

STATE OF TENNESSEE

Office of the Attorney General



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December 3, 2021

**BY EMAIL TRANSMISSION AND U.S. MAIL**

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

Re: Reasonable recovery period following temporary suspension of TOC provisions during public emergency

Dear Mr. Levine,

As you are aware, Governor Bill Lee's Executive Order No. 90 expired on November 19, 2021, and no subsequent nor existing order continued the state of emergency to facilitate response to COVID-19. Therefore, we find that the COVID-19 pandemic no longer constitutes a "Force Majeure Event" under Article I of the Second Amended and Restated Terms of Certification ("TOC") dated April 27, 2021.

In our letter to you on March 31, 2020, which temporarily suspended certain provisions of the TOC, we informed Ballad Health ("Ballad") that certain provisions listed in that letter would be suspended only during the period of public emergency and a reasonable recovery period, thereafter, as determined on a term-by-term basis upon the conclusion of the public emergency. Therefore, as the public emergency has concluded, we write to notify you of the reasonable recovery period for each provision.

Due to the duration of the public emergency and the unanticipated burden that was placed on Ballad and all health care providers during the public emergency, we have determined that the reasonable recovery period for the following provisions shall expire on June 30, 2022:

Article Three: Monetary Obligations

Sections 3.02 – 3.05 – Monetary Commitments; however, spending plans for FY2023-2025 must be submitted by *April 1, 2022* for review by the Virginia and Tennessee States to be effective *July 1, 2022*

Section 3.07 – Facility Maintenance and Capital Expenditures

Article Five: Managed Care Contracts and Pricing Limitations

Section 5.04 – Competing Services

Section 5.05 (e) – 35% Rule

Article Six; Active Supervision

Section 6.04- Reporting Requirements

For clarity, these provisions shall be fully effective as of July 1, 2022.

The reasonable recovery period for all remaining provisions, including the following listed provisions, shall expire on December 31, 2021:

Section 3.08 (b)- Employee Pay/Benefit Equalization

Section 3.08 (c) - Career Development

Section 3.08 (d)- Employee Retention/Termination/Severance

Section 4.02 (c) - Data Collection; Reports to the Department

Section 4.02 (d) - Quality Reporting to the Public

Section 4.03 (c) - Deletion or Repurposing of other Service Lines of Non-Hospital Facilities

Section 4.05 -Bond Issuance and Indebtedness

Section 5.06- Vendor Contracts

Addendum One, to the extent it was suspended.

Any obligations relating to physician services negotiated during the public emergency.

For clarity, all provisions, except those specifically listed above as effective July 1, 2022, shall be fully effective as of January 1, 2022.

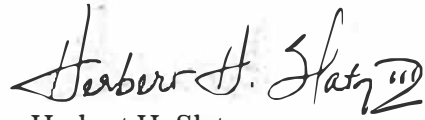
We thank Ballad for its efforts to serve the needs of your patients and citizens of Northeast Tennessee and Southwest Virginia during the unprecedented times of the public emergency and appreciate Ballad's commitment to pivot back to fulfilling its full obligations under the TOC.

Please let us know if you have any questions or need further clarification.

Sincerely ,

A handwritten signature in blue ink, appearing to read "Lisa Piercey".

Lisa Piercey, MD, MBA, FAAP  
Commissioner  
Tennessee Department of Health

A handwritten signature in black ink, appearing to read "Herbert H. Slatery".

Herbert H. Slatery  
Attorney General and Reporter

cc: The Honorable Norman Oliver, State Health Commissioner  
Virginia Department of Health

Tim Belisle, General Counsel  
Ballad Health

Karen Guske, COPA Compliance Officer  
Ballad Health

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

Allyson Tysinger  
Virginia Senior Assistant Attorney General

Dennis Barry  
Southwest Virginia Health Authority

Kevin Meyer  
COPA Analyst, Virginia Department of Health

Larry Fitzgerald  
COPA Monitor

Janet M. Kleinfelter, Deputy Attorney General  
State of Tennessee

Jim Mathis, COPA Director  
Tennessee Department of Health

Judi Knecht, Population Health Program Manager  
Tennessee Department of Health

Claire C. Haltom  
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