

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON AGING

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February 7, 2017

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HELD AT: Council Chambers - City Hall

B E F O R E: MARGARET S. CHIN
Chairperson

COUNCIL MEMBERS: Karen Koslowitz
Deborah L. Rose
Chaim M. Deutsch
Mark Treyger
Paul A. Vallone
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A P P E A R A N C E S (CONTINUED)

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Caring Kind

[sound check, pause]

CHAIRPERSON CHIN: Good afternoon. Today is February 7, 2017. My name is Margaret Chin, and I'm the Chair of the Committee on Aging. The goal of our hearing today is to follow up with the city's Department for the Aging on Local Law 9 of 2015, which requires social adult daycare programs that do not receive city funding to registered with the Department for the Aging and adhere to the same standards as city funded programs. Social Adult Daycare programs provide functionally challenged individuals with specialized services for older adults and offer a protective setting during part of the day. As the city's senior population grows Social Adult Daycare programs are increasingly becoming a critical part of the city's care service system. These programs can be a valuable lifeline for families providing care to those suffering from debilitating diseases such as Alzheimer's and other forms of dementia. Social Adult Daycare programs offer a brief respite for families of these individuals who can rest easy knowing their loved ones are in safe care facilities with trained staff who can improve the quality of their lives. The city

currently funds nine Social Adult Daycare programs, and these facilities provide clear and measurable data on the individual who attends these facilities. However, at the most recently DFTA count, there are 283 Social Adult Daycare facilities that do not receive city funding, and up until the passage of local law of 2015, these facilities operate largely without any oversight whatsoever. Local Law 9 appointed an ombudsperson to receive complaints and investigate information regarding these mostly for-profit Social Adult Daycare programs providers to prevent a repeat of the high profiled Medicaid fraud cases from just a few short years ago. The committee appreciates and valued the incredible work that these providers offer to some of the city's most vulnerable populations and Local Law 9 ensures that the few bad actors among them would be held to account if they try to fraudulently exploit the state's Managed Long-Term Care Reimbursement Program. In January 2017, we received the second report from the DFTA ombudsperson on Social Adult Daycare complaints, and the committee has several follow-up questions with regard to the structure of the report, the investigation of the complaints and how DFTA provides notice of violations

when these providers do not adhere to the rules. The committee looks forward to hearing how the Department for the Aging and its Social Adult Daycare ombudsperson are addressing the complaints outlined in its most recent report. We also hope to hear from the City's Social Adult Daycare centers, and their experience with the ombudsperson's office thus far. I would like to thank all the advocates and Social Adult Daycare providers that came here to testify today. I would also like to thank the Aging Committee staff Alex Paulenoff, Emily Rooney, and Dohini Sompura as well as my Director of Legislation and Budget Vincent Fang for all their hard work on preparing for this hearing. With that said, I would like to note that we have been joined by Council Member Vallone and Council Member Deutsch. Thank you. I would like to call up the first panel. Fran Winter, Deputy Commissioner of Program Operations at DFTA; Monica Parikh from DFTA and also Dr. Robin Findley, Assistant Commissioner of Health Care from DFTA, and our counsel will swear you in.

LEGAL COUNSEL: Would you please raise your right hand. Do you swear or affirm to tell the

truth, the whole truth, and nothing but the truth in your testimony today? Thank you.

DR. ROBIN FINLEY: Good afternoon
Chairperson Chin and member of the Aging Committee.
I'm Dr. Robin Finley, Assistance Commissioner for the Bureau of Healthcare Connections at the New York City Department for the Aging, DFTA. I'm joined by Fran Winter, Deputy Commissioner for Program Operations, and Monica Parikh from the Office of the General Counsel of DFTA. On behalf of Commissioner Donna Corrado I'd like to thank you for this opportunity to update you on the implementation of Local Law 9 of 2015 in relation to regulating Social Adult Daycare. Social Adult Daycare, SADC or SADC is a structured program that offers a productive setting to functionally impaired individuals with either cognitive or physical frailty. Generally, these programs provide socialization opportunities, structured activities, personal care, meals, supervision and monitoring. Additional SADC services may include activities designed to maintain and improve their living skills, transportation, caregiver assistance and case coordination. Medical Adult day program by contrast are affiliated

primarily with nursing homes. These programs provide social activities as well as more intensive health and therapeutic services like occupational and physical therapy. DFTA currently monitors ten Social Adult Daycare programs that are supported by Council discretionary funding. As you know, the environment for operating SADC programs has changed with the development of the long-term care service and finance models and New York's Medicaid program. The authorization of Social Adult Daycare as a Medicaid covered benefit available through the Managed Long-Term Care MLTC, plans has led to an increase in the opening of new-of new SADC programs throughout the five boroughs most notably in Brooklyn and Queens. As a result of mandated changes by the Governor's Medicaid Redesign Team, there's been a massive influx of Medicaid beneficiaries into MLTCs, many of whom require personal care. Since 2011 when New York City enrollment in Medicaid MLTCs was fewer than 30-30,000 individuals, enrollment has soared to more than 2.6 million individuals in 2016. To respond both to the expansion of Medicaid authorized services as well as to the larger number of the NOV's, the MLTC plans have broadened their product lines by contrasting with

SADC programs, which are a less expensive community based support service. As these SADC providers are being paid and contracted with MLTC plans who receive their funding through the State Medicaid program, primarily oversight responsibility therefore rests with the State Department of Health. It is precisely for this reason that it is the state that is obligated to ensure the quality of the services provided, and to protect the integrity of the taxpayer from the program. Following are several actions taken by the state beginning in 2015 in response to the reported problems related to Social Adult Day programs. The state Department of Health, DOH, has established a specific requirement that MLTC plans assess SADC entities for compliance with the minimum New York State Office on Aging, NYSOFA requirements prior to entering in a contractual relationship for provision service. DOH also issued a policy memo to remind MLTC plans that Social Adult Day entities must comply with the NYSOFA regulations as per contractual requirements. In addition, MLTCs are required to conduct an assessment of the cognitive and physical status of all potential Social Adult Day participant prior to authorizing

attendance. MLTC plans are required to conduct initial and annual on-site visits to all Social Adult Day contractors in order to monitor compliance with the minimum requirements. MLTCs are prohibited from contracting with any entity that does not meet NYSOFA requirements. DOH also requires MLTC plans to maintain documentation and compliance in their records for all related activities. Since May of 2015, DOH has required that all MLTC contracted Social Adult Days in the state self-certify annually with the New York State Office of the Medicaid Inspector General, OMIG, indicating that they are in compliance with NYSOFA requirements.

Local Law 9 of 2015, as you know, Social Adult Day programs operating within New York City to register with DFTA, set forth civil penalties for violations of NYSOFA, Social Adult Day program regulations regarding SADC program operations, and designed DFTA as the SADC Ombuds office. Since July of 2015, DFTA began accepting Social Adult Day registration as mandated under the Local Law 9. As of December 30th, 2016, 298 individual sites have registered, although 15 sites have since closed since they registered. Of the remaining 283 active sites,

122 are in Brooklyn, 93 in Queens, 29 in Manhattan, 27 in the Bronx and 12 in Staten Island. As required by Local Law 9, DFTA has requested and received the 2015 and 2016 lists of New York State OMIG Certified Social Adult Day programs. We're working to ensure that OMIG certified included in these lists are registered with the SADC Ombuds Office. The Electronic system developed by DFTA for registration and to receive comments, inquiries and complaints has been effective in the tracking of activity to date. During Calendar Year 2016, 50 complaints were received involving 39 distinct programs. Of these 39 programs 11 had multiple complaints levied against them. In some instances one individual sent numerous complaints while in other cases, several individuals made similar complaints about the same program. One of these 11 programs has since closed. The types of complaints received by the Ombus office abroad a lack of activities, facility problems including being dirty, overcrowded, sighting of vermin, poor food quality or lack of credentialed food handlers, allegations of Medicaid Fraud through the use of financial incentives, falsified participant eligibility and staff qualifications. Participant

terminations is included, fighting and consumption of substances on site, untrained and respectful staff and transportation issues such as scheduling unavailability. Many complaints were received anonymously, although some individuals provided a name, but did request anonymity with regard to sharing complaint information beyond the Ombuds Office. Some complainants acknowledge that they were former employees. Based on responses the Ombuds office has received from SADCs following our notification of their complaints, it appears that complaints may also have been submitted by competitors. Two complaints revealed that both programs were not registered with the SADC Ombuds Office. One had since registered while registration is pending on the second site. The Ombuds Office is following up on this program.

