



Department of Financial Regulation

89 Main Street

Montpelier, VT 05620-3103

www.dfr.vt.gov

INSURANCE DIVISION

LICENSE APPLICATION MENTAL HEALTH REVIEW AGENT

UPDATED: NOVEMBER 19, 2013

INTRODUCTION

Persons or entities that perform managed care reviews for mental health care services in the State of Vermont are required to be licensed under Title 8 V.S.A., § 4089a, and Regulation H-2011-01. *"All parties to any contracts between a third party payor and any person or entity conducting service review activities, directly or indirectly, whether affiliated or not, are responsible for compliance with the requirements and standards in the rule and all other applicable state and federal laws and rules, but not limited to Department Rules H-2009-03 and H-2011-01. A license is not transferrable or assignable and is valid only for the person or entity named in the application."*

Review agents must complete the application requirements outlined in the following pages. The Department of Financial Regulation (Department) employs a contractor to evaluate applications, to provide feedback regarding non-compliant documentation, and summarizes their findings. The Department will issue a findings evaluation report. The process of evaluating a review agent application is iterative and provides review agents with information about their application that can be perfected to meet the requirements if not fully met during the initial compliance evaluation. Applicants will have the opportunity to discuss identified issues and provide additional information until full compliance has been achieved. A copy of the evaluation tool used to assess the mental health review agent application is provided in **Appendix V**.

APPLICATION INSTRUCTIONS

Applications may be submitted in either a hard copy or electronic format. If the submission is in a hard copy format, it should be provided in a 3-ring binder, indexed with each page consecutively numbered, together with tabs to denote each part of the application. Electronic submissions may be provided on disc or via email, and must be indexed by the categories shown below and in **Appendix II**.

The application must contain all the required documentation shown below in the following order:

- Cover Letter
- Review Agent Information Form (**Appendix I**)
- Table of Contents (include names of appendices and attachments)
- Description of Review Agent Business Services
- Licensure Application Requirements (**Appendix II**)
- Declarations of Agreement (**Appendix III**)
- Any miscellaneous information submitted, but not referenced elsewhere in the application.

Two (2) copies of the application must be submitted. One copy to the Department and one copy to the Department's mental health review agent contractor. Contact information is provided in **Appendix IV**. Applications may be submitted in either a hard copy or electronic format.

Each application shall include an application fee of \$200.00 in the form of a check made payable to the State of Vermont. In addition, Title 8 V.S.A. §4089a(h) provides, "A review agent shall pay any additional expenses incurred by the commissioner to examine and investigate an application or an amendment to an application."

APPENDIX I

REVIEW AGENT INFORMATION

Please complete and submit the following information with your license application:

Date: _____

I. REVIEW AGENT INFORMATION:

Review Agent Name: _____

Business Address: _____

City: _____ State: _____ ZIP: _____

Telephone Number(s): _____

Business Website URL: _____

Federal Employer ID Number: _____

II. CONTACT INFORMATION:

Contact Name: _____

Contact Title: _____

Address (if different from above):

City: _____ State: _____ Zip: _____

Telephone Number(s): _____

Fax Number: _____

Email Address: _____

APPENDIX II

LICENSURE APPLICATION REQUIREMENTS

The application must submit the following requirements. Each of the numbered sections listed below should be included in the application in the order shown below under individual tabbed and labeled headings. **Please check all that apply and submit with your application.**

1. Complete the application information form (**Appendix A**) that includes:
 - Applicant's name
 - Business address
 - Contact name
 - Contact's telephone number
 - Contact email address
 - Applicant's website address
 - Federal employer ID number

2. Submit the number of lives for whom the applicant is obligated to perform mental health and substance abuse service reviews in each of the following categories:
 - The number of lives proposed to be covered by health benefit plans subject to the Department's jurisdiction, including:
 - The number of lives that reside in Vermont, and
 - The number of lives that do not reside in Vermont, if known.
 - None at this time
 - The number of lives currently covered by health benefit plans subject to the Department's jurisdiction, including:
 - The number of lives that reside in Vermont, and
 - The number of lives that do not reside in Vermont, if known.
 - None at this time
 - The number of lives proposed to be or currently covered by health benefit plans not subject to the Department's jurisdiction
 - None at this time
 - The total number of lives nationwide for which the review agent is responsible

