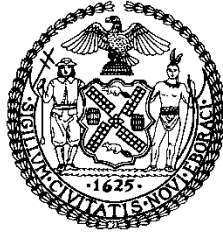


Committee on Aging
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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

Matt Gewolb, Legislative Director

COMMITTEE ON AGING

Hon. Margaret Chin, Chair

SUBCOMMITTEE ON SENIOR CENTERS

Hon. Paul Vallone

April 26, 2017

INT. NO. 1278:

By Council Members Chin, Koo, Menchaca, Salamanca, Treyger, Barron, Palma, Richards, Vacca, and Vallone

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to the posting of a performance summary card for social adult day care.

ADMINISTRATIVE CODE:

Adds subdivision e to § 21-204

INT. NO. 1519:

By Council Members Koslowitz, The Speaker (Council Member Mark-Viverito), Chin, Levin, Salamanca, Gentile, Vacca and Vallone

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to supplemental nutrition assistance program enrollment at senior centers.

ADMINISTRATIVE CODE:

Adds § 21-131.1
Adds § 21-207

RES. NO. 112:

By Council Members Johnson, Chin, Cohen, Eugene, Gentile, Koo, Rose, Vallone, Mendez, Menchaca and Ulrich

TITLE:

Resolution calling upon the Department for the Aging to restore the congregate weekend meal program and conduct a public awareness campaign to promote congregate and home delivered meals

RES. NO. 262:

By Council Members Ulrich, Espinal, Chin, Constantinides, Dromm, Eugene, Gentile, Koo, Lancman, Levine, Vallone, Williams, Rodriguez, Mendez, Richards, Miller, Rosenthal and Menchaca

TITLE:

Resolution calling upon the Department for the Aging to ensure that halal meals are available as part of the home delivered meals program.

RES. NO. 1225:

By Council Members Chin, Barron, Palma and Vallone

TITLE:

Resolution calling upon the New York State Legislature to significantly increase funding for the New York State Long-Term Care Ombudsman Program.

RES. NO. 1226

By Council Members Chin and Palma

TITLE:

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.5820-A, in relation to violations of safety conditions in adult care facilities

INTRODUCTION

On April 26, 2017, the Committee on Aging Chaired by Council Member Margaret Chin and the Subcommittee on Senior Centers, Chaired by Council Member Vallone will conduct a hearing on the following legislation: Int. No. 1278, to require the Department for the Aging to issue social adult day cares (SADCs) performance summary cards that the SADCs would be required to post; Int. No. 1519, to require DFTA to enroll eligible senior center participants in SNAP supplemental nutrition assistance program enrollment at senior centers; Res. No. 112, a Resolution calling upon the Department for the Aging to restore the congregate weekend meal program and conduct a public awareness campaign to promote congregate and home delivered meals; Res. No. 262, a resolution calling upon the Department for the Aging to ensure that halal meals are available as part of the home delivered meals program; Res. No. 1225, Resolution calling upon the New York State Legislature to significantly increase funding for the New York State Long-Term Care Ombudsman Program; Res. No. 1226, a Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation in relation to violations of safety conditions in adult care facilities. Today is the first hearing on these items. The Committees expect to hear testimony from the Department for the Aging (“DFTA”), the Human Resources Administration (“HRA”), providers, advocates and other interested stakeholders.

BACKGROUND

New York City Elderly

New York City is currently home to 1.55 million individuals 60 and older - roughly, 18.2 percent of the city’s population and the population of older New Yorkers is expected to increase significantly in the coming years (12.8 percent of New York City’s population is currently between

50-59 years old).¹ By 2040, more than one out of every five New Yorkers will be 60 and older.² This trend is likely to continue, as life expectancy at birth is at an all-time high for New York City.³ As its population continues to age, the city will face a growing demand for supportive care services, including SADC programs.⁴ It is important to ensure that SADCs are safe and abide by the appropriate standards.