Local Law 9, as you're aware, required that the SADCs prominently post a sign on site that indicates how to contact the Ombuds Office should individuals have comments or complaints regarding the SADC. As part of its annual outreach to all registered SADC programs, translated SADC Ombuds Office posters were emailed and mailed to all

registered programs in April of 2015. At that time, the poster was made available in seven languages: Chinese, English, Haitian-Creole, Italian, Korean, Russian and Spanish. A request was subsequently received from one program for two additional languages: Hindi and Gujarati, which were fulfilled. As new programs register, poster in all nine languages are provided by email and mail. The email communications includes a link to DFTA's website where it sends its information on Social Adult Day program resides including the test of Local Law 9, access to the registration form, signage and NYSOFA standards. Last month an email was sent to the current 283 registered programs reminding them about the requirement to prominently display the Ombuds Office posters, and to respond to DFTA an acknowledgement of receipt of this notification, and to inform them that the Ombuds Office may conduct random, unannounced visits to confirm postage of the signage. Translations or participant rights have also been completed-completed and emailed to all registered SADCs. The 26 MLTCs and New York City contracting with sites, will be notified of these Ombuds Office transmissions. We also have, just as

an aside, samples of the signage that—for the Social Adult Daily Ombus and also for the participant rights if you'd like to see them.

The SADC Ombuds Office procedure is as follows: Upon receipt of complaints, each is reviewed and log in our database. We have an acknowledgement of receipt sent to the complainant if contact information was provided. Complaints are then triaged for response based on complaint content. The SADC Ombuds Office makes a determination as to whether the complaint suggested referral to our city and to our state partners for their area of expertise, and/or a site visit to be conducted by the Ombuds Office. Site visits are made by Ombuds Office in response to complaints regarding participant safety of lack of physical access or egress. All complaints and relevant correspondence are sent to the SAD in question, their contracted MLTCs and the New York State oversight agencies, which are the Department of Health, OMIG and NYSOFA. A summary communication of all action taken on a given complaint is then provided to the complainant. It's important to note that several MLTCs have been very diligent in the follow-up of complaints received

informing the Ombus Office of unannounced site visits the MLTC will or has conducted, any findings related to the allegations or other observations plus correction action plants initiated by the MLTC.

Relationships developed with other city and state agencies have integral to DFTA fulfilling its SADC Ombuds mandate. Interagency collaborations at the civil-at the city level have included key partners such as the Fire Department, Department of Health and Mental Hygiene, Department of Buildings, Commission on Human Rights and Department of Investigation. We continue to work with the Law Department to develop rules related to Local Law 9. In addition, we've begun the process of hiring the Director of the SADC Ombuds Office. It's expected that this will be extremely beneficial to DFTA's implementation of Local Law 9. At the State level, OMIG has been an excellent partner in their willingness to work with DFTA's SADC Ombuds Office in response to complaints received. Notably, OMIG has convened bi-monthly conference calls with the MLTCs, with DFTA included as an active participant. This has served to introduce all those involved to each other, and to raise concerns from all parties for discussion and

potential resolution. DFTA plans to meet with the NY State Department of Health in the very near future. They now have a New York City Office with state—with staff who are family with SADCs. This will undoubtedly enhance our collaborative efforts around ensuring quality Social Adult Day programs. NYSOFA continued to be a close partner regarding DFTA's Ombuds activities. In all cases the coordination across agencies helps in shaping our understanding and responsibilities of other governmental entities as relevant to the complaints received as well as informing an appropriate response. Thank you for this opportunity to provide testimony on Local Law 9, and we are pleased to answer any questions you may have.

CHAIRPERSON CHIN: Thank you for your testimony. I'm going to pass it over to Council Member Vallone who is going to start off with some questions.

COUNCIL MEMBER VALLONE: Thank you, Madam Chair and thank for the update. It's always good to see the coordination coming back. Just in following up when your testimony when going through the complaint review process do you have any additional

information of actually how many complaints there are during these last few years? I—I see you've got the triage and the response, but do you have the actual number of how many came in?

DR. ROBIN FINLEY: Since We actual—well before we became legislated as—as the Ombuds Office, that's really when we started tracking, truthfully, and I believe the previous year we had 9 or 10 complaints. It wasn't a lot in the first year. So it could be, you know, for the two years that we've been Ombuds, you know, 60 maybe. Yeah, in the—in the report in 2015 it was the actual number of complaints on those.

COUNCIL MEMBER VALLONE: Okay, and of those how many resulted in site visits?

DR. ROBIN FINLEY: So, these--

COUNCIL MEMBER VALLONE: [interposing]
And what triggers a site visit, and what's the difference between the level of a complaint that doesn't trigger a site visit, and some that do?

DR. ROBIN FINLEY: Right, you know, as I was saying in the testimony usually when there's a—not usually—always when there's issues of participant safety or there's matters of egress or access we then

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2 the ombuds will go out physically, and depending on
3 the content of the complaints we will make referrals
4 to other city agencies, and sometimes when we go out,
5 we will still make referrals to city agencies.

6 COUNCIL MEMBER VALLONE: So how have you
7 found that process in coordinating with the other
8 city agencies? Has that been working or is it just a
9 notice and we—we don't get any follow back from those
10 agencies?

11 DR. ROBIN FINLEY: They really have been
12 very cooperative with us. I mean we've had a number
13 of meetings with—with the city agencies I had
14 mentioned here, and they each have their own process.
15 So probably it's best to say that we have open
16 communication with them. They are willing to receive
17 our referrals, and give us the feedback we need.
18 They've completed investigations.

19 COUNCIL MEMBER VALLONE: So does that
20 happen? Do you---

21 DR. ROBIN FINLEY: [interposing] Yes.

22 COUNCIL MEMBER VALLONE: --get notified
23 when it's closed out or what the remedy is?

24 DR. ROBIN FINLEY: Yes, yes. So for
25 instance I could say like the Department of Buildings

for instance. They've been really very good when we've gone out and there have been issues of safety. I can tell you that there were a couple of instances where when they went out violations were issued from the DOB to the site.

COUNCIL MEMBER VALLONE: And I think those are the incidents where the Chair and I are always concerned. We get the calls from the constituents. Those are the levels that we want to make sure we're addressing.

DR. ROBIN FINLEY: Right.

COUNCIL MEMBER VALLONE: Not just they don't have a sign up in the language, but they were taken down. (sic)

DR. ROBIN FINLEY: Yeah, absolutely, uh-huh.

COUNCIL MEMBER VALLONE: Do we--do we have any I guess multiple violations or sites that have received more than one site visits?

DR. ROBIN FINLEY: [background comments]
Yeah, right. So from us we've only visited sites once. I can't account for what our city partners may have done. You know, I'm not that familiar with their--all of their procedures.