3. Submit an organizational chart, that identifies:
 - all positions within the organization,
 - a list of officers and directors of the review agent
 - the person or persons with responsibility for supervising the service review staff
 - the location within the organization of the position or positions responsible for supervising the service review staff
 - Vermont-licensed physicians responsible for reviewing adverse benefit determinations prior to their issuance
 - the names and Vermont license numbers of all physicians responsible for reviewing adverse benefit determinations

4. Submit a statement explaining any changes in name or acquisition of a majority equity interest by a single individual or entity of the review agent at any time during the previous two calendar years. Check here, if this does not apply

5. If applicable, submit an explanation of all instances during the past five years in which the officer(s), director(s), review agent, review agent medical director(s) and/or any entity in which those individuals held a similar position have:
 - had a license, permit, registration or other certificate of authority denied, revoked, suspended, limited, conditioned or otherwise sanctioned by a licensing entity in any jurisdiction;
 - been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal or state laws, or law of another country;
 - been subject to any non-confidential business-related administrative, civil or criminal investigations, regulatory actions, disciplinary actions, lawsuits, arbitrations or other proceedings, except for any such actions initiated by the Department.
 - any such disclosures shall include a description of the matter, including:
 - dates;
 - how the matter was resolved, if not a confidential settlement; and
 - the subsequent history of the matter, including:
 - details of any settlement
 - restrictions
 - conditions
 - limitations
 - penalties
 - Check here, if this does not apply

6. Submit information about the professions performing service review activities, including:
 - number of personnel
 - licensure type and status
 - qualifications
 - compensation structure (information about compensation structure shall not include information about salaries, but shall include information about any bonus or incentive structures, not to include amounts)

7. Submit the following documentation of any URAC, NCQA or other accreditation, including:
 - level and duration of accreditation,
 - whether during the past five years any accreditation has been denied, revoked, suspended, limited, conditioned or otherwise sanctioned by the accrediting entity; and
 - whether the business office(s) location of the review agent responsible for Vermont service reviews has specifically been accredited;

8. Submit written policies and procedures regarding:
 - Confidentiality of member information
 - General description of utilization management program, to include:
 - Utilization review procedures
 - Grievance procedures
 - Access to emergency and urgent services
 - Record keeping regarding UM and grievance review decisions; and submit
 - Adverse benefit determination letter templates, used for initial service review, and grievance reviews, if applicable, or

- a detailed explanation of how such notices to members are handled if not by the review agent
 - Use of Department-approved Vermont Rights Notices
9. Submit a list of clinical review criteria used by the applicant including:
- the titles, sources and a brief description of all clinical review criteria, including those that are proprietary;
 - any other resources used by service review staff, including interpretive guidelines for use with the criteria; and
 - an attestation by the review agent medical director that the clinical review criteria:
 - are informed by generally accepted medical or scientific evidence and consistent with generally accepted practice parameters as recognized by health care professions in the same specialties as typically provide the procedure or treatment, or diagnose or manage the condition; and
 - have been reviewed and updated at least annually, taking into account input from practicing mental health care providers, including providers under contract with the review agent, if any. This shall not be construed to require review agents to make modifications to nationally-recognized guidelines.
10. Submit a detailed description of how the applicant will:
- train and evaluate all service review staff at least annually to ensure consistent and clinically appropriate application of clinical review criteria
 - how the review agent will assess accuracy and inter-reviewer reliability
11. Submit evidence of liability insurance coverage sufficient to ensure financial responsibility in the event of a claim, settlement or judgment against the review agent. Evidence would include a copy of a current liability insurance policy with the insurance company contact information included.
12. Submit a description of the applicant's business activities in the State of Vermont other than mental health or substance abuse service review, if any, and evidence of registration and/or licensure if required for those activities; and if the applicant is not licensed as an insurer by the Department, an attestation that the applicant does not engage in the business of insurance in Vermont.



APPENDIX III

AGREEMENTS

Applications should include a declaration in its application regarding each of the following agreements:

- A review agent shall not agree with any business entity or third-party payor that the payment to the review agent shall include an incentive or contingent fee arrangement based on the reduction of medically necessary care for mental health services.
- All agreements between a review agent and a business entity or person regarding the review of mental health care shall be in writing. If such entity or person is engaging in activity that meets the definition of "service review" under this Rule, it must be licensed under this Rule. In addition, any contracted business entity or person to whom the review agent delegates activities must meet the requirements of Section 1.3(F) of Department Rule H-2009-03.
- A review agent that enters into a contract with a health insurer for the purpose of administering mental health benefits shall COOPERATE with the health insurer to ensure that the portion of the health insurer's premium rate attributable to the coverage of mental health benefits under Title 8 V.S.A. §§ 4062, 4513, 4584, or 5104 is not excessive, inadequate, unfairly discriminatory, unjust, unfair, inequitable, misleading or contrary to the laws of this State prior to implementation.