Furthermore, access to food is going concern for seniors due to high food costs, accessibility and seniors relying on a fixed income. A large percentage of New York City seniors live below the poverty line, meaning they are unable to afford basic living requirements such as shelter and food. The 2015 federal poverty level was \$11,770 for a single person and \$15,930 for a couple, and the average social security benefit for a retired worker is \$1,341 per month or \$2,212 for a couple who both receive benefits.⁵ A little over 200,000 older New Yorkers age 65 and older are living below the poverty level, 30.2 percent of which are Hispanic, 26.1 percent are Asian, 18.1 percent are black, and 12.9 percent are white.⁶ Out of seniors living below the poverty level, 21 percent are women while 16.8 of men are below the poverty level.⁷

Social Adult Day Care

Social Adult Day Care is a form of Adult Day Services (ADS), which provides functionally impaired individuals such as those suffering from Alzheimer's, dementia, or other chronic health conditions with socialization, supervision, monitoring, personal care, and nutrition in a protective

¹ N.Y.C. Department for the Aging, *Annual Plan Summary April 1, 2017-March 31, 2018* (September 2016), available at <http://www.nyc.gov/html/dfta/downloads/pdf/AnnualPlanSummaryFY1617V2.pdf>

² *Id.*

³ *Id.*

⁴ These are also sometimes referred to as social adult day services (SADS). This paper will refer to them as social adult day cares (SADCs).

⁵ ASPE 2015 Poverty Guidelines, available at: <https://aspe.hhs.gov/2015-poverty-guidelines>

⁶ N.Y.C. Department for the Aging Annual Plan Summary.

⁷ *Id.*

setting during part of the day.⁸ ADS programs are intended to offer a cost effective alternative to in-patient services while allowing the individual receiving services to maintain a higher quality of life.

SADC programs serve a particularly vulnerable segment of the population of older adults by providing them a secure environment where participants can receive care designed to help them achieve optimal levels of physical and mental cognitive functioning.⁹ Caring for a functionally impaired family member often places a great burden and stress on loved ones and social adult day care programs can provide caregivers with much needed respite, as well as an opportunity to continue working.¹⁰

While properly managed SADC programs provide an essential service, the lack of regulation and oversight of these programs has created an opportunity for unscrupulous providers to open programs that may endanger the welfare of vulnerable seniors, threaten the funding of senior centers, and lead to fraudulent Medicaid practices.¹¹

However, social adult day care programs that receive funding from the New York State Office for that Aging (NYSOFA) or local aging offices, such as DFTA, must comply with the minimum requirements set forth in regulations promulgated by NYSOFA, known as Title 9 NYCRR 6654.20.¹² NYSOFA regulations require social adult day care programs adhere to service standards that include participant eligibility requirements, admission and discharge instructions, and the development of a service plan for each consumer.¹³ Programs must provide socialization

⁸ New York State Office for the Aging, Social Adult Day Services Program (SADS) *Available at:* <https://aging.ny.gov/NYSOFA/Programs/CaregiverSvcs/SADS.cfm>

⁹ *Id.*

¹⁰ *Id.*

¹¹ New York State Office of Medicaid Inspector General: Social Adult Day Care Certification. *Available at:* <https://www.omig.ny.gov/sadc-certification>

¹² N.Y.C Department for the Aging, New York City Social Adult Day Care. *available at:* http://www.nyc.gov/html/dfta/html/community/social_adult_day_care.shtml

¹³ 9 NYCRR 6654.20

services, supervision and monitoring, personal care, and nutrition.¹⁴ Allowable optional services include maintenance and enhancement of daily living skills, transportation between the home and the program, caregiver assistance, case coordination and assistance.¹⁵ However, oversight for non-publicly funded SADCs is minimal. The lack of regulation became a heightened issue after the 2011 Medicaid redesign that made it easier for SADCs to contract with MLTCs.¹⁶ This led to numerous “pop-up” SADCs entering the market especially in New York City.