COUNCIL MEMBER VALLONE: That might not be a bad idea. I—I think we're always whatever hearing we're sitting at we're trying to focus on the—the worst of the offenders to make sure that those are the ones that are addressed and don't ruin for the rest, and then make an example on how not to run a particular center or how not to cut the edges especially in dealing with our seniors. So maybe that would be a place that we could have follow up on our agencies. But what other tools do you have at your disposal besides the types like these?

DR. ROBIN FINLEY: The strength of the panel.

COUNCIL MEMBER VALLONE: [laughs]

DR. ROBIN FINLEY: When we—in terms of our—the letters that we are sending, and it's really—it's really the partnerships that we've developed I think that we're relying heavily on. We do what we can from our aging perspective, but again thinking about our partner through OMIG. They being the ones—they've been connected with the State Department of Health and where Medicaid dollars. There has been a real partnership, and we have found that complaints that we sent to them they have already received and

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2 they have been working for years in some cases. So
3 they really I think have been very, very helpful.

4 COUNCIL MEMBER VALLONE: Okay, and then
5 my last question on that would be do you have any
6 suggestions or ideas on what other tools we could
7 create—create that we as a Council that may be
8 helpful in monitoring these pockets?

9 DR. ROBIN FINLEY: I think I will get
10 back to you on that.

11 COUNCIL MEMBER VALLONE: Well, I think I
12 can make sure you have at your disposal all the
13 proper tools that you need.

14 DR. ROBIN FINLEY: Right, right. If I
15 can say, you know, and again this was in the
16 testimony, we are anticipating having the Director
17 come on board, and we're very excited about that. So
18 that's great. Thank you on that.

19 COUNCIL MEMBER VALLONE: Okay. Thank you
20 very much. Thank you, Chair.

21 CHAIRPERSON CHIN: Thank you. Council
22 Member Deutsch.

23 COUNCIL MEMBER DEUTSCH: Well, thank you,
24 Madam Chair. Good afternoon. So you have a total of
25 298 sites throughout the city, which affect—probably

it's used by thousands of senior citizens here in our city. My first question is that if someone wants to file a complaint or concerned about a specific location, what is the easiest and best way for someone to do that?

DR. ROBIN FINLEY: Well, there are--there are a couple of ways. Certain 311 is always there, and just ask for the Ombuds Office because they can do it--they can go that way by phone.

COUNCIL MEMBER DEUTSCH: Just ask for who?

DR. ROBIN FINLEY: I'm sorry?

COUNCIL MEMBER DEUTSCH: Just ask--?

DR. ROBIN FINLEY: Oh, often times people will just say I'm at senior center or I'm at--people confuse senior centers and Social Adult Day. It's about saying that they are at Social Adult Day, and that they would like to make a complaint. They could go DFTA's website. Oh, that's focused on rights. If they're in the Social Adult Day program these signs should be posted prominently, and so they would--and--and again we see it has call 311 and there's also an email address. So that would be probably the best way to go.

2 COUNCIL MEMBER DEUTSCH: Yeah, that--that
3 signage is in--how many languages do you have it in?

4 DR. ROBIN FINLEY: It's in nine languages
5 including English.

6 COUNCIL MEMBER DEUTSCH: So they're
7 required to put it in nine languages, hopefully?

8 DR. ROBIN FINLEY: It's really whatever
9 languages are spoken by the participants. Yeah, so we
10 don't--because we don't know what languages are
11 available at each of these Social Adult Day we give
12 them all nine, and then it's up to them to decide,
13 you know, which is relevant to the members.

14 COUNCIL MEMBER DEUTSCH: Oh, which one.
15 So when someone calls 311, sometimes it could be kind
16 of confusing because sometimes the 311 operator
17 doesn't know exactly what--where to look. So the
18 signage doesn't give you that information like when
19 you're calling up to let them know you're in this and
20 this location. You know you're in the senior center.
21 You're in an adult daycare center. So is---that
22 should be able--that should be something that would
23 be--should be told on--on actually a poster just to let
24 people--let them know what to say when they first call
25 311. Because I know even like a pothole sometimes or

2 a light being out, the street light. So sometimes it
3 takes a while just for them to even find it, and
4 sometimes it gets redirected to the wrong agency,
5 which takes up a lot more time before anything gets
6 directed.

7 DR. ROBIN FINLEY: Yeah, that's true.

8 COUNCIL MEMBER DEUTSCH: Alright, thank
9 you so much.

10 DR. ROBIN FINLEY: Thank you.

11 CHAIRPERSON CHIN: Thank you. I—from
12 your testimony and also from data that we have I mean
13 the number of participants that have enrolled with
14 MLTC has increased such a huge amount. I think the
15 data we had was like 30,000 in 2010 to maybe 120,000
16 in 2015, and then now it's 2.6 million in 2016. I
17 mean there are—is it correct that there are more
18 social adult day care now than senior centers.

19 DR. ROBIN FINLEY: They're pretty close.

20 CHAIRPERSON CHIN: Right.

21 DR. ROBIN FINLEY: Kind of neck in neck.

22 CHAIRPERSON CHIN: Yeah, I mean some
23 that's close but I think it surpassed the number of
24 senior centers. Is that—I mean what is the number of
25 senior centers that we have in the city?

2 DEPUTY COMMISSIONER WINTER: I think we
3 have now 246 fully funded senior centers, and another
4 29 that offer some services. So yes, that's—that
5 total is—is lower than the number of the Social Adult
6 Days that are registered. Generally, senior serve a
7 larger number of seniors per day than the Social Day.
8 That's just a generalization.

9 CHAIRPERSON CHIN: Can you just identify
10 yourself for the record.

11 DEPUTY COMMISSIONER WINTER: Oh, sorry.
12 I'm Fran Winter, Deputy Commissioner at DFTA.

13 CHAIRPERSON CHIN: Thank you. I think
14 we've been—I mean the reason we passed Local Law 9 is
15 because we're seeing these Social Adult Day Care
16 programs increasing at such a rapid number, and the
17 amount of complaints that we get I mean often times
18 the senior might not want to identify themselves or
19 call up DFTA, but they pull us aside when I walk down
20 the street, and say—and they tell me like all the
21 problems. And I think that some of the complaints
22 that came up in this year's report did talk about
23 centers using cash incentives to recruit
24 participants, and that is a big huge problem. And so
25 what I wanted to get at is I—is DFTA have the

resource to hire staff, to hire inspectors that can go in to some of these Social Adult Daycare programs, and spot check. And just do some surprise visit, what would it cost for the budget to have personnel that can do that?

DR. ROBIN FINLEY: Well, I think that kind of gets into murky sort of murky water because it's like what are we talking about in terms of the expertise to be able to do that kind of spot checking. [coughs] You know, which is why again we've gone back to bringing in the partners of the other city agencies that have those areas of expertise thinking about how, you know, the Department of Health that we have been doing--to the Bureau of Community Sanitation. They know all of those health requirements. They know what to look at, and these are people who have been trained in--in being able to do those kinds of spot checking. So I-- I think we have come to rely heavily on these individuals to do just that.

CHAIRPERSON CHIN: But I think we had in a previous hearing. I mean I raised the same question over and over again. It's sort of like our senior centers that's funded by the city, their

kitchens get inspected by the Department of Health every year. These Social Adult Daycare programs most of them. I think in fact all of them also provide means, but their kitchen is not getting inspected by the Department of Health

DR. ROBIN FINLEY: Actually, and thank you for raising that because when we didn't with the Department of Health they had—they said exactly that, and they had asked for the list of the Social Adult Day programs that we had so that they would be able to go through their records to see, you know, had they seen them or had they not. So actually the—and again, thank you because that's an area that we could—we could follow up on just to see where that is.