Premium rates submitted by a health insurer are subject to Department review and approval at least 90 days prior to the first intended use of that premium rate and shall include the following information obtained from the contract currently in effect between the health insurer and the mental health review agent as of the date the premium rate filing is submitted regarding the premium rate component attributable to coverage for mental health benefits administered by a review agent:

- the amount that the health insurer has agreed to pay a review agent for administering mental health benefits; and
- an itemized detailed description of the benefits and administrative services to be financed and/or administered by the review agent or managed care organization;
- the degree of insurance risk assumed by the review agent;
- the period of time that the rates are designed to be effective;
- the amount of the rate(s), variations by benefit level (if any), and any other variations that are contemplated;
- the components of the proposed rates, including the expected claims cost, the cost of administration, the profit margin, and any other component not otherwise identified;
- any other relevant information requested by the Department; and
- a statement signed by a member of the American Academy of Actuaries attesting that the filing is consistent with actuarial standards of practice and meets the requirements of the Code of Professional Conduct of the American Academy of Actuaries.

APPENDIX IV

CONTACT INFORMATION

**Insurance Division
Department of Financial Regulation (DFR)**

Dawn S. Bennett
Health Care Administrator
Email address: dawn.bennett@state.vt.us

Insurance Division
Department of Financial Regulation
89 Main Street
Montpelier, VT 05620-3101

Telephone: (802) 828-2923
FAX: (802) 828-2949
Website: www.bishca.state.vt.us

**Department's Mental Health Review Agent Contractor:
Navigant Consulting, Inc.**

Mary Day
Managing Consultant
Email address: mary.day@navigant.com

Telephone: (802) 522-6604

APPENDIX V

Vermont Mental Health Review Agent License Application Compliance Evaluation Scoresheet

APPLICATION REQUIREMENTS – APPENDIX II <i>RULE H-2011-01 CITATION IN ITALICS</i>	SCORE (Meets/Does Not Meet)	EXPLANATION/DISCUSSION
<p># 1 - Section 6 (A) 1 Complete the application information form:</p> <ul style="list-style-type: none"> • Applicants name • Business address • Contact name • Contact’s telephone number • Contact email address • Applicants website address • Federal employee ID # 		
<p># 2 - Section 6 (A) 2 a Submit the number of lives for whom the applicant is obligated to perform mental health and substance abuse service reviews in each of the following categories:</p> <ul style="list-style-type: none"> • the number of lives proposed to be covered by health benefit plans subject to the Department’s jurisdiction, including: <ul style="list-style-type: none"> ○ the number of lives that reside in Vermont and ○ the number of lives that do not reside in Vermont, if known; ○ none at this time 		
<p># 2 - Section 6 (A) 2 a Submit the number of lives for whom the applicant is obligated to perform mental health and substance abuse service reviews in each of the following categories:</p> <ul style="list-style-type: none"> • the number of lives currently covered by health benefit plans subject to the Department’s jurisdiction, including: <ul style="list-style-type: none"> ○ the number of lives that reside in Vermont and ○ the number of lives that do not reside in Vermont if known; ○ none at this time 		
<p># 2 - Section 6(A) 2 b Submit the number of lives for whom the applicant is obligated to perform mental health and substance abuse service reviews in each of the following categories:</p> <ul style="list-style-type: none"> • the number of Vermont lives proposed to be or currently covered by health benefit plans not subject to the Department’s jurisdiction; 		

