

COPA Compliance Office – Annual Report for FY 2020
Covering 07/01/2019 – 06/30/2020 (Reporting Period)

Submitted pursuant to the Terms of Certification (TOC) Governing the Certificate of Public Advantage (COPA) Issued to Ballad Health Pursuant to the Master Affiliation Agreement and Plan of Integration by and between Wellmont Health System and Mountain State Health Alliance Approved on September 19, 2017 and Issued on January 31, 2018 and the Virginia Order and Letter Authorizing a Cooperative Agreement dated October 30, 2017 (CA).

CERTIFICATION OF COMPLIANCE WITH THE TOC AND THE CA

Pursuant to section 6.04(a) of the TOC, the undersigned hereby certifies the following report and its attachments are true and correct to the best of his/her knowledge after due inquiry and are accurate and complete.

Karen Guske

Karen Guske
Sr. Vice President
Corporate Responsibility and COPA Compliance Officer
Ballad Health

11/25/2020

Date

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COPA COMPLIANCE OFFICE - ANNUAL REPORT

Covering 07/01/2019 – 06/30/2020

1. Requirements – Exhibit F, section 2 of the TOC requires an annual submission as follows: Prepare and submit the COPA Compliance Office Annual Report, which shall include an account of the activities of the Office, including the number and nature of complaints, identification of any potential violations of the COPA and the TOC, and other items as identified by the Department or by the Local Advisory Council. The COPA Compliance Office Annual Report shall be submitted, if not sooner, according to the same time frame applicable to the submission of the Annual Report of the New Health System. See Section 6.04(b) of the TOC.
2. Reporting Requirements
 - A. COPA Compliance Complaints Report (TOC Exhibit F, Section 2, bullet 5)
 - I. Ballard Health maintains a system-wide Code of Ethics,¹ which represents a policy of Ballard Health. This policy requires mandatory compliance by all associates, including with the section referencing the COPA and the Letter Authorizing the CA. All associates are required to report any non-compliance and are provided the means and mechanism by which to do so, including anonymously. The CCO has established a process for all COPA and CA (COPA) related complaints to be documented. All Ballard Health Team Members have access to an AlertLine that they may call anonymously to register complaints or concerns, 1-800-535-9057. Additionally, a description of the CCO and the process for filing complaints is maintained on the Ballard Health external website and includes a link to an email address for COPA Compliance, copa.compliance@balladhealth.org.

A log documenting all complaints is maintained by the CCO. Once a complaint is received it is reviewed. When appropriate, the complaint is investigated to ascertain the facts. If a violation of the COPA has occurred, corrective action is recommended. Any complaints that cannot be resolved by the CCO will be referred to the Audit and Compliance Committee of the Board for direct resolution.
 - II. During the COPA Compliance Office Reporting Period covered by this report there were three COPA Complaints filed with the CCO. One of these complaints was previously reported and submitted via the CCO Quarterly Complaints Report for the first quarter of FY20. There were no COPA Complaints filed during the second quarter of FY20.
 - III. Due to the COVID-19 pandemic and resulting suspension of reporting requirements the two complaints occurring during the third and fourth quarters of FY20 are detailed here.

¹ <https://www.balladhealth.org/sites/balladhealth/files/documents/Ballad-Health-Code-of-Ethics-180510.pdf>

1. Complainant – Anonymous via Alert Line
 - a. Date received – 3/6/20
 - b. Date of incident – Unknown
 - c. Classification of complaint – Allegation that Ballad Health is not adhering to the requirements of the COPA
 - d. General complaint – Allegation that the former COPA compliance officer retired early because Ballad was working around the COPA agreement by finding loop holes within the agreement
 - e. Investigation – An investigation was completed by the current COPA Compliance Officer. The investigation included interviewing the Chair of the Audit and Compliance Committee of the Ballad Board of Directors, the former COPA Compliance Officer, and the Tennessee COPA Monitor. The allegations cited in the complaint were found to be unsubstantiated.
 - f. Status – Complaint closed

2. Complainant – Payor Complaint – Anthem Blue Cross and Blue Shield
 - a. Date received – 5/11/20
 - b. Date of incident – Ballad Health letter dated 4/29/20
 - c. Classification of complaint – Allegation that Ballad Health was not adhering to the requirements of the TOC under the COPA in Tennessee or the Conditions under the CA in Virginia
 - d. General complaint – Anthem alleged that renegotiation letters from Ballad Health were in conflict with the TOC and the Conditions of the CA. Ballad Health gave notice on 4/29/20 to renegotiate contracts only for commercial and physician services portions of the Anthem provider agreement.
 - e. Investigation – The COPA Compliance Office reviewed documentation including notice of renegotiation letters and e-mail correspondence. The documentation supported that Ballad was following the standard procedures for negotiation of health insurance plan contracts. The allegations were unsubstantiated. Further, the office notes that Ballad executives continued to keep the COPA Monitors apprised of each step of the negotiations.
 - f. Resolution – The Ballad Health Executive Vice President and Chief Administrative Officer responded in writing by refuting each allegation cited by Anthem. Anthem did not include reference to such allegations in any future communications.
 - g. Status – Complaint closed