CHAIRPERSON CHIN: That would be great. I mean that would be a great first step to get the Department of Health to treat these Social Adult Day Care the same as our senior centers.

DR. ROBIN FINLEY: Uh-huh.

CHAIRPERSON CHIN: Because they provide meal, and we want to make sure that the facility is clean and safe. Thank you.

DR. ROBIN FINLEY: We are on board with that.

CHAIRPERSON CHIN: Great. That is—we'll—we'll definitely also follow up with the Health Department to make sure that they have the—the resources to do that. Because I don't—I mean DFTA, you know, you can go there and spot check to see if they put a sign, but that's—that's important, but it's not the most important. We want to make sure the facility is accessible, but mainly we want to make sure it's clean and it's safe, and also the kitchen that's serving the food and the people who are cooking the food or handling the food are trained personnel just like the way we treat our regular senior centers. The other question I have is that just based on the—the 9 to 10 Social Adult Daycare programs that do receive some senior—I mean some city funding, do you have a—idea in terms of the cost per participant? Do you have that kind of information?

DR. ROBIN FINLEY: We would actually have to go back and get that because truthfully what they get from us is not enough to fully operate their program, and I know that they—there are some—a couple

maybe that have additional funding from other sources, and so what does it actually cost? It also depends on where the program is and--and the extent of the program--the programming that's being offered. You know, it could go 75 to 100 something--120 a day. It could go higher than that. You know, so I would have to really check to give you more accurate figures, but I could tell that it would vary by program.

CHAIRPERSON CHIN: Well, it definitely would be good to have that information to do a comparison with what the--these private so-called pop up Social Adult Daycare programs what they are charging because from our own investigation, you know, we hear the wide range of \$90 a day, \$60 a day. It really varies in terms of how much they get reimbursed back from the MLTC, and then also one of the other issues that we have heard that I've heard from the providers that are--that are getting support from the city that they're able to provide, you know, an extra half a day of service through the funding or a full day of service. But one of the--the issues they raised to us is that they're not getting the referrals from the MLCT, and they run fantastic good

programs. They're not getting the referrals. So they have to either get private pay or they have to fundraise. So my question is like why are they not getting the referrals from the MLCT? And who are the MLCT referring to? Now, do we have a list—does DFTA have a list from the MLCT which Social Adult Daycare programs are they contracting with?

DEPUTY COMMISSIONER WINTER: Yes, in the registration, each Social Adult Day identifies the MLTC that they are contracted with, and we also request that Social Adult Days will update us if they drop or add or anything else changes in their MLTC configuration or even within the programming.

DR. ROBIN FINLEY: Regarding why they're not, you know, like coming to our programs I could just say at the beginning it was very difficult. Some of our programs were reaching out to MLTCs to see if they could contract with them, but the process was—was really too onerous at the time whether yes, yes, yes, here's a person and—and—and the person never comes or the person is not told that this is where they're coming. There were a lot of personal participant problems that—that our Social Adult Days reported in communication between the MLTC and their

client, if you will that was going to become a participant. But then also the reimbursement. So this—our Social Adult Day would take the individual, but it would be months and months before they would see any kind of money from an MLTC. So that was the beginning. I don't know what the problems might be now.

CHAIRPERSON CHIN: Well, I really urge DFTA to work with the ten centers that are supported by the city because they run really wonderful programs, and I have visited, you know, some of them, and its not right that they're not getting the referrals. So we should really find out how we can help them, and on the other hand, is that—it would be interesting if you can share that data with us to really see who are the MLCT's contracting with because, you know, we are here. We have heard stories about competitions, and how they're getting client's referrals. I think some of the complaints that have come in this year, and from your report talking about using monetary incentives. So I wanted to know like have you done any kind of investigation into that to see whether that is happening or not

that--that these centers these Social Adult Centers are using, you know, the cash to attract clients.

DEPUTY COMMISSIONER WINTER: Right. So again, here comes our partner OMIG, and they are because we're talking about Medicaid dollars that referral goes immediately to them, and they've asked us to provide as much information as we can to help them in constructing should they accept this case, you know, to accept the--the information that we have to help them build their case against, you know, the EDC program. So it really is a partnership in that DFTA doesn't--this not our area that's for tease (sic) nor for oversight. So this really belongs in the realm of OMIG, but we work collaboratively with them on that.

CHAIRPERSON CHIN: But how soon does OMIG get back to you?

DEPUTY COMMISSIONER WINTER: Right away. It's--it's a pick up the phone and--and--and call each other.

CHAIRPERSON CHIN: Okay. I mean I think on that case because it will be great to really publicize it because there are other cases that are similar, and I think for the public to really hear

2 about that these kind of complaints are being
3 investigated.

4 DEPUTY COMMISSIONER WINTER: Uh-huh.

5 CHAIRPERSON CHIN: That will help us get
6 more complaints because people are talking out there.

7 DEPUTY COMMISSIONER WINTER: Right.

8 CHAIRPERSON CHIN: But we just can't get
9 the exact, you know, people are afraid to come
10 forward and tell you exactly which one, but they're
11 just telling us that this is happening.

12 DEPUTY COMMISSIONER WINTER: Uh-huh.

13 CHAIRPERSON CHIN: You know, people are
14 using whether it's cash incentives. Now they're
15 using gift certificates, anything and--and that was in
16 the beginning. So but it's still happening now, and
17 we're just concerned like these are programs that are
18 supposed to be taking care of the most vulnerable
19 population, and they're not. I mean if any one of us
20 go and visit some of them you'll see that the seniors
21 who are participating in these programs a lot of them
22 are healthy seniors that should be in our regular
23 senior centers, and our senior centers are losing
24 their clients to these Social Adult Daycare, but the
25 seniors are coming back for social services. So

there's—they'll need our help, but they go there because the meals are free. They don't have to make a contribution, and that's one of the biggest things that we've heard. It's a free meal. You don't have to make a dollar contribution or a \$1.75. So that—that's where the—the competition is. So, that—that is something that we really need to sort of pursue so that we can support our senior centers and make sure that they're getting the—the funding and the resources.

DEPUTY COMMISSIONER WINTER: Agreed.

CHAIRPERSON CHIN: The other issue that I also have raised with—with the Commissioner and then also with our—all the budget directors that how come we're not helping our senior centers to see how they can utilize the funding to help some of the most, you know, vulnerable seniors that are going to their centers that could use the extra help, right? And they could utilize this—this funding to do that, and I know that there's some discussion in the past, but it's ironic to see that the for-profit sectors are tapping into this resources, and we have new centers opening up everywhere. In my district I see new ones popping up. Recently a restaurant, a catering hall,

and now it's turned into Social Adult Daycare. How could they afford the rent, and a lot of these programs they have storefronts? How could they afford the rent, right? Something is not right over there, and so we really need to look into what is going. You know, people are making money off our seniors, and at the same time our senior centers are struggling, and if there are government resources that could be available to help some of their members who need extra support, how come we're not doing that?

DR. ROBIN FINLEY: What you are saying we all have seen, and have had conversations about just that. I sort of feel like Social Adult Day is on the cusp of something different and how can we best shape it exactly to your point.

CHAIRPERSON CHIN: Uh-huh.

DEPUTY COMMISSIONER WINTER: Can I add something.

CHAIRPERSON CHIN: Yes.

DEPUTY COMMISSIONER WINTER: You know, DFTA has also created an MSO to actually look to see how our network can tap into the—the reimbursement streams that are—and that would include the senior

centers as a group. So that work is beginning, and we're optimistic that will be the way for us as a network to tap into the Medicaid funding streams through the MLTCs or otherwise, and we're working on a couple of projects around that. So we're hopeful.

