

# After Appalachian hospitals merged into a monopoly, their ERs slowed to a crawl

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In the small Appalachian city of Bristol, Virginia, City Council member Neal Osborne left a meeting on the morning of Jan. 3 and rushed himself to the hospital.

Osborne, 36, has type 1 diabetes. His insulin pump had malfunctioned, and without a steady supply of this essential hormone, Osborne's blood sugar skyrocketed and his body was shutting down.

Osborne went to the nearest hospital, Bristol Regional Medical Center. He said he settled into a wheelchair in the emergency room waiting area, where over the next few hours he drifted in and out of consciousness and retched up vomit, then bile, then blood. After 12 hours in the waiting room, Osborne said, he was moved to an ER bed, where he stayed until he was sent to the [intensive care unit](#) the next day. In total, the council member was in the ER for about 30 hours, he said.

Osborne said his ordeal echoes stories he's heard from constituents for years. In his next crisis, Osborne said, he plans to leave Bristol for an ER about two hours away.

"I want to go to Knoxville or I want to go to Roanoke, because I do not want to further risk my life and die at a Ballad hospital," he said. "The [wait times](#) just to get in and see a doctor in the ER have grown exponentially."

Ballad Health, a 20-hospital system in the Tri-Cities region of Tennessee and Virginia, benefits from the largest state-sanctioned hospital monopoly in the United States. In the six years since lawmakers in both states waived anti-monopoly laws and Ballad was formed, ER visits for patients sick enough to be hospitalized grew more than three times as long and now far exceed the criteria set by state officials, according to Ballad reports released by the Tennessee Department of Health.

Tennessee and Virginia have so far announced no steps to reduce time spent in Ballad ERs. The Tennessee health department, which has a more direct role in regulating Ballad, has each year issued a report saying the agreement that gave Ballad a monopoly "continues to provide a Public

Advantage." Department officials have twice declined to comment to KFF Health News on Ballard's performance.

According to Ballard's latest annual report, which was released this month and spans from July 2022 to June 2023, the median time that patients spend in Ballard ERs before being admitted to the hospital is nearly 11 hours. This statistic includes both time spent waiting and time being treated in the ER and excludes patients who weren't admitted or left the ER without receiving care.

The federal government once tracked ER speed the same way. When compared against the latest corresponding federal data from 2019, which includes more than 4,000 hospitals but predates the COVID-19 pandemic, Ballard ranks among the 100 hospitals with the slowest ERs. More current federal data is not available because the Centers for Medicare & Medicaid Services retired this statistic in 2020 in favor of other measurements.

Newer data tells a similar story. The Joint Commission, a nonprofit that accredits health care organizations, collected this same measurement for 2022 from about 250 hospitals that volunteered the data, finding a median ER speed of five hours and 41 minutes—or about five hours faster than Ballard's latest annual report.

Ballad Health spokesperson Molly Luton said in an email statement that, by holding patients in the ER, where they are observed while waiting for a bed, Ballard avoids "overwhelming" its staff. Luton said ER delays are also caused by two nationwide crises: a nursing shortage and fewer admissions at nursing homes and similar facilities, which can create a backlog of patients awaiting discharge from the hospital.

Luton added that Ballard's ER time for admitted patients has dropped to about 7½ hours in the months since the company's latest annual report.

"On those issues Ballad Health can directly control, our performance has rebounded from 2022, and is now among the best in the nation," Luton said.

Luton also noted that Ballad performs better than or close to the national average on several other measurements of ER performance, including having fewer patients who leave without being treated. CMS data shows the national average is about 3%. Ballad reported 1.4% in its latest annual report.

Osborne, the Bristol council member, attributed this statistic to Ballad's monopoly.

"Just because they aren't leaving the ER doesn't mean they are happy where they are," he said. "It just means they don't have anywhere else they could be."

## **Ballad's big monopoly**

Ballad Health was formed in 2018 after [state officials](#) approved the nation's biggest hospital merger based on a so-called Certificate of Public Advantage, or COPA, agreement. COPAs have been used in about 10 hospital mergers over the past three decades, but none has involved as many hospitals as Ballad's.

