

COPA Compliance Office – Annual Report for FY 2019

Covering 07/01/2018 – 06/30/2019 “Reporting Period”

Submitted pursuant to the Terms of Certification Governing the Certificate of Public Advantage 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 (“TOC”) 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.

A handwritten signature in blue ink that reads "Gary Miller". The signature is written in a cursive style and is positioned above a horizontal line.

Gary Miller
Sr. Vice President
COPA Compliance Officer
Ballad Health

Table of Contents

1.	Requirements – COPA Compliance Office Annual Report Contents	2
2.	Reporting Requirements	
	A. COPA Compliance Complaints Report	2
	B. COPA Compliance Office Account of Activities	3
	C. COPA Compliance Office Report on Potential Violations of the TOC or CA	7
	D. COPA Compliance report on The Joint Commission (TJC) and Centers for Medicaid and Medicare Services (CMS) Non-Compliance	9
	E. COPA Compliance State Notification of Material Adverse Event	9
	F. COPA Compliance Forecast of Expenses	9
	G. COPA Compliance Office Plan and Work Plan	9

COPA COMPLIANCE OFFICE - ANNUAL REPORT

Covering 07/01/2018 – 06/30/2019 “Reporting Period”

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 Terms of Certification, 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 Terms of Certification.

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 Certificate of Public Advantage and the Letter Authorizing the Cooperative Agreement. 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 Certificate of Public Advantage and Cooperative Agreement (“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 has been added to 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. This log categorizes communications received into: COPA Complaints, Non-COPA Complaints (e.g. service related, risk management) and Statements of Opinion. 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

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

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 Reporting Period covered by this report there were 24 COPA Complaints filed with the CCO. Details of each of these complaints have been previously reported and submitted via the CCO Quarterly Complaints Report. Additionally there were 15 Non-COPA Complaints and 46 Statements of Opinion submitted.

Complaints Summary

Quarter	Reporting Period	COPA Complaint	Non-COPA Complaint	Statement of Opinion	Total Activity by Quarter
FY19 1st Qtr	7/1/18 - 9/30/18	6	0	0	6
FY19 2nd Qtr	10/1/18 - 12/31/18	3	6	8	17
FY19 3rd Qtr	1/1/19 - 3/31/19	11	3	22	36
FY19 4th Qtr	4/1/19 - 6/30/19	4	6	16	26
Total to date	2/1/18 - 6/30/19	24	15	46	85

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 are listed in the Ballad Health FY19 Annual Report as Table A.

ii. Education/Training – The effectiveness of our COPA Compliance Program depends upon the participation in the on-going COPA Compliance initiatives and activities by each Team Member. All Team Members must know the expectations of the COPA Compliance Program, abide by these expectations, and be sensitive to situations that could lead them or others to violate these expectations. To this end the COPA Compliance Office prepared training materials to educate several constituencies across the organization regarding the COPA/CA requirements and all the measures necessary to fully comply with

these agreements. Initial training began with departments/committees deemed “Responsible Parties”. This included one-on-one interactive sessions assigning individuals responsible for producing the work products, reports and deliverables required by the TOC and CA. COPA Compliance education was developed for Ballad Health team member orientation. A computer based learning module (CBL) regarding COPA Compliance was developed and deployed for the annual employee education requirements. The COPA Compliance policies were also compiled as a CBL which was assigned to all Ballad Health team members to complete. The Ballad Health Board was provided a COPA Compliance updated 2019 educational slide presentation suitable for either group or individual review. The Ballad Health Audit and Compliance Committee were given regular updates and presentations three times throughout the year. The COPA Compliance Department has developed educational presentations specific to the departments that provide materials or certify to requirements for the periodic reports. This education is directed to frontline staff and will help to provide a better understanding of how Team Members in the departments can ensure that we meet specified requirements governing the COPA/CA.