CHAIRPERSON CHIN: That's great, but I'm getting impatient because I've heard that a couple years back in the previous Administration when I was a member of the Aging Committee. I was excited when we said that. Yes, let's look into this and how--and then it didn't happen, and then I see all these Social Adult Daycare centers popping up all over the place. Granted, some of them are doing good work and we need it, and we really need the service because we have a lot of seniors who need the support services, but there are just so many of them and-- I mean it's like a business. People are like in vesting. They want to open up one, you know, it's an investment in a business. So they're not into really taking care of the most vulnerable population, the seniors who have Alzheimer's, who have dementia, they're really not the one that's being taken care of. So we really have to work a little faster.

DR. ROBIN FINLEY: If I may, in the conversations with OMIG, there have been discussions about OMIG and DFTA. OMIG is very eager to go out to the community exactly to do what you're suggesting to inform the community about what Social Adult Day is, what it should look like, what you should accept, what you should not accept meaning like the coupons, et cetera. So that is something that we have been discussing about doing, and thinking, you know, with the change of season, it might be something we could pursue in the local communities.

CHAIRPERSON CHIN: Well, that's one part of the education, but the other part it's important and one of my questions, and I have heard cases where family members have a senior who went to Social Adult Daycare and then when they got sick and then ended up that they needed rehab service later on, they were told that their Medicaid benefit ran out. So, I mean there's got to be a limit to the benefits, and people need to be educated about that. It's whether it's unlimited benefit or if you really use it, at some point it's going to run out. We need to get those facts out to the public so people know that it's not all fun and games. You know, you would go there and

it's free service, free meal. Everything is free, but sooner or later you're going to use up that benefit, and when you really need it, is it going to be there or not? So I think we really need to sort of explain to people what the program is about and also, you know, the nature of the benefits. That is not, you know, continuous limited. I don't think people know that, and it is taxpayers dollars. So you have—we have seniors who are very upset about what's going on, and who's like complaining all the time wasting taxpayers' dollars, and then we have other seniors who say, hey, it's a free program. I'm entitled. I sign up. I'm going to take advantage of every aspect of it, but we have to let them know that it's not going to go on forever. God forbid if you need it as an emergency situation, and your benefit is not there, then what's going to -what's going to happen, you know.

DR. ROBIN FINLEY: That's certainly the case with the Medicare dollars is—is you can use it up. I think we may be seeing some changes in the Medicaid configuration with the new federal Administration. Usually Medicaid has been the payer—the long-term payer for folks, but that's exactly

right. Is that going to continue or not? That's--
that's the unknown.

CHAIRPERSON CHIN: But right now, though,
do you have any information in terms of the program,
in terms of Medicare benefits like how much is--like
for the long-term care like how much is really
designated for Social Adult Daycare, and is there a
limit to how much a senior can utilize--

DR. ROBIN FINLEY: [interposing] Right.

CHAIRPERSON CHIN: --and that benefit can
run out.

DR. ROBIN FINLEY: It's--it's the MLTCs
that are sort of calling the shots right now, and so
when they do the assessment of the individual, you
know, each person has like a capitated rate for the
month, for the year, and they will disseminate
whatever service the individual needs until that is
tapped out, you know, for that time period, at which
they'll wait until the next year, and it can be up
again. So it's the MLTCs that are putting the cap on
it. Up until then it--it was pretty much Medicaid to
have Medicaid and Medicare were like the gold--the
gold cold. You could have whatever you needed as
long as you need it. Medicare is a time limited

benefit. Yes, you know, you know, hospitalization and rehab, but now as I'm saying with the MLTCs they are the ones that will determine how many days an individual can go to a Social Adult Day. For instance how many days in the week. Do they go half a day, all day, two days, five days? That's their call based on their assessment of the individual.

CHAIRPERSON CHIN: But they also some of the programs that we've heard about that they also are asking the senior or telling the seniors you have to sign up for homecare services.

DR. ROBIN FINLEY: Correct.

CHAIRPERSON CHIN: And if you don't sign up for homecare services, then you—you cannot join this program.

DR. ROBIN FINLEY: Right because the—under the NYSOFA regs, and just understanding what Social Adult Day is, it's for someone who is incapacitated in some form cognitively or physically, which can suggest that the person needs a home health aid. So if you have someone who is as well as some of the people you're describing that are the centers, they technically, you know, physically it looks like they would not be eligible. So, yeah, you have to

have that—that home attendance, and that's where we've been getting into some of the complaints received.

CHAIRPERSON CHIN: Yeah, I think that's only—that's where some of the complaints are coming from when people are being, you know, sort of like forced to take homecare service, and that's—it's a way for the Medicaid dollars. So we've—that's—that's what's going on out there.

DR. ROBIN FINLEY: Indeed.

CHAIRPERSON CHIN: So we have to really work on correcting that. Oh, we've been joined by Council Member Treyger. Council Member Treyger, you have some questions?

COUNCIL MEMBER TREYGER: Yes.

CHAIRPERSON CHIN: Okay.

COUNCIL MEMBER TREYGER: So thank you very much, Chair and my apologies. There's multiple hearings at the time. It's usual Council business, but this is a very, very important. I appreciate your leadership on this issue. I'm just looking over the data provided, and forgive if—if there's been some overlap, but I noticed that there is a—a general

2 description of the complaint types that have been
3 received, and one of them I see Medicaid fraud--

4 DR. ROBIN FINLEY: Uh-huh.

5 COUNCIL MEMBER TREYGER: --falsified
6 participant eligibility, staff information and
7 qualifications and incentives, and then I read on
8 that all--in all cases the complaints were referred to
9 the SADC in question, its contracted MLTCs and the
10 New York State Oversight agencies. Now, I Believe
11 Medicaid is a federal program. Was the federal
12 government ever contacted about potential fraud with
13 regards to federal dollars?

14 DR. ROBIN FINLEY: That's where we are
15 relying on our partners at OMIG who is the Office of
16 Medicaid Inspector General, and these are the folks
17 who are overseeing the allegations of abuse against
18 Medicaid dollars. I can't tell you what it is that
19 they do, you know, in terms of who they notify after
20 we send our notification on. That I don't know.

21 COUNCIL MEMBER TREYGER: But is there
22 anything that prohibits you from contacting the
23 federal government about these very serious cases? I
24 mean, you know, this--this--again, these are
25 allegation, which have to be first investigated and--

and verified if—if they're taking place. I don't want to say someone is guilty before the case has been proven. However, this is serious stuff. I mean we hear almost everyday on television that the cost of healthcare and Medicaid is skyrocketing and there's so much abuse. In here we—we're getting some information about potential cases of abuse. Is there anything that prohibits you from contacting for example the U.S. Attorney's Office, and letting them know about these serious allegations?

DR. ROBIN FINLEY: No. I—I don't particularly—I don't know that that has considered. You know, we've considered it given that we've been dealing OMIG, but we certainly can discuss this with our—our partners at OMIG.

MONICA PARIKH: I would just like to respond to that as an attorney. Those are allegations, and those allegations are being forwarded to the appropriate government agency, which is OMIG. We are not in the habit of calling law enforcement on unsubstantiated allegations. So I thin that the mechanism that's in place right now is the correct mechanism.

2 COUNCIL MEMBER TREYGER: However, I-I-I
3 hear you. However, when you look at these entities
4 such as the U.S. Attorney's Office and others, they
5 encourage people on their public sites and public
6 information to send in tips or information if there
7 are cases of fraud and abuse. Am I correct? They
8 encourage people to come forward with any information
9 of potential abuse or fraud in government.

