



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
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GOVERNOR

LISA PIERCEY, MD, MBA, FAAP
COMMISSIONER

March 22, 2022

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

RE: Waiver Request for Vascular Surgeons in Washington and Sullivan Counties

Mr. Levine,

This is in response to your letter dated November 12, 2021 in which you ask that the Tennessee Department of Health ("TDH") grant a permanent waiver of Section 5.05(e) of the Second Amended and Restated Terms of Certification, dated April 27, 2021 ("TOC"), to permit Ballad Health ("Ballad") to i) transfer two (2) employed vascular surgeons (Hopkins & Yoon) practicing at Ballad hospitals from Sullivan County to Washington County, Tennessee and to ii) reduce by two (2) the number of employed vascular surgeons practicing at Ballad hospitals in Sullivan County.

TDH recognizes the need of patients for surgeons trained specifically in vascular procedures. Moreover, based upon supplemental information provided to TDH staff, I understand that both surgeons for whom you are requesting permission to transfer have been fellowship trained in vascular surgery ("Vascular Surgeons"). This additional training assures me that the surgeons subject to this waiver request have professional specialization beyond general surgeons.

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 Washington County and also a thirty-five percent (35%) limit on employed physicians practicing in any specialty at the COPA Hospitals in Sullivan County (the "35% limit"). In the interest of continued access to services, TDH waived the 35% limit for specific specialties upon issuance of the COPA in accordance with a list provided to TDH by Ballad of each specialty in which Ballad exceeded the 35% limit. At that time, TDH granted Ballad's request to employ one (1) vascular surgeon (constituting 50% of the vascular surgeons practicing at Ballad hospitals in Washington County, Tennessee) and five (5) vascular surgeons (constituting 100% of the vascular surgeons practicing at Ballad hospitals in Sullivan County, Tennessee).

In addition, 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.

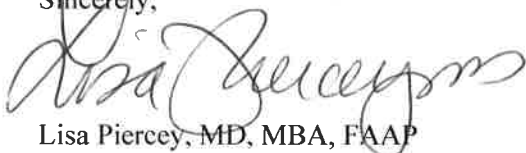
Therefore, when reviewing this waiver request, TDH weighed the serious patient access and outcome implications associated with not having enough Vascular Surgeons to meet demand against the potential downsides of denying this waiver request. TDH has relied upon the representations in your letter regarding the physician needs assessment in your geographic service area. Accordingly, I have determined that the likely benefits of this waiver outweigh the potential adverse impacts. **Therefore, the requests to waive Section 5.05(e) of the TOC to allow Ballard to hire permanently two (2) Vascular Surgeons for Washington County, Tennessee, and to reduce by two (2) the number of Vascular Surgeons for Sullivan County.**

As a result of granting these two waiver requests, the number of approved Ballard employed Vascular Surgeons in Washington County shall not exceed three (3) Vascular Surgeons. TDH understands from your letter that the sole independent Vascular Surgeon is contemplating retirement, so these three approved Vascular Surgeon slots may constitute up to one hundred (100%) percent of the Vascular Surgeons practicing at Ballard Hospitals in Washington County. In addition, after reducing by two (2) the number of Vascular Surgeons in Sullivan County the percentage of approved Ballard employed Vascular Surgeons in Sullivan County shall now not exceed three (3) Vascular Surgeons and continue to constitute one hundred (100%) percent of the Vascular Surgeons practicing at Ballard Hospitals in Sullivan County.

Thank you for your continuing efforts to serve the needs of your patients. TDH is confident that granting these waiver requests will provide benefits to residents in the region in the form of improved access and outcomes. Ballard'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,



Lisa Piercey, MD, MBA, FAAP
Commissioner

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

Tim Belisle, General Counsel
Ballad Health

Marvin Eichorn, EVP, Chief Administrative Officer
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