The following department specific educational presentations have been finalized and, the COPA Compliance Department held meetings with the departmental leaders as indicated below to review those department specific educational presentations:

Department Specific Education	Meeting Date
Residency and Academics	March 11, 2019
Graduate Medical Education	March 20, 2019
Health Research	March 25, 2019
Information Technology	April 24, 2019
Finance <ul style="list-style-type: none"> ○ Finance – General ○ Payor Contracting ○ Vendor Contracting 	May 10, 2019
Physician Contracting	July 12, 2019
Quality (Pending Review)	TBD
Human Resources (Pending Review)	August 29, 2019

Two options were provided to departmental leadership:

1. Departmental leadership could present the educational materials to Team Members during routine scheduled department staff

meetings with the COPA Compliance Department Team Members available for assistance as needed

2. The COPA Compliance Department Team Members could provide department specific education to frontline Team Members

To date all Departmental leaders have opted to present the educational materials during routine staff meetings with the COPA Compliance Department staff available for assistance as needed.

iii. Policies & Procedures – The COPA Compliance Office developed policies and procedures relative to COPA Compliance which were approved by the Ballad Health Audit and Compliance Committee and by the Board. These policies were submitted to the state and commonwealth. Minor modifications were requested by the state on three of the policies. These modifications were finalized and submitted with the FY18 4th Quarter COPA Compliance report. Policies are scheduled for review annually, with next review slated for November 2019.

iv. Waivers and Modifications - Ballad Health is committed to operating the organization in compliance with the TN TOC and VA 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 Ballad 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 3 waiver requests were submitted and approved. Three requests for modifications/extensions are still in discussions regarding the final decision.

Waiver Requested

- **Neurosurgery**
 - **Request:** On August 23, 2018 pursuant to the conditions in the East Tennessee Brain and Spine (ETBS) Waiver, Ballad Health notified the Department it intends to hire one neurosurgeon to cover the demand for head and spine surgery at HVMC and JCMC.

- **Outcome:** Waiver was granted on September 26, 2018 from Commissioner John Dreyzehner, TDH.
- **Cross Credentialing throughout Ballard**
 - **Request:** Negotiated draft with Department staff for waiver through June 1, 2019.
 - **Outcome:** [Cross Credentialing Waiver](#) granted March 5, 2019, effective through February 28, 2020, from Commissioner Lisa Piercey, TDH.
- **Johnston Memorial Hospital**
 - **Request:** A request to hire two replacement Interventional Cardiologists was submitted to the states on May 17, 2019.
 - **Outcome:** A waiver was granted from Commissioner Piercey, TDH, issued May 31, 2019.

Requests for Modifications/Extensions

- **Exemption on Ambulatory Surgery Center Index due to Joint Venture/Ownership modifications**
 - **Request:** Requested extension 5/30/18. Additional extension requested 8/8/18. Claire Cowart Haltom submitted Ballard Health’s proposed revisions to Addendum 1.
 - **Outcome:** On 9/14/18 Ballard Health received a letter from Jeff Ockerman, TDH, acknowledging receipt of our request – discussions continue and we are now waiting on Addendum 1 redline approval.
- **Base Charity Care**
 - **Request:** Submitted a request to Mr. Fitzgerald for a written addendum/revision to the TOC to adjust charity reporting to a fiscal year basis to coincide with Ballard’s reporting methodology (6/20/18). Discussions and proposed revisions have been exchanged.
 - **Outcome:** TOC Amended and Restated 7/31/19.

- **Population Health Measures**

- **Request:** Ballard Request for update to measurement for purpose of aligning the metrics with the objectives of the departments of health - 6/1/18.
- **Outcome:** Discussions continue among a Metrics Group sub-committee.

v. The COPA Compliance Office maintains a SharePoint site with both wide-ranging access and limited access to enhance communication and to provide a resource for essential documents and templates. The SharePoint wide-ranging access site hosts content and resources to assist all Ballard Health Team Members. The SharePoint limited access site hosts content available only to COPA Compliance Office staff. The SharePoint site is updated regularly to ensure timely communications within the department and throughout the system.