APPLICATION REQUIREMENTS – APPENDIX II <i>RULE H-2011-01 CITATION IN ITALICS</i>	SCORE (Meets/Does Not Meet)	EXPLANATION/DISCUSSION
<ul style="list-style-type: none"> ○ none at this time 		
<p># 2 - Section 6(A) 2 c Submit the number of lives for whom the applicant is obligated to perform mental health and substance abuse service reviews in each of the following categories:</p> <ul style="list-style-type: none"> • the total number of lives nationwide for which the review agent is responsible. 		
<p># 3 and 4 - Section 6(A) 3 and 4 Submit an organizational chart, that identifies:</p> <ul style="list-style-type: none"> • all positions within the organization • a list of officers and directors of the review agent • the person or persons with the responsibility for supervising the service review staff • the location within the organization of the position or positions responsible for supervising the service review staff • Vermont-licensed physicians responsible for reviewing adverse benefit determinations prior to their issuance • The names and Vermont license numbers of all physicians responsible for reviewing adverse benefit determinations 		
<p># 5 - Section 6(A) 5 Submit a statement explaining any changes in name or acquisition of a majority equity interest by a single individual or entity of the review agent at any time during the previous two calendar years.</p> <ul style="list-style-type: none"> • Indicate in the statement if this does not apply. 		
<p># 6 - Section 6(A) 6 (a) If applicable, submit an explanation of all instances during the past 5 years in which the officer(s), director(s), review agent, review agent medical director(s) and/or any entity in which those individuals held a similar position have:</p> <ul style="list-style-type: none"> • had a license, permit, registration or other certificate of authority denied, revoked, suspended, limited, conditioned or otherwise sanctioned by a licensing entity in any jurisdiction; <p>Any such disclosures shall include a description of the matter, including dates; how the matter was resolved, if not a confidential settlement; and the subsequent history of the matter, including details of any settlement, restrictions, conditions, limitations and penalties.</p> <ul style="list-style-type: none"> • Indicate in the statement if this does not apply. 		

APPLICATION REQUIREMENTS – APPENDIX II <i>RULE H-2011-01 CITATION IN ITALICS</i>	SCORE (Meets/Does Not Meet)	EXPLANATION/DISCUSSION
<p># 6 - Section 6(A) 6 (b) If applicable, submit an explanation of all instances during the past 5 years in which the officer(s), director(s), review agent, review agent medical director(s) and/or any entity in which those individuals held a similar position have:</p> <ul style="list-style-type: none"> • been subject to a cease & desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating federal or state laws or law of another country <p>Any such disclosures shall include a description of the matter, including dates; how the matter was resolved, if not a confidential settlement; and the subsequent history of the matter, including details of any settlement, restrictions, conditions, limitations and penalties. Indicate in the statement if this does not apply.</p> <ul style="list-style-type: none"> • Indicate in this statement if this does not apply. 		
<p># 6 - Section 6(A) 6 (c) If applicable, submit an explanation of all instances during the past five years in which the officer(s), director(s), review agent, review agent medical director(s) and/or any entity in which those individuals held a similar position have:</p> <ul style="list-style-type: none"> • been subject to any non-confidential business related administrative, civil or criminal investigations, regulatory actions, disciplinary actions, lawsuits, arbitrations or other proceedings, except for any such actions initiated by the Department. <p>Any such disclosures shall include a description of the matter, including dates; how the matter was resolved, if not a confidential settlement; & the subsequent history of the matter, including details of any settlement, restrictions, conditions, limitations and penalties.</p> <ul style="list-style-type: none"> • Indicate if not applicable 		
<p># 7 - Section 6(A) 7 Submit information about the professions performing service review activities, including:</p> <ul style="list-style-type: none"> • number of personnel • licensure type and status • qualifications • compensation structure (information about compensation structure shall not include information about salaries, but shall include information about any bonus or incentive 		

APPLICATION REQUIREMENTS – APPENDIX II <i>RULE H-2011-01 CITATION IN ITALICS</i>	SCORE (Meets/Does Not Meet)	EXPLANATION/DISCUSSION
structures, not to include amounts)		
<p># 8 - Section 6(A) 8 Submit documentation of any URAC, NCQA or other accreditation, including:</p> <ul style="list-style-type: none"> • level and duration of accreditation • whether during the past 5 years any accreditation has been denied, revoked, suspended, limited, conditioned or otherwise sanctioned by the accrediting entity; and • whether the business office(s) location of the review agent responsible for Vermont service reviews has specifically been accredited; 		
<p># 9 - Section 6(A) 9 ¹ Submit copies of policies and procedures regarding each of the topics listed below. Identify the sections within your documents that are intended to meet the following Rule H-2009-03 requirements:</p> <ol style="list-style-type: none"> 1. Rule H-2009-03, Section 2.1 - Confidentiality of member information 2. Rule H-2009-03, Section 3.1 - General Description of Utilization Management Program 3. Rule H-2009-03, Section 3.2 - Utilization management process 4. Rule H-2009-03, Section 2.4 - Grievance processes 5. Rule H-2009-03, Section 3.3 - Access to Emergency and Urgent Services 6. Rule H-2009-03, Section 2.2 - Oral and written communications procedures and disclosures to members/providers 7. Rule H-2009-03, Section 3.3 - Record keeping regarding UM & grievance review decisions 8. Rule H-2009-03, Section 3.2 - Adverse benefit determination letter templates, used for initial service review, and grievance reviews, if applicable, or a detailed explanation of how such notices to members are handled if not by the review agent 	<p>1.</p> <p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p> <p>6.</p> <p>7.</p> <p>8.</p>	<p>1.</p> <p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p> <p>6.</p> <p>7.</p> <p>8.</p>
<p># 10 - Section 6 (A) 10 Submit a list of clinical review criteria that include:</p> <ul style="list-style-type: none"> • the titles, sources and a brief description of all clinical review criteria, including those that are proprietary; 		