On May 8, 2015, the New York State Department of Health (NYSDOH), along with the Office of Medicaid Inspector General (OMIG), and NYSOFA established a new certification process for SADC providers who contract with Managed Long Term Care (MLTC) plans and do not receive public funding, to meet the standards and requirements of Title 9 NYCRR 6654.20.¹⁷ This policy made it the responsibility of the MLTC plan to ensure that SADCs under contract have completed the certification and requires MLTC plans to sign-up individuals for SADCs only if an individual has a clinical or functional need for community based long-term care services (CBLTCS).¹⁸

Furthermore, in May 2014, Council Member Margaret Chin introduced Int. No. 358, which sought to regulate those social adult day care programs that did not receive funding from the state

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Matthew Katz, *Adult Daycare Center in Stevenson Scandal ‘Blitzed’ Bronx for New Members*, DNAinfo, Apr. 4, 2013, available at <http://www.dnainfo.com/new-york/2013/04/04/morris-heights/adult-daycare-center-stevenson-scandal-blitzed-bronx-for-new-members>; Ken Lovett, *Four Men Accused Of Bribing Assemblyman Barred From Participating In Medicaid Program*, N.Y. DAILY NEWS, Apr. 22, 2013, available at <http://www.nydailynews.com/blogs/dailypolitics/2013/04/four-men-accused-of-bribing-assemblyman-barred-from-participating-in-medicaid->

¹⁷ NY State Department of Health, Division of Long Term Care: MLTC Policy 15.01: Social Adult Day Care and Managed Long Term Care: Implementation of New Social Adult Day Care Certification Process (May 8,2015) available at:

https://www.health.ny.gov/health_care/medicaid/redesign/docs/mltc_policy_15.01_social_adult_day_care.pdf

¹⁸ *Id.*

or city.¹⁹ Subsequently, Int. No. 358 was amended to require registration of social adult care programs, to place primary responsibility of regulation of social adult day care programs with DFTA, and to expand the role of the social adult day care ombudsperson provided for in the legislation.²⁰ The bill became law on January 17, 2015, as Local Law 9 of 2015 (Local Law 9).

As enacted, Local Law 9 requires that all social adult day cares that do not receive grant funding pursuant to the State Elder Law meet the standards and requirements promulgated by NYSOFA for publicly funded programs related to program standards and participant rights.²¹ DFTA was required to adopt rules establishing civil penalties between \$250 and \$500 per day for SADCs and specifying those violations subject to penalty.²² The law required that such rules be adopted 12 months after the law's enactment.²³ As of the date of this hearing, DFTA has not proposed any rules concerning SADCs.

Furthermore, all SADCs operating in the city are mandated to register with DFTA.²⁴ This requirement took effect on July 17, 2015.²⁵ All current (as of that date) SADCs were required to register with DFTA no later than November 1, 2015, and programs established after November 1, 2015 must register with DFTA within two weeks of establishment.²⁶ DFTA's prescribed registration form requires each SADC to provide, at a minimum²⁷:

- The program's name, tax ID number, site address, phone number, days and hours of operation, and year of establishment;

¹⁹ Council of the City of New York, Int. No. 358 (April 18, 2017), available at <http://legistar.council.nyc.gov/View.ashx?M=F&ID=3413746&GUID=EAC6B7ED-0CE1-4A7F-BE71-86D74D9109C8>

²⁰ *Id.*

²¹ N.Y.C. Administrative Code §21-204(a)(1).

²² *Id.* at §21-204(c)(1).

²³ Local Law 9/2015, §4(i).

²⁴ N.Y.C. Administrative Code §21-204(b)(1).

²⁵ Local Law 9/2015, §4.

²⁶ N.Y.C. Department for the Aging, NYC Social Adult Day Care, http://www.nyc.gov/html/dfta/html/community/social_adult_day_care.shtml (last accessed April 18,2017)

²⁷ N.Y.C. Department for the Aging, Social Adult Day Care (SADC) Registration Form, http://www.nyc.gov/html/dfta/html/social_adult_dc/SocialAdultDCRegForm.shtml (last accessed April 18,2017)

- Certification that the program site is compliance with the Americans with Disabilities Act (ADA);
- Whether or not the program has certified with the New York State Office of the Medicaid Inspector General, and if not, an explanation of the failure to certify;
- The name, title, phone number, and email address of its director;
- Information about its corporate structure, including the entity type and corporate address; and
- The name, address, and phone number of each MTLC, which with the program has a formal agreement.

