that "under the value-based paradigm, the goals are operational efficiency and patient outcomes. Health systems that can align strategy and operations

[2] National Library of Medicine, "The Volume-Outcome Relationship in Critical Care", https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4493880/

[3] Critical Care Medicine, "Regionalization of Critical Care in the United States: Current State and Proposed Framework From the Academic Leaders in Critical Care Medicine Task Force of the Society of Critical Care Medicine". https://journals.lww.com/ccmjournal/Abstract/2022/01000/Regionalization_of_Critical_Care_in_the_United.3.aspx

to assist the referral hospitals with implementing regionalization will be better positioned to regionalize critical care effectively". Ballad agrees with these findings, and is no stranger to the concept of regionalization of critical care. With nearly $200 million invested in a single information technology platform, a regional call and transfer center, and common leadership, Ballad has been using the regionalization approach already for trauma, NICU and ICU care for several hospitals – from tertiary to community and rural, some of which do not currently operate ICUs. The consolidation between SSH and JCMC can be done seamlessly using existing systems and processes made possible through the merger which created the common platforms and systems utilized to successfully implement regionalization. As an example of success, the regionalization of Level 1 Trauma to JCMC has led to lower mortality, increased productivity in research, and as the Department of Health, itself, can attest, the post-consolidation Level 1 Trauma Center received a three year recertification with zero deficiencies and praise by the surveyors (note: prior to the consolidation, no Level 1 Trauma Center in the region had ever received a state survey with zero deficiencies). Similarly, the regionalization of Level III NICU has led to a more effective regional system for high acuity care for infants.

For these reasons, the consolidation is consistent with the statutory directive of enhancing the quality of care.

Due to the sensitivity of changes, Ballad's communication plan, if the department chooses to consent to this consolidation, is to provide notification of a proposed change to the below parties following indication of the Department's consent to this waiver:

- SSH administration and the board
- SSH medical staff leaders and MEC
- SSH/BHMA physicians
- SSH and JCMC staff
- Community stakeholders

For the reasons above, Ballad respectfully requests the swift consent of the Department and that the Department waive the ninety (90) day notice period under Section 4.03(c)(i).

We appreciate your consideration of this request. Please let us know if you need any additional information.

Sincerely,

Alan Levine
Chairman and Chief Executive Officer
Ballad Health

cc: The Honorable Colin Greene, MD, MPH,
State Health Commissioner
Virginia Department of Health

Janet M. Kleinfelter
Tennessee Deputy Attorney General

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