¹ Please note: Rule H-2011-01 and Rule H-2009-03 work in tandem regarding compliance for service review and grievance requirements.

APPLICATION REQUIREMENTS – APPENDIX II <i>RULE H-2011-01 CITATION IN ITALICS</i>	SCORE (Meets/Does Not Meet)	EXPLANATION/DISCUSSION
<ul style="list-style-type: none"> any other resources used by service review staff, including interpretive guidelines for use with the criteria; and 		
<p># 10 - Section 6 (A) 10 a an attestation by the review agent medical director that the clinical review criteria:</p> <ul style="list-style-type: none"> are informed by generally accepted medical or scientific evidence and consistent with generally accepted practice parameters as recognized by health care professions in the same specialties as typically provide the procedure or treatment, or diagnose or manage the condition; and 		
<p># 10 - Section 6 (A) 10 b have been reviewed and updated at least annually, taking into account input from practicing mental health care providers, including providers under contract with the review agent, if any. This shall not be construed to require review agents to make modifications to nationally-recognized guidelines;</p>		
<p># 11 - Section 6(A) 11 Submit a detailed description of how the applicant will:</p> <ul style="list-style-type: none"> train and evaluate all service review staff at least annually to ensure consistent and clinically appropriate application of clinical review criteria how the review agent will assess accuracy and inter-reviewer reliability 		
<p># 12 - Section 6(A) 12 Submit evidence of liability insurance coverage sufficient to ensure financial responsibility in the event of a claim, settlement or judgment against the review agent. Evidence would include a copy of a current liability insurance policy with the insurance company contact information included.</p>		
<p># 13 - Section 6(A) 13 Submit a description of the applicant’s business activities in the State of Vermont other than mental health or substance abuse service review, if any, and evidence of registration and/or licensure if required for those activities; and if the applicant is not licensed as an insurer by the Department, an attestation that the applicant does not engage in the business of insurance in Vermont</p>		

APPLICATION REQUIREMENTS – APPENDIX III <i>RULE H-2011-01 CITATION IN ITALICS</i>	SCORE	EXPLANATION/DISCUSSION
<p>Agreement <i>Section 9 (A)</i> Submit a declaration that:</p> <ul style="list-style-type: none"> A review agent shall not agree with any business entity or third-party payor that the payment to the review agent shall include an incentive or contingent fee arrangement based on the reduction of medically necessary care for mental health services. 		
<p>Agreement <i>Section 9 (B)</i> Submit a declaration that:</p> <ul style="list-style-type: none"> All agreements between a review agent and a business entity or person regarding the review of mental health care shall be in writing. If such entity or person is engaging in activity that meets the definition of “service review” under this Rule, it must be licensed under this Rule. In addition, any contracted business entity or person to whom the review agent delegates activities must meet the requirements of Section 1.3(F) of Department Rule H-2009-03. 		
<p>Agreement <i>Section 9 (C)</i> Submit a declaration that:</p> <ul style="list-style-type: none"> A review agent, that enters into a contract with a health insurer for the purpose of administering the health insurer’s mental health benefits shall COOPERATE with the health insurer to ensure that the portion of the health insurer’s premium rate attributable to the coverage of mental health benefits under Title 8 V.S.A. §§ 4062, 4513, 4584, or 5104 is not excessive, inadequate, unfairly discriminatory, unjust, unfair, inequitable, misleading or contrary to the laws of this State prior to implementation. 		