Any entity that operates as a SADC without registering is subject to a civil penalty of \$250 to \$1,000 per day.²⁸ The responsibility is on the SADC to provide updated registration information as changes occur.²⁹

Local Law 9 authorizes DFTA and employees of another agency designated by the Mayor to issue notices of violation for failure to register or follow program standards.³⁰ Since no such agency was designated within 30 days after the law was enacted, the Department of Consumer Affairs was automatically authorized to issue such notices along with DFTA.³¹ According to DFTA’s testimony at a hearing of the Aging Committee in February 2017, entitled “Oversight - Social Adult Day Care Follow-Up,” the Department of Consumer Affairs has not issued any notices of violation.³²

Finally, Local Law 9 established an ombudsperson at DFTA responsible for establishing a system to receive comments and complaints with respect to any SADC. The ombudsperson is responsible for requesting a list once annually of certified SADCs operating within the city from the state Department of Health, investigating complaints and any information known to DFTA that

²⁸ N.Y.C. Administrative Code §21-204(b)(1).

²⁹ *Id.* at §21-204(c)(2).

³⁰ *Id.* at §21-204(b)(2).

³¹ Local Law 9/2015, §3.

³² City Council Aging Committee Hearing, “Oversight- *Social Adult Day Care Follow-Up*,” February 7, 2017. Available at: <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=529707&GUID=9D29CB4A-50FF-4774-9A22-341BB6C60464&Options=&Search=>

a SADC may be in violation of the provisions of Local Law 9. Upon finding that there has been such a violation, DFTA must notify the SADC and reimbursing MLTC of the violation and request that the MLTC respond to the ombudsperson about if and how such violations will be addressed.³³ The ombudsperson may also, at their discretion, forward the results of the investigation and the response from the MLTC to appropriate governmental entities.³⁴ All SADCs must prominently post a sign onsite with information on how to contact the ombudsperson, and that a person may contact the ombudsperson if they have a comment or complaint regarding the SADC.³⁵ Individuals seeking to make a complaint or comment regarding any SADC in the City may do so by calling 311 or entering a complaint through DFTA's online portal.³⁶

To assist DFTA with their oversight of SADCs, Council Member Chin introduced Int. No. 1278, on September 28, 2016, which would require the Department for the Aging to issue a performance summary card to all SADCs operating in the City. The SADCs would be required to post the performance summary card at or near the entrance with information about SADCs compliance with NYSOFA standards related to social adult day care program standards and participant rights, as well as any rules promulgated by the department. The summary cards would also include information related to penalties imposed on a social adult day care and provide a comparison for other SADCs in the area.

³³ N.Y.C. Administrative Code §21-204(d)(1).

³⁴ *Id.* at §21-204(d)(1)(iii)(B). These include: the Department of Investigation, the State Department of Health, or any other office, agency, or entity responsible for the prevention, detection, and investigation of fraud and abuse related to the Medicaid program.

³⁵ *Id.* at §21-204(d)(2).

³⁶ N.Y.C. Department for the Aging, Social Adult Day Care (SADC) Inquiry Form. *Available at:* http://www.nyc.gov/html/dfta/html/social_adult_dc/SADCInquiryForm.shtml

Long Term Care Ombudsman

Long-term care ombudsman program (LTCOP) is a federal advocacy program dedicated to protecting people living in long-term care facilities.³⁷ They serve as an advocate and resource for people who live in nursing homes, adult homes and licensed residential care facilities. They help residents and families understand and exercise their rights to quality care and service and inform governmental agencies, providers and the public about issues and concerns affecting residents of long-term care facilities, their work is done entirely free of charge.³⁸ The New York State Long-Term Care ombudsman has been in existence since 1972, the federal Older Americans Act, required each state to establish an office of the State Long Term Care Ombudsperson and to employ qualified, full-time person to serve as the State ombudsman.³⁹ In New York State, there is a State Ombudsman and 15 Regional Ombudsman coordinators, who support and train more than 1,000 certified Ombudsmen who are first line of contact with residents and long-term care facilities.⁴⁰ Resolution No. 1225 calls upon NY State to increase the funding for the long-term care ombudsman.

