§ 4912. Standards for certification. 1. The commissioner shall develop an application for certification. At a minimum, applicants shall provide:

(a) a description of the qualifications of the clinical peer reviewers retained to conduct external appeals of final adverse determinations, including such reviewers' current and past employment history and practice affiliations;

(b) a description of the procedures employed to ensure that clinical peer reviewers conducting external appeals are:

(i) appropriately licensed, registered or certified;

(ii) trained in the principles, procedures and standards of the external appeal agent; and

(iii) knowledgeable about the health care service which is the subject of the final adverse determination under appeal;

(c) a description of the methods of recruiting and selecting impartial clinical peer reviewers and matching such reviewers to specific cases;

(d) the number of clinical peer reviewers retained by the external appeal agent, and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review;

(e) a description of the policies and procedures employed to protect the confidentiality of individual medical and treatment records in accordance with applicable state and federal laws;

(f) a description of the quality assurance program established by the external appeal agent pursuant to paragraph (c) of subdivision two of this section;

(g) the names of all corporations and organizations owned or controlled by the external appeal agent or which owns or controls such agent, and the nature and extent of any such ownership or control;

(h) the names and biographies of all directors, officers, and executives of the external appeal agent;

(i) an experimental and investigational treatment review plan to conduct appeals pursuant to subparagraph (B) of paragraph (d) of subdivision two of section forty-nine hundred fourteen of this title; and

(j) a description of the fees to be charged by agents for external appeals.

2. The commissioner shall, at a minimum, require an external appeal agent to:

(a) appoint a medical director, who is a physician in possession of a current and valid non-restricted license to practice medicine. Such director shall be responsible for the supervision and oversight of the external appeal process;

(b) develop written policies and procedures governing all aspects of the appeal process, including, at a minimum:

(i) procedures to ensure that appeals are conducted within the time frames specified in section forty-nine hundred fourteen of this title, and any required notices are provided in a timely manner;

(ii) procedures to ensure the selection of qualified and impartial clinical peer reviewers. Such reviewers shall be qualified to render determinations relating to the health care service which is the subject of the final adverse determination under appeal;

(iii) procedures to ensure the confidentiality of medical and treatment records and review materials; and

(iv) procedures to ensure adherence to the requirements of this title by any contractor, subcontractor, subvendor, agent or employee affiliated by contract or otherwise with such external appeal agent;

(c) establish a quality assurance program. Such program shall include written descriptions, to be provided to all individuals involved in such program, of the organizational arrangements and ongoing procedures for the identification, evaluation, resolution and follow-up of potential and actual problems in external appeals performed by the external appeal agent and to ensure the maintenance of program standards pursuant to this section;

(d) establish a toll-free telephone service to receive information on a 24-hour-a-day 7-day-a-week basis relating to external appeals pursuant to this title. Such system shall be capable of accepting, recording or providing instruction to incoming telephone calls during other than normal business hours;

(e) develop procedures to ensure that:

(i) appropriate personnel are reasonably accessible not less than forty hours per week during normal business hours to discuss patient care and to allow response to telephone requests, and

(ii) response to accepted or recorded messages shall be made not less than one business day after the date on which the call was received; and

(f) be accredited by a nationally recognized private accrediting organization.

3. No entity shall be qualified to submit such request for application if it owns or controls, is owned or controlled by, or exercises common control with, any of the following:

(a) any national, state or local illness, health benefit or public advocacy group;

(b) any national, state or local society or association of hospitals, physicians, or other providers of health care services; or

(c) any national, state or local association of health care plans.

4. A health care plan shall transmit, and an external appeal agent shall be authorized to receive and review, an enrollee's medical and treatment records in order to conduct an external appeal pursuant to this title.

5. An external appeal agent shall provide ready access to the commissioner to all data, records, and information collected and maintained concerning such agent's external appeal activities.

6. An external appeal agent shall agree to provide the commissioner such data, information, and reports as the commissioner determines necessary to evaluate the external appeal process established pursuant to this title.

7. The commissioner shall provide, upon the request of any interested person, a copy of all non-proprietary information filed with the commissioner by the external appeal agent. The commissioner may charge a reasonable fee to the interested person for reproducing the requested information.