§ 4901. Reporting requirements for utilization review agents. (a) Every utilization review agent shall biennially report to the superintendent of financial services, in a statement subscribed and affirmed as true under the penalties of perjury, the information required pursuant to subsection (b) of this section.

(b) Such report shall contain a description of the following:

(1) The utilization review plan;

(2) Those circumstances, if any, under which utilization review may be delegated to a utilization review program conducted by a facility licensed pursuant to article twenty-eight of the public health law or pursuant to article thirty-one of the mental hygiene law;

(3) The provisions by which an insured, the insured's designee, or a health care provider may seek reconsideration of or appeal from adverse determinations by the utilization review agent, in accordance with the provisions of this title, including provisions to ensure a timely appeal and that an insured, the insured's designee, and, in the case of an adverse determination involving a retrospective determination, the insured's health care provider is informed of their right to appeal adverse determinations;

(4) Procedures by which a decision on a request for utilization review for services requiring preauthorization shall comply with timeframes established pursuant to this title;

(5) A description of an emergency care policy, which shall include the procedures under which an emergency admission shall be made or emergency treatment shall be given;

(6) A description of the personnel utilized to conduct utilization review including a description of the circumstances under which utilization review may be conducted by:

(i) administrative personnel;

(ii) health care professionals who are not clinical peer reviewers; and

(iii) clinical peer reviewers;

(7) A description of the mechanisms employed to assure that administrative personnel are trained in the principles and procedures of intake screening and data collection and are appropriately monitored by a licensed health care professional while performing an administrative review;

(8) A description of the mechanisms employed to assure that health care professionals conducting utilization review are:

(i) appropriately licensed, registered or certified; and

(ii) trained in the principles, procedures and standards of such utilization review agent.

(9) A description of the mechanisms employed to assure that only a clinical peer reviewer shall render an adverse determination;

(10) Provisions to ensure that appropriate personnel of the utilization review agent are reasonably accessible by toll-free telephone:

(i) not less than forty hours per week during normal business hours, to discuss patient care and allow response to telephone requests, and to ensure that such utilization review agent has a telephone system capable of accepting, recording or providing instruction to incoming telephone calls during other than normal business hours and to ensure response to accepted or recorded messages not less than one business day after the date on which the call was received; or

(ii) notwithstanding the provisions of subparagraph (i) of this paragraph, not less than forty hours per week during normal business hours, to discuss patient care and allow response to telephone requests, and to ensure that, in the case of a request submitted pursuant to subsection (a) of section four thousand nine hundred three of this title or an expedited appeal filed pursuant to subsection (b) of section four thousand nine hundred four of this title, on a twenty-four hour a day, seven day a week basis;

(11) The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical and treatment records are followed;

(12) A copy of the materials to be disclosed to an insured or prospective insured pursuant to sections three thousand two hundred seventeen-a or four thousand three hundred twenty-four of this chapter, whichever is applicable, and this title;

(13) A description of the mechanisms employed by the utilization review agent to assure that all subcontractors, subvendors, agents or employees affiliated by contract or otherwise with such utilization review agent will adhere to the standards and requirements of this title; and

(c) The clinical review criteria and standards contained within the utilization review plan shall not be subject to disclosure pursuant to the provisions of article six of the public officers law.