Adult care facilities are adult homes, enriched housing and assisted living programs that provide temporary or long-term, non-medical residential care services to adults who are unable to live independently but who do not require a nursing home.⁴¹ The long-term residential care industry in New York State has had a long history of poor care, including complaints of inadequate care, inadequate monitoring, inappropriate medication management, and neglect.⁴²

³⁷ New York State Office for the Aging. New York State Long-Term Care Ombudsman Program (LTCOP) available at: <https://aging.ny.gov/NYSOFA/Programs/CommunityBased/LTCOP.cfm> (last accessed April 19, 2017)

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ N.Y.S Department of Health. Assisted Living. Available at: https://www.health.ny.gov/facilities/assisted_living/

⁴² *Id.*

Res. No. 1226 asks the State to pass and the Governor to sign legislation, which would increase the penalties for safety violations in adult care facilities.

Seniors and Food Scarcity

The United States Department of Agriculture (USDA) defines two types of food insecurity, low food security and very low food security.⁴³ Low food security is defined as reports of reduced quality, variety, or desirability, but little or no indication of reduced food intake. However, very low food security is when there are reports of multiple disruptions of normal eating patterns and reduced food intake.⁴⁴ This can lead to hunger and malnutrition, which is especially dangerous as person ages because malnutrition can hasten the onset of degenerative diseases, as well as exacerbate heart disease, hypertension, osteoporosis, cancer and diabetes.⁴⁵ Undereducated seniors who live at or below the poverty level are some of the most susceptible to food insecurity.⁴⁶

According to a 2016 report by Hunger Free America, on average 171,197 senior residents lived in food insecure households between 2013 and 2015.⁴⁷ Prior to the recession during 2006 to 2008, an average of 132,113 New York City seniors lived in food insecure households.⁴⁸ The study found that 22.48 percent of seniors living in the Bronx are food insecure, 17.13 of seniors living in Brooklyn, 10.81 percent of seniors in Manhattan and 10.21 percent of seniors in Queens.

⁴³ U.S. Department of Agriculture, Economic Research Service: Definitions of Food Security. Available at: <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/definitions-of-food-security.aspx>

⁴⁴ *Id.*

⁴⁵ NYC Dept. for the Aging,




⁴⁶ Hunger Solutions New York, Older Adult Food Insecurity: Framing the Issue (2011) at 6, *available at*: <http://hungersolutionsny.org/information-resources/hunger-resources/older-adult-food-insecurity-framing-issue-new-york>.

⁴⁷ Hunger Free America. New York City and State Hunger Report, 2016 “The State of the Working Hungry: Low Wages Chief Cause of Malnutrition,” *available at* <http://www.hungerfreeamerica.org/sites/default/files/atoms/files/2016%20Annual%20Hunger%20Survey%20Report%20Final.pdf>.

⁴⁸ *Id.*

New York City houses two of the top five Congressional districts with the highest percentage of seniors facing hunger.⁴⁹

The Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps, is a monthly benefits assistance program that recipients can use each month to purchase food at authorized grocery stores and farmers markets and benefits are provided monthly through an electronic benefits card.⁵⁰ Eligibility for SNAP is based on an individual’s household size, income, expenses, and other factors.⁵¹ Households must meet income tests to receive benefits, but households with disabled members or individuals over 60 can have higher incomes, but still qualify.⁵² The table below shows the estimated monthly benefit based on household size and pre-taxed income.⁵³

 NUMBER OF PEOPLE IN HOUSEHOLD	 MONTHLY INCOME LIMIT (PRE-TAXES) ¹	 MAX. MONTHLY SNAP BENEFITS ²
1	\$1,287	\$194
2	\$1,736	\$357
3	\$2,184	\$511
4	\$2,633	\$649
Each additional household member	+\$451 (approximately)	+\$146 (approximately)
	¹ In effect 10/1/16 - 9/30/17.	² In effect 10/1/16 - 9/30/17.