State lawmakers in Tennessee and Virginia waived federal anti-monopoly laws so rival hospital systems—Mountain States Health Alliance and Wellmont Health System—could merge into a single company with no competition. Ballad is now the only option for hospital care for most of about 1.1 million residents in a 29-county region at the nexus of Tennessee, Virginia, Kentucky, and North Carolina.

The Federal Trade Commission warns that hospital monopolies lead to

increased prices and decreased quality of care. To offset the perils of Ballard's monopoly, officials required the new company to commit to a long list of special conditions, including dozens of quality-care metrics spelled out with specific benchmarks.

In its latest annual report, Ballard improved on many quality-of-care metrics over the prior year, including several that the company prioritized, but still fell short on 56 of 75 benchmarks.

ER time for admitted patients is one of those. The benchmark was set at three hours and 47 minutes in the original COPA agreement. Ballard met or nearly met this goal for three years, according to its annual reports. Then the ERs slowed.

In 2022, Ballard reported a median ER time for admitted patients of about six hours.

In 2023, it reported the same statistic at seven hours and 40 minutes.

In the latest report, ER time for admitted patients had reached 10 hours and 45 minutes.

CMS, which grades thousands of hospitals nationwide, warns on its website that timely ER care is "essential for good patient outcomes," and that more time spent in the ER has been linked to higher complication rates and delays in patients getting pain medication and antibiotics.

Ben Harder, chief of health analysis for U.S. News & World Report, said extensive ER times can be a symptom of slowdowns throughout a hospital, including in the operating room.

"A long delay in getting patients admitted is both a risk in itself, in that a test may not get conducted as promptly," Harder said. "But it's also an

indication that the hospital is backed up, and that there are problems getting patients moved from one unit to another."

Bill Christian, a spokesperson for the Tennessee Department of Health, said Ballard's rising ER times had been "noted" but did not say if the agency had taken or was considering any action. Christian directed questions about Ballard's latest stats to the company itself.

## **'A nightmare for community members'**

Ballad has also fallen short—by about \$191 million over the past five years—of its obligation to Tennessee to provide charity care, which is free or discounted care for low-income patients, according to health department documents and Ballard's latest report. The health department waived this obligation in each of the past four fiscal years. Ballard has said it would ask for another this year.

In a two-hour interview last year, Ballard CEO Alan Levine defended his company and said that because the Tri-Cities region could not support two competing hospital companies, the COPA merger had likely prevented at least three [hospital](#) closures. Levine attributed Ballard's failure to meet quality benchmarks to the pressure of the COVID pandemic and said charity care shortfalls were partly caused by Medicaid changes beyond Ballard's control.

"Our critics say, 'No Ballard. We don't want Ballard.' Well, then what?" Levine said. "Because the hospitals were on their way to being closed."

Some residents see Ballard as a savior. John King, who runs a physical therapy clinic in the core of Ballard's region, said at a public hearing last June that in multiple visits to Ballard ERs, including one for a stroke, he found their care to be quick and compassionate.



"If it weren't for Ballad Health, I literally would not be here today," King said, according to a hearing transcript.

Ballad's failures to live up to the terms of the COPA agreement were detailed in a KFF Health News investigation last September, and the company faced a new wave of criticism in the months that followed.

Local leaders in Carter County, Tennessee, in October debated but did not pass a resolution calling for Ballad to be better regulated or broken up. Tennessee Attorney General Jonathan Skrmetti, a Republican, said in an interview with the Tennessee Lookout published in November that Ballad must be constantly monitored in light of community complaints. Earlier this month, Tennessee state Rep. David Hawk (R-Greeneville), who represents a region within Ballad's monopoly, called for Levine's resignation, according to wjhl.com.

In response, Ballad Health said in a statement it has "strong relationships with the majority of elected officials" in Carter County and welcomed scrutiny from the Tennessee attorney general. Ballad said Hawk's "opinion certainly does not reflect our broader relationships" within the area. Tennessee lawmakers are also considering legislation to forbid future COPA mergers in the state, which Ballad said "risks putting more hospitals at risk for closure."

The bill was introduced by state Sen. Heidi Campbell (D-Nashville) and state Rep. Gloria Johnson (D-Knoxville), who is running for the U.S. Senate. Johnson said the bill would end Ballad's protection from antitrust laws.

"It's just been a nightmare for community members out there," Johnson said. "And they have no other option."

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