IV. Update on Previously Reported, Pending or Closed, COPA Complaints:

1. From COPA Compliance Office Quarterly Report FY20 1st Quarter – Complaint #1, Updated in COPA Compliance Quarterly Report FY20 2nd Quarter – 2.c.2
 - a. Date received – Originally on 9/12/19 complainant sent anonymously via AlertLine. On 10/2/19 and again on 11/6/19 the complainant indicated they were still dissatisfied.
 - b. Classification of complaint – Ancillary List of Post-Acute Services

- c. General complaint – The caller stated that HVMC has been discharging patients and instructing them to receive post-acute services outside of Lee County, which they believe is unfair.
- d. Investigation – This complaint was submitted anonymously via AlertLine. The complainant was asked for contact information. Ballard Health’s Patient Liability Manager followed up with a call to the complainant. The complainant clarified the Ancillary List of Post-Acute Services had been provided, but they were requesting Ballard Health add two providers to the list. Ballard Health agreed to add these two providers to the next quarterly update of the Ancillary List of Post-Acute Services and provide an updated copy to the complainant. The complaint was unsubstantiated, as there was no violation of the TOC or CA. Any entity may be added to the list of post-acute services upon request. Ballard Health has been maintaining a list and providing it to patients.
- e. Status – Complaint closed

B. COPA Compliance Office Account of Activities (TOC Exhibit F, Section 2, bullet 7)

- I. A complete listing of deliverables that were due to the State and the Commonwealth during this Reporting Period were submitted by the required times and are listed in the Ballard Health FY20 Annual Report.
- II. Waivers and Modifications – Ballard Health is committed to operating the organization in compliance with the Tennessee TOC and Virginia CA and to identifying our legal responsibilities and conducting our business practices accordingly. When management identifies changes in circumstances that would require a modification or waiver of the terms of the TOC or CA, the organization needs to submit requests to the states. Accordingly, the COPA Compliance Office in conjunction with the Ballard Health Legal Department has developed a process to submit requests for determinations from the state and commonwealth. When developing each request, comprehensive, situation specific information, and data is elicited from the affected internal staff/service line. During the Reporting Period four waiver requests were submitted and approved. One waiver request is still pending.

Waivers Requested

- **Topic:** Cardiothoracic Surgeons at Bristol Regional Medical Center
 - **Request:** 10/11/19 – Waiver request submitted to Dr. Piercey requesting (2) Cardiothoracic Surgeons (CT) at BRMC. This letter also notified the state that an offer of employment was inadvertently extended to a physician in June prior to a waiver request.
 - **Outcome:** 12/3/19 – Approval Received
- **Topic:** Neurosurgery trauma and emergency care coverage at Johnson City Medical Center
 - **Request:** 10/15/19 – Waiver request submitted to Dr. Piercey requesting to move at least the equivalent of 0.2 FTE of Dr. Jon Taveau's time to JCMC to ensure appropriate coverage for neurosurgery trauma and emergency care

- **Outcome:** 12/3/19 – Approval received
- **Topic:** Pulmonologist (1) for Bristol Regional Medical Center, (2) for Johnston Memorial Hospital
 - **Request:** 12/4/19 – Waiver request submitted
 - **Outcome:** 1/14/20 – Approval received
- **Topic:** Dr. Ponder will be contracted under (WCS)
 - **Request:** 12/4/19 – Waiver request submitted for Dr. Ponder to be contracted under WCS and have privileges at IPCH and HVMC. Dr. Ponder will no longer maintain his cardiology practice on the IPCH campus and will move to the CVA Meadowview location. These changes will result in a change to the FTE counts.
 - **Outcome:** 1/14/20 – Approval received
- **Topic:** Greeneville Community Hospital consolidation of Cath Lab
 - **Request:** 2/17/20 – Waiver request submitted to have GCH Cardiac Cath Lab Integrated into the system's cardiac network
 - **Outcome:** Response Pending

For activities under Force Majeure and resulting Material Adverse Event – see Section E. Reporting Material Adverse Events