10 MONICA PARIKH: I have not seen that. My
11 understanding is that OMIG is the enforcement agency,
12 and I-I mean I don't want to debate particulars with
13 you, but--

14 COUNCIL MEMBER TREYGER: [interposing]
15 Right.

16 MONICA PARIKH: --my understanding is
17 that everybody called the U.S. Attorney's Office for
18 every potential allegation that came in, not just for
19 Medicaid fraud, but any potential criminality. There
20 are office lines with each other.

21 COUNCIL MEMBER TREYGER: No, I-I-I-I
22 absolutely hear you. It's just that these are
23 federal dollars, and it's a federal administered
24 program through the states. I-I get it, but these
25 are federal-federal dollars, and I do believe that

2 if-if-if we're getting these wide spread reports, and
3 again we're not even sure-do any of that information-
4 if-have any of these allegations led to active
5 investigations by these agencies.

6 DR. ROBIN FINLEY: Yes, uh-huh.

7 COUNCIL MEMBER TREYGER: Have any of them
8 been completed?

9 DR. ROBIN FINLEY: I can tell you that
10 one program was shut down as a result of the
11 investigations, and others that I'm aware of. Again,
12 this is investigation. So they don't share all the
13 details.

14 COUNCIL MEMBER TREYGER: But they-the y
15 should share the conclusions of those investigations,
16 no?

17 DR. ROBIN FINLEY: So well that-so that
18 for instance the one that was shut down, and they can
19 just say that they are--

20 COUNCIL MEMBER TREYGER: [interposing]
21 And what was it shut down for?

22 DR. ROBIN FINLEY: Well, I'm going to
23 presume that it was whatever there were-whatever OMIG
24 was able to find from the Medicaid abuse side and,
25 you know, again--

2 COUNCIL MEMBER TREYGER: [interposing]
3 See, that's serious stuff.

4 DR. ROBIN FINLEY: Yeah.

5 COUNCIL MEMBER TREYGER: That's serious
6 stuff and we should not take that lightly, and but
7 did they--why are you presuming? They didn't share--
8 give you a copy of their conclusion or the report?

9 DR. ROBIN FINLEY: No, OMIG gives--no. No
10 they did not. It was a verbal discussion.

11 COUNCIL MEMBER TREYGER: This all but
12 concerning to me because we do need that data. I'm
13 not saying you need to know every single name, but
14 you do need some sort of summary of what happened so
15 we as policymakers at the local level can adapt and
16 adjust moving forward. That's the point of the bill
17 that my--that the Chair of the committee forward is to
18 get a clearer picture about what's happening here.
19 Some concern that we're--we're not fully briefed on
20 what's actually happening at--at these places. Let me
21 give you just another example of where the local--the
22 local government works in partnership with the feds.
23 Sometimes there are cases of food stamps abuse where
24 people abuse their EBT cards in exchange for alcohol
25 or cigarettes, and there is a unit, a bureau within

the Office of the District Attorney that will work with the federal government to sometimes set up an undercover sting to see if, in fact, stores are doing that, and they have caught--people do that. In your capacity, you don't send in undercover people to see if this is happening or not. This is all just referral complaint based. Is that correct?

DR. ROBIN FINLEY: Yes.

COUNCIL MEMBER TREYGER: Right. So, I—I just think that we are just touching the tip of the iceberg here. We're not getting the full clear picture, but it is important to get I think more clarity about what actually shut that place down so we can kind of pick up patterns, and make further adjustments and maybe potential—more legislation to better address this issue.

DR. ROBIN FINLEY: Thank you. This is something we can share with our OMIG partners.

COUNCIL MEMBER TREYGER: Okay. Thank you, Chair.

CHAIRPERSON CHIN: Thank you. Yes, I—I think that it would be great if you could talk to OMIG and—and share those information with us because that's what we can publicize to the public that

government's actions does get some results. You know, a place was shut down because of these frauds or violations because right now I tell you some of the seniors are looking at us are like okay, you passed the law. What's the result? New ones are still opening up and they—they say you're not doing enough. You know, they're wasting taxpayer dollars. They're wasting Medicaid dollars and it's—it's really frustrating, and at the same time because of the competition you have some Social Adult Daycare that's been around longer. They've been doing good work, and they see all these new ones popping up, and they also are getting frustrated that—that these other competitors are not doing the right thing. You know, they're taking away customers with gift certificates and—and things like that. At the same time, and I agree with you earlier what you said is we have to do more education. Maybe we can invite OMIG to come down, and really do some events with us to let people know like what qualified you to be a participant in a Social Adult Daycare program? If you don't need homecare services, you shouldn't be in a Social Adult Daycare program. That is just so clear, and so we really need to—to get that out there. Now, according

to the section 3 of the law, Local Law 9, that DFTA, if DFTA did not promulgate rules and issue notice of violations within 30 days after the enactment with the Department of Consumers Affairs, which designated agencies to issue notice of violation. Has there been—how many notice of violations did DFTA order the Department of Consumer Affairs issue in 2016?

DR. ROBIN FINLEY: Department of Consumer Affairs there has been relationship with them. It's my understanding. It's just my vague—there has been no relationship with them. In terms of violations, no violations coming forth from DFTA, but rather from our partner agencies.

CHAIRPERSON CHIN: But you—so I think at the last hearing that we had DFTA was talk about working with the Legal Department in terms of promulgating the rules. Has that been completed?

MONICA PARIKH: It has not been completed. We submitted the rules to the Law Department and the Office of Operations last May, and we are still in the process of working with the Law Department to finalize a few things and a few CAPA procedures.

CHAIRPERSON CHIN: Okay, I mean can we get an expedite on that? I mean it's been—it's been a while.

MONICA PARIKH: [interposing] So my under—I mean yes I am working diligently with the Law Department. My understanding is that there has been an unprecedented amount of legislation, which requires an unprecedented amount of rulemaking, and so I think that we are working in partnership with them as quickly as we can. We also have to look into some litigation related issues. It's an incredibly difficult piece of legislation to put into rulemaking for some of the jurisdictional impediments that I spoke about the last time I was at a hearing last year.

CHAIRPERSON CHIN: Yeah, but at—at the same time as you see there are more and more new programs popping up.

MONICA PARIKH: Well, the rule won't actually address the opening of programs. So I just want to be clear about that. The rule is—it is effectuating the legislation that you passed. We don't have any ability to stop programs from opening.

2 CHAIRPERSON CHIN: [interposing] But the
3 rule actually.

4 MONICA PARIKH: That is not what the rule
5 is intended to do. Just to be clear.

6 CHAIRPERSON CHIN: So what we're asking
7 for is the enforcement, right, to be able to--

8 MONICA PARIKH: [interposing] Correct.

9 CHAIRPERSON CHIN: --issue violations.

10 MONICA PARIKH: It would be a complaint
11 drive investigation and enforcement, but, you know,
12 based on--without rules, you'll see that we are
13 responding in a very timely basis to the complaints
14 that coming in and making appropriate referrals. So
15 I don't think, and Robin correct me if I'm wrong, but
16 based on the complaints that have come in so far,
17 it's not my opinion that there would have been a
18 notice of violation issued for any of the complaints
19 that have come in so far if the rule had been fully
20 effectuated.

21 CHAIRPERSON CHIN: But I think also--I
22 mean what we wanted to really get at is that right
23 now there are more Social Adult Daycares than senior
24 centers, right, and this is--this number is continuing
25 to grow, and we just got to make sure that the most

vulnerable population are being taken care of because when you—when we don't know if they have trained personnel or not working on this facility, yes we leave it up to the state. They're supposed to be the monitoring agency, but they're doing self-certification. I don't think they're coming—are they coming down to spot check? I don't know. So—but these are New York City residents. You know, they're our seniors so we need to really make sure that we take care of them, and make sure they're not taken advantage of, and make sure that they are in a safe protected environment. And that's why, you know, we have such a sense of urgency. So we've got to be doing something because this thing is just continuing to grow, and we want to make sure we keep the good ones, and we send a strong message to the ones that's just making money and not taking care of seniors that, you know, they can't get away with it. So that's where we got to really step up our oversight.