C. COPA Compliance Office Report on Potential Violations of the TOC or CA - (TOC Exhibit F, Section 2, bullet 7). The following issues of non-compliance or potential non-compliance that occurred during FY2019 have been identified:

- In Ballard's Quarterly Report, submitted May 14, 2018, a potential noncompliance was reported after discovering that Ballard's payment invoicing system did not comply with the TOC requirement 4.03 (d). Ballard began working to adjust its payment invoicing system and had identified certain payments that would be retroactively adjusted by June 30, 2018. Ballard notified TDH on October 26, 2018 that any adjustments to patients' balances where patients were impacted had been made to ensure compliance and that the four patients who had paid in full by the time the error was caught had received refunds.
- In November of 2018, in following up on a complaint, the CCO identified that the Ancillary and Post-Acute Services Lists which were being provided did not consistently include facilities from contiguous counties to the locations of the COPA Hospitals. This issue of noncompliance was reported to VDH on November 30, 2018 and to TDH on December 3, 2018. The noncompliance was corrected, and an updated Ancillary and Post-Acute Services List was provided to the COPA Monitor on December 28, 2018.

- On 1/18/19 the COPA Compliance Office (CCO) received a complaint regarding collection efforts for services to patients insured by an out-of-network Payor. The CCO met with the Ballad Health revenue cycle/billing team to review the Addendum 1 requirements for out of network Payors and patients. The CCO asked the complainant to provide additional information. On 2/1/19 the complainant returned the specific information requested for seven (7) employee accounts. After review of the information, Ballad management agreed that per Part XII (f) of Addendum 1, these patients should not have been billed in the way they were. Instead, the formula referenced in Part XII (f) of Addendum 1 should have been applied. However, it was noted that Ballad and the state's consultants and representatives have been in discussion for several months about the application of that formula as written and that there is currently an alternative proposal for a formula or methodology to apply in such cases. As an immediate step, however, the Revenue Department suspended all collection efforts on the accounts referenced in the complaint. In a telephone conversation with the state consultant, Ballad asked if the state would allow Ballad to apply the alternative proposed formula retroactively in this and any similar case, and the state consultant believed that would be reasonable, but he would have to discuss with the Department and the Attorney General's office. Ballad is awaiting the final revision to Addendum 1 and the decision on the question of retroactive application of the proposed revised formula. ***In the meantime, all collection efforts of the patient accounts identified in the complaint continue to be suspended.***
- In preparation for this Annual Report, the CCO and the state COPA Monitor requested the Internal Audit Department of the Office of Corporate Compliance to conduct a review of the system's spending as measured against the spending commitments required by the TOC. The review is intended to address whether Ballad has met the spending requirements for FY 2019. That review is ongoing, so the CCO defers to the COPA Monitor, who will address this issue in his report.
- In June, a Ballad physician subsidiary extended an offer of employment to a cardiovascular surgeon before a waiver was requested from the Department to make such an offer; although the effective date of employment for the physician is September, 2020, Ballad recognizes that

a waiver/consent should have been obtained before making the offer of a binding employment agreement and has since requested a retroactive waiver.

- D. Each COPA Hospital is required to maintain state licensure and federal certification for participation in the Medicare and Medicaid Programs (TOC § 4.02 (a)(ii) and CA Condition 13). All Ballad Health hospitals have been surveyed and are deemed eligible for participation in Medicare and Medicaid. Ballad Health facilities are subject to periodic complaint surveys initiated either by patient complaints or through self-reported events. In each case where a survey or citation was issued, the CCO reported the event as required.
- E. COPA Compliance State Notification of Material Adverse Event (TOC §6.04 (d)(i) and CA Condition 17)
 - The state/commonwealth were notified of a Material Adverse Event on December 18, 2018. A jury returned a verdict against Wellmont Health System (“Wellmont”) in the lawsuit filed by Highlands Physicians, Inc. (HPI); that verdict is currently under appeal.
- F. COPA Compliance Forecast of Expenses (TOC Exhibit F, Section 2, bullet 9) - Below is a forecast of expenses which supports the functions of the COPA Compliance Program for FY2020

COPA Compliance Department FY2020 Projected Expenses	
Operating Expenses (Salaries, Benefits, Office Supplies & Education) & Projected Legal Fees Allocated	867,480
Projected TN COPA Fees	1,100,000
Projected VA Coop Agreement Fees	350,000
TOTAL	2,317,480

- G. COPA Compliance Office 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 Ballad Health Board.