Requests for Modifications/Extensions

- **Topic:** Plan Spend
 - **Request:** Modify Exhibit B of TOC to reflect changes in plan spend.
 - **Outcome:** Amended and Restated Terms of Certification – July 31, 2019.
- C. COPA Compliance Report on Potential Violations of the TOC or CA (TOC Exhibit, Section 2, bullet 7). The following issues of non-compliance or potential non-compliance that occurred during the Reporting Period covered by this CCO Report have been identified:
- I. Prior to the temporary suspension of several provisions of the Tennessee TOC and Virginia CA, including spending in accordance with the plans, Ballad notified the Tennessee Department of Health (TDH) and the Virginia Department of Health (VDH) in the amended fiscal year 2020 second quarter CCO Report that without changes to the Plans and/or spending commitments Ballad did not anticipate achieving the anticipated plan spend for fiscal year 2020 as provided in Exhibit B of the TOC. While Ballad is under the continuing COVID-19 emergency and the temporary suspension of several provisions of the TOC and CA, including spending in accordance with the plans, and numbers are not final as they have not been audited, in aggregate for the 8 months of fiscal year 2020 (prior to the suspension of the relevant provisions), the spend is forecast to be below expected levels in four of the six plans. Ballad will provide TDH and VDH staff with final numbers as soon as they are available.
 - II. Ballad Health spent just more than \$60 million in FY20 for Charity and Unreimbursed TennCare & Medicaid. While below the projected baseline from FY17, this spending was impacted by the decline in volumes, an increase in Medicaid reimbursement from TennCare and Virginia Medicaid, and the ongoing expansion of Medicaid in Virginia. The volume declines, accelerated by the global pandemic,

resulted in fewer charity patients in FY20. Ballard Health will review the detailed information with the COPA monitor and request a formal waiver of noncompliance per Section 4.03(f)(vi). There have been no assertions or complaints that Ballard Health is not in compliance with its charity policy.

- D. COPA Compliance Report on the Joint Commission (TJC) and Centers for Medicaid and Medicare Services (CMS) Immediate Jeopardy (TOC § 4.02 (a)(ii) and CA Condition 13)
 - I. All Ballard Health hospitals have been surveyed and are deemed eligible for participation in Medicare and Medicaid. Ballard Health facilities are subject to periodic complaint surveys initiated either by patient complaints or through self-reported events established through a process utilized by the Joint Commission or state survey agencies on behalf of CMS. If there is a situation where an immediate jeopardy is issued, the CCO reports the event as required. Ballard Health is in compliance with these provisions.

- E. COPA Compliance State Notification of Material Adverse Event (TOC §6.04 (d)(i) and CA Condition 17)
 - I. On March 25, 2020 Ballard Health sent a letter to Commissioner Oliver and Commissioner Piercey to provide notice of a Force Majeure event resulting in a Material Adverse Event. Subsequently, select sections of the TOC and CA were temporarily suspended. Following is a summary of the actions taken by Ballard as a result of COVID-19 during the portion of FY20 under suspension (3/1/2020 through 6/30/2020) which lead to formal communication to TDH or VDH.

ITEM	DATE SUBMITTED	PURSUANT TO TOC AND CA
Notice of Force Majeure Event and resulting Material Adverse Event	3/25/2020	TOC Article 1, and Section 8.02; CA Conditions 17, 49
Request to VDH to waive CA Cond 27 and move OB and Surgical Services from LPH to NCH	3/25/2020	CA Condition 27
Request from Ballard to VDH for temporary suspension of certain Conditions of the CA	4/3/2020	CA Condition 17
Notification of Closure of Greeneville Gero-Psych and Inpatient Services	4/4/2020	TOC 4.03(c)(i)
Notification of Wise Co. PET Scan Consolidation	4/10/2020	CA Condition 27
Notice to consolidate women's and newborn services (OB/GYN including labor and delivery services) in Kingsport at IPH; move surgical services to HVMC	4/10/2020	TOC 4.03(c)(i)

- F. COPA Compliance Office Forecast of Expenses (TOC Exhibit F, Section 2, bullet 9). Below is a forecast of expenses which supports only the functions of the COPA Compliance Office for FY2021. There are significant additional costs related to compliance, including staff costs and other direct costs of compliance. Ballard will provide those estimates upon request.

COPA Compliance Department FY2021 Projected Expenses	
Operating Expenses (Salaries, Benefits, Office Supplies & Education)	\$ 714,059
Projected TN COPA Fees	700,000
Projected VA Cooperative Agreement Fees	400,000
Legal Fees	375,000
TOTAL	\$ 2,189,059

- G. COPA Compliance Plan and Work Plan (TOC Exhibit F, Section 2)

- I. During the Reporting Period the COPA Compliance Office updated the COPA Compliance Plan and Work Plan that details the structure and elements of the COPA Compliance Program and this document was approved by the Audit and Compliance Committee of the Ballard Health Board of Directors.