MONICA PARIKH: Well, I'm—I agree with you, and I think the Department for the Aging agrees with you that we do have a underlying dictate to protect New York City seniors, but just to be clear, the legislation is complaint driven. So the spot

checking or taking over the state's job of doing enforcement in terms of going on regular site visits is not—that is not what the legislation entails, as you know. And we have been effectuating what the legislation demands irrespective of the fact that we're still undergoing the rulemaking procedures.

CHAIRPERSON CHIN: But I think that we were talking about earlier about working with the Department of Health. I mean we had a lot of negotiation back and forth, alright. This is what we ended up with, but we want to make sure that we do the best we can to monitor these programs just like the way we monitor our senior centers. So getting the Department of Health on board with us to make sure that the kitchen is inspected, the food is being inspected. That will be a big step forward for us, and in order to get more complaints, we need to let the public know that the complaints yields results. That's why it's so important to hear about these investigations, and working with OMIG what are the results. So people will hear about it and say oh, it worked, you know. So I should come forward, and I—I should, you know, let the Governor know what's going on in—in the Social Adult Daycare that my friends

have going to or that I've been going to. Because right now, people don't hear anything. They don't see any results because they say why bother complaining when nobody is listening. So that's why we really need to get the information out there, and help people who are really frustrated about these programs, the bad ones that are that they see day in and day out, and they want to help save government taxpayers' dollars.

DR. ROBIN FINLEY: You know, I'd like to jump in and--and just say a word about one of the departments that we haven't talked too much about are the MLTCs whose responsibility is the oversight of these programs. From the calls that I've participated on those conference calls that OMIG has put together, I can hear it's a business. It's definitely a business, but I can also hear that they want to do the right thing. Some of the concerns that they have raised on the billing of transportation, you know, inappropriate billing. I can hear that they want to do the right thing, and I think it's about them understanding also what it is that a social adult day is supposed to do, who it's supposed to serve. I don't think there's anybody

here who's going to disagree that this was a money making opportunity from the jump both for the MLCTs and the providers of the Social Adult Days, but here it is. And so when I hear these kinds of conversations and participate in them with the MLTCs, I'm really very encouraged. So none of that—it's not all of them, you know, but there are some that are really standing above the crowd in wanting to do the right thing. And I'm kind of feeling that these are going to be the folks that we also need to make sure that they're on board with as well in terms of who needs to be served by this, and how they need to be served because I don't think they really—certainly when they came into it, had no idea what Social Adult Day was. You know, so it's about us educating. Again, educating not only the community, but even these MLTC providers for the oversight.

CHAIRPERSON CHIN: Well, I look forward to working with you, and let's work together with the MLTCs because I think all of the communities really need to get the correct information out there because it's wasting, you know, the valuable Medicaid dollars, and seniors are not, you know, they're vulnerable seniors. They're not being taken care of

because there are some Social Adult Daycare where a senior has, you know, dementia and they walked out of the center and the family couldn't find them. That's unacceptable. In a regular good Social Adult Daycare program especially the one that's funded by the state and supported by the city, they know how to take care because they're trained to do that--

DR. ROBIN FINLEY: [interposing] Right.

CHAIRPERSON CHIN: --and they're not getting the referral from these MLTCs. So I would love to sit down with them, and ask them how come you're not referring to these good programs, and how do we work together to educate everyone about what a Social Adult Daycare program should be? So, Council Member Treyger.

COUNCIL MEMBER TREYGER: Yeah, I-I-I appreciate the exchange because when I hear that, and I appreciate your--your recognition of the fact that there's a money making element to this, but what's disturbing to us is that taxpayer dollars should not be geared towards really the profit of somebody. Right, they should be towards--rendered towards services for the people that we serve. So, that's concerning to me, and I think that we need to

investigate where these--these complaints that take us. I do think that we need to inform I think more than, you know, if nothing prohibits you from information more people, inform I would say the federal, state, DOI, whatever agencies we have that have the capacity to do this only just to ensure that we are doing everything possible to protect precious taxpayer dollars, and also let's--let's be very blunt about this. In this--some of these programs--again, not all of the--as you mentioned not all of these centers are doing bad things. You know, there are some good ones, but they're hurting well established real organizations that are actually providing real services to people. Because when you hear about complaints that some of these day--these daycares only have about five people in it all day, but yet, they are charging Medicaid tons of cases. That's disturbing and--and it's hurting and taking away money from real legit organizations. So, which some are on the verge of possibly closing up shop, which will be a real detriment to our seniors in our communities. So I think the problem has many different layers here, and the fact that we are acknowledging, and--and I appreciate the acknowledgement that there are some

folks here who have seen a money making opportunity. It should not be on the backs of taxpayers, and it really should not be to the detriment of our seniors. So I again just want to double down on--on encouraging getting the report. Any of the--of the completed investigations should be shared with your office. I believe that your office as a good government should share with the Council, and these case should be made public to say this is what happened. There was taxpayer money abuse here, and this is what happens when you don't follow the law, and--and you mistreat our--our senior. They're depriving them of--of resources. Because, Chair, you-- know we're going to hear of this. We already are hearing it that government spending is out of control. There's abuse in Medicaid, abuse here. Well, here are some cases, but let's show that we are, you know, holding people to account for precious resources. Thank you very much.

CHAIRPERSON CHIN: Thank you. I wanted to thank this panel, and look forward to continue to work with you, and really fill some--and support the really good Social Adult Daycare programs that we have in our city. Thank you.

2 DR. ROBIN FINLEY: Thank you.

3 CHAIRPERSON CHIN: I'm going to call up
4 the next-- Mr. Jed Levine from Caring Kind. If
5 anyone else wants to testify you have to fill out a
6 form. Thank you. [pause]

7 JED LEVINE: Three we are. So good
8 afternoon and thank you, Chairperson Chin, and
9 Members of the Aging Committee for the opportunity
10 to discuss the impact of Local Law 9 and the
11 important role of Social Adult Daycare as part of
12 the continuum of care for persons with dementia in
13 New York City. I'm Jed Levine, Executive Vice
14 President and Director of Programs and Services at
15 Caring Kind. For over 30 years we operated as the
16 Alzheimer's Association New York City Chapter, and
17 on December 1, 2015, we disaffiliated from the
18 national association and returned to our roots as an
19 independent 501(c)(3) doing business as Caring Kind,
20 the Heart of Alzheimer's Caregiving. Only our public
21 name has changed. We remain the only organization
22 in New York City singularly focused on care and
23 support for individuals with Alzheimer's and related
24 disorders, and with families and paid caregivers
25 with a comprehensive portfolio of programs and

services directly delivered to clients. All of our services are free of charge. A bit of relevant background. I supervised the very first adult day program in New York City at the International Center for this Disabled, which is actually now defunct sadly. Before that program, there was really nothing for persons with dementia in the community. I know the benefit of these programs for people with the disease and for their families. I know the sense of connectedness, and how it combats the deadening isolation of this disease, and allows individuals to tap their individual strength giving them an opportunity to express themselves, to experience pleasure and provide meaning in their lives. By providing a social community, cognitively impaired individuals thrive with the engagement activities and socialization provided by Social Adult Day services. The reduction in isolation improves the quality of life for those older adults, and by doing such, Social Adult Day services delay further secondary deterioration saving both the individual and the family the need for more costly services. Social Adult Day services also importantly eases the burden on caregivers by giving

them more time to address other priorities in their own personal needs. Many caregivers can continue to work while knowing that the basic needs of their relatives are being met in a nurturing and stimulating environment. Many Social Adult Day services partner with us at Caring Kind to provide support groups, enroll their members in our Medic Alert Monitor Safety Program and other services for caregivers. Indeed, Caring Kind's social workers often tap into our Special Assistance Funds to help families who can't pay the private costs for Social Adult Daycare while they're applying for Medicaid and then ultimately be contracted through the MLTCs. With New York State's Medicaid overhaul and privatization of long-term care, we initially saw the number of Social Adult Day programs increase. Dementia care cannot be offered by just anyone who sees a business opportunity. We know that. The potential for abuse and fraud exists without the proper oversight. This is an extremely vulnerable population. Although they are adults, cognitively persons—cognitively persons with dementia in the middle and later stages of dementia function on the level of dependent children, and need the same level

of protection and supervision in order to stay safe.