⁴⁹ *Id.*

⁵⁰ Hunger Free-NYC. Citywide Food Assistance Guides. Available at: <http://www.hungerfreeamerica.org/food-assistance-guides>

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

According to the 2016 Food Metrics Report, 308,890 NYC residents 65 year old and older are recipients of SNAP benefits each month, but many more seniors qualify, but do not participate in the program.⁵⁴

The Human Resources Administration (HRA), the Department for the Aging (DFTA) and the Food Bank for New York have worked together to identify senior citizens eligible but who do not receive SNAP benefits through a computer match with the Senior Citizen Rent Increase Exemption (SCRIE) program.⁵⁵

In January 2017, the Human Resources Administration (HRA) testified at a joint City Council hearing of the Aging Committee and General Welfare Committee on Food Insecurity. This hearing focused on senior SNAP enrollment and senior food insecurity. According to HRA testimony, beginning in September 2014, HRA collaborated with the Robin Hood Foundation, Benefits Data Trust and DFTA to enroll eligible seniors in the SNAP program.⁵⁶ This joint campaign was set to expand in 2017 for two years, to increase participation in targeted benefits. The campaign will include mass media, grassroots outreach and service delivery for eligible individuals.⁵⁷

HRA testified that the NYC SNAP participation rate is higher than the national average, but it could be higher, however barriers to outreach include limited mobility, lack of knowledge, and the perceived stigmas associated with accepting government assistance.⁵⁸ New York's Benefits Center implemented phone and direct mail campaign for seniors who are not receiving

⁵⁴ NYC Food Policy, 2016 Food Metrics Report, *Available at* <http://www1.nyc.gov/assets/foodpolicy/downloads/pdf/2016-Food-Metrics-Report.pdf>

⁵⁵ *Id.*

⁵⁶ Testimony from HRA at Aging Committee and General Welfare Hearing. January 25, 2017. *Available at:* <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=525696&GUID=5C6FB31C-0DC8-4266-9489-629723DF348C&Options=&Search=>

⁵⁷ *Id.*

⁵⁸ *Id.*

SNAP.⁵⁹ The program mailed 214,688 outreach letters and direct mail campaign with a message from Commissioner Banks to 130,448 households.⁶⁰

While there are a variety of discount programs available to seniors at grocery stores throughout the city, distance and accessibility remain ongoing problems that continue to limit seniors' access to healthy food.⁶¹ Part of this stems from a lack of access to fresh food retailers. Several studies have found that proximity to supermarkets corresponds with a lower body mass index (BMI), rates of obesity, diabetes, or diet related deaths.⁶² A USDA pilot program to allow homebound seniors to use SNAP benefits at online grocers including FreshDirect and Amazon Fresh was announced in January 2017.⁶³

Senior Centers

New York City senior centers provide an opportunity to socialize, but they also provide congregate meals to seniors on a daily basis, that must meet specific nutritional standards. The DFTA currently funds 235 neighborhood senior centers (NCs) and 16 Innovative Senior Centers (ISCs), which are located throughout the five boroughs, and have an average daily attendance of 30,000 individuals.⁶⁴ Neighborhood Centers are designed to provide consistent services, including a minimum of 60 meals per day, an average daily attendance of 75 people, and a required

⁵⁹ *Id.*

⁶⁰ *Ld.*

⁶¹ U.S. Department of Agriculture. "USDA Announces Retailer Volunteers for SNAP Online Purchasing Pilot." (January 5, 2017) *available at*:

https://www.usda.gov/wps/portal/usda/usdahome?contentid=2017/01/0003.xml&navid=NEWS_RELEASE&navtype=RT&parentnav=LATEST_RELEASES&edeployment_action=retrievecontent