This alone supports the need for additional options

and oversight to best manage these programs

including the implementation of an Office of

Ombudsman that's done to receive, investigate and

report any comments or complaints to the Council.

So we're very pleased that an ombudsman is now

available through DFTA to manage this complaint

line. Many of the original start-up centers were

opportunistic fortune hunters who were not providing

appropriate services. Increased oversight and

enforcement of the State Office for Aging

Guidelines, and required registration with DFTA had

helped reduce I believe the number of these

inappropriate pop-ups. But what I'm hearing from

you, I'm not so sure that that's true. Staff on our

24-hour help line and Outreach Services and our 93

support groups and our social work services, report

that there is still a need for more dementia

specific day programs especially in minority

communities. Spanish and Chinese programs are few

and far between and inadequate to the demand.

[coughs] Although a cure prevention rate and a

meaningful treatment for Alzheimer's and other

related dementias is yet to be found. The continuing implementation of programs such as Adult Day Services helps provide cost-effective ways to deal with the problems families face now, and will continue to face in ever-increasing numbers. However, these programs cannot be provided without the appropriate oversight in government, and need to be provided in a sufficient number that will allow family members who are working to continue to be part of the tax base, contributing to the economic base of the city. Social adult day services under proper supervision and training are an effective option for persons with dementia and their families. The implementation of an ombudsman and the effective reporting process positively influence Social Adult Day program management. It is important that seniors and their families know what's available to them to guarantee the highest quality of life possible. We are also available to the Social Adult Day programs in the area of training. Most of them did not—didn't have sufficient training and good dementia care, and that's something where we excel. So Caring Kind deeply appreciates the leadership shown by the Council Chair and the Committee on

Aging in ensuring that Social Adult Day services are held accountable for providing these services in a safe appropriate manner that's consistent with the laws and regulations of New York State. Thank you.

CHAIRPERSON CHIN: Thank you for your testimony, and--and really thank you to all the wonderful work that Caring Kind does, and I'm really glad to hear that you are open to doing, you know, training for--

JED LEVINE: [interposing] Absolutely

CHAIRPERSON CHIN: --Social Adult Daycare programs. To this day like how many Social Adult Day programs are you working with right now?

JED LEVINE: That's a good question. I would have to get back to you. I mean I have to check with our training department. My belief is that it's relatively few, and most of them are programs that were originally funded by the City and so it has to be contract. So I don't know if any of then new ones. I know we've done some outreach with communities for Social Adult Day based on just in the community, but I wouldn't call that training. So, I-- I will get back to you on that. I don't know.

2 CHAIRPERSON CHIN: But that's really a
3 wonderful idea in terms of really connecting them
4 because more and more that's a population they should
5 be serving, and unfortunately that's not the
6 population most of them are serving because they are
7 just serving some of the healthy seniors that should
8 be going to our regular senior centers.

9 JED LEVINE: Exactly.

10 CHAIRPERSON CHIN: By because we don't
11 have enough senior centers, and these--these pop-up
12 centers they are in the best locations.

13 JED LEVINE: Yes.

14 CHAIRPERSON CHIN: They're on the ground
15 floor in the storefronts and in a--in a busy part of
16 town where everyone can get to. So that's how they
17 attract a lot of the participants, but they're still
18 opening up new ones--

19 JED LEVINE: Yes.

20 CHAIRPERSON CHIN: --even though have
21 some have closed. I think from the report that DFTA
22 gave us about 15 of them have closed, and so the last
23 registration, but ne ones are still opening up.

24 JED LEVINE: Uh-huh.
25

2 CHAIRPERSON CHIN: So it's still very
3 lucrative. It's--people are still making money.

4 JED LEVINE: Okay.

5 CHAIRPERSON CHIN: And that's--look, we're
6 not against people doing business and making money,
7 but we just got to make sure that the seniors are
8 getting the services that they need, which a lot of
9 these Social Adult Daycare programs are supposed to
10 provide--

11 JED LEVINE: [interposing] Uh-huh.

12 CHAIRPERSON CHIN: --as you say for, you
13 know, people with dementia, with Alzheimer's so that
14 their family members can at least take a break, and--
15 and deal with other, you know, other issues, and so
16 we've got to continue to work on this.

17 JED LEVINE: Thank you. I do know that--
18 I'll check on the training, but I do know that some
19 of the Social Adult Day centers are enrolling their
20 registrants in our Medical Alert Monitor Safety
21 Program. So that is a precaution. Indeed, to some of
22 them it's actually kind of a standard affair.
23 Somebody comes in and they say no, you're already
24 enrolled in our program. They--they enroll in order
25 to be part of that, but again, I think most of those

2 are the programs that have been longstanding
3 partners, and have been, you know, city funded for
4 several years.

5 CHAIRPERSON CHIN: Yeah, and we don't
6 have that many.

7 JED LEVINE: Yeah, I hear.

8 CHAIRPERSON CHIN: You know, says it's
9 ten. I think we—we figure it's about nine because
10 one I think shut down their program--

11 JED LEVINE: [interposing] I think—right.

12 CHAIRPERSON CHIN: --for a lack of
13 service—funding, but whatever funding the City
14 Council was able to provide it only helped them
15 supplement, you know, an extra day of service--

16 JED LEVINE: Right.

17 CHAIRPERSON CHIN: --for these families.
18 So that's still not enough, and they're not getting
19 enough state funding--

20 JED LEVINE: [interposing] Uh-huh.

21 CHAIRPERSON CHIN: --for their programs,
22 but ultimately like they need to get the referrals
23 from the MLTCs.

24 JED LEVINE: Yes.

2 CHAIRPERSON CHIN: That's something that
3 we have to--to work on that the MLTC needs to
4 recognize that these are quality programs that they
5 should be referring their customers to.

6 JED LEVINE: We--we also hold a quarterly
7 round table with the MLTCs in the city to make sure
8 that they understand how--how we can work with them
9 and complement the services that they're providing,
10 and also if they're opening for training especially
11 around the homecare issues, we're providing homecare
12 as well. So that only one of the MLTCs has really
13 taken us up on that offer to provide training.

14 CHAIRPERSON CHIN: Well, we will have to
15 take a look at maybe we could do something to help
16 encourage them--

17 JED LEVINE: [interposing] Very good.

18 CHAIRPERSON CHIN: --to do that, but
19 thank you very much--

20 JED LEVINE: [interposing] My pleasure.

21 CHAIRPERSON CHIN: --for coming today,
22 and thank you for all the great work that Caring Kind
23 does.

24 JED LEVINE: Thank you.
25

1 COMMITTEE ON AGING

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2 CHAIRPERSON CHIN: Any other people want
3 to testify? No. Okay, so the hearing is adjourned.

4 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date February 10, 2017