⁶² The Food Trust, "The Grocery Gap: Who Has Access to Healthy Food and Why It Matters," at 18, *available at* http://thefoodtrust.org/uploads/media_items/grocerygap.original.pdf,

⁶³ *Id.*

⁶⁴ N.Y.C. Department for the Aging, Annual Plan Summary April 1, 2017-March 31, 2018 (September 2016), *available at* <http://www.nyc.gov/html/dfta/downloads/pdf/AnnualPlanSummaryFY1617V2.pdf>

Health and Wellness component.⁶⁵ All NCs provide congregate meals, offer a variety of activities and as well as provide seniors with information on assistance and with benefits.⁶⁶

Innovative Senior Centers provide enhanced programing such as health and wellness programs, additional access to health care services, arts and cultural programs, and technology and volunteer opportunities.⁶⁷ ISCs have more flexible and expanded hours, including evenings and weekends, as well as transportation options to facilitate access to the centers. In Fiscal Year 2016, 29,682 New York City seniors participated in activities and received meals at DFTA's senior centers.⁶⁸

In Fiscal Year 2017, the Administration included one-year funding for sixth day congregate meals for senior centers and home delivered meals totaling \$1.2 million. However, the 2018 preliminary budget did not include funding for a sixth day of congregate meals. After the 2018, Aging Committee and Senior Center preliminary budget hearing, the Council called upon the Administration to baseline funding for sixth congregate meals in the Fiscal 2018 Budget Response.

Res. No. 112 asks DFTA to restore the congregate weekend meals program and to conduct a public awareness campaign for congregate and home delivered meals.

Home Delivered Meals

Home delivered meals provide nutritious meals to older homebound New Yorkers.⁶⁹ These meals meet prescribed dietary guidelines. Individuals assessed by their case manager as capable of reheating their own meals have a choice and flexibility of choosing between twice-weekly

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ NYC Mayor's Management Report 2016, available at http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2016/2016_mmr.pdf

⁶⁹ N.Y.C. Department for the Aging, Annual Plan Summary April 1, 2017-March 31, 2018 (September 2016), available at <http://www.nyc.gov/html/dfta/downloads/pdf/AnnualPlanSummaryFY1617V2.pdf>

delivery of frozen meals and a daily delivery of hot meals.⁷⁰ The selection of frozen meal delivery provides the option to decide when clients are ready to eat and which meal they wish to eat that day.⁷¹

Eligibility is determined through a case management agency funded by DFTA to help seniors who need assistance managing activities of daily living, access the services they need. A home visit to assess an individual's needs is the first step, a care plan is developed with a case manager, the case manager will arrange the necessary supportive services, and will help an individual with the services they need.

In Fiscal Year 2016, 26,418 homebound seniors received 4,468,107 home delivered meals, which was a 3.6 percent increase from Fiscal Year 2015 4.3 million meals.⁷²

ANALYSIS

ANALYSIS OF INT. NO. 1278

Int. No. 1278 - A Local Law to amend the administrative code of the city of New York, in relation to the posting of a performance summary card for social adult day cares

Section one of Int. No. 1278 would amend section 21-204 of the Administrative Code to add a new subdivision e.

Such new subdivision e would relate to social adult day care performance summary card. Subdivision e of Section 21-204 would define "performance summary card" as an individualized card that summarizes a social adult day care's compliance with rules and regulations promulgated by the director of the state office for the aging related to social adult day care program standards and participant rights, and any rules promulgated by the department.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

The legislation would further provide that DFTA should issue a performance summary card to each social adult day care operating in the city, such performance summary card would include information regarding penalties imposed on a social adult day care pursuant to subdivision c of section 21-204, during the twelve-month period prior to the issuance of such card. The card would also include additional information such as:

- The capacity of the social adult day care;
- The length of time the social adult day care has operated;
- A comparison of the social adult day care to other social adult day cares in the city; and
- Other information required by the department

The section further states that the card would be updated and reissued by the ombudsperson at least once every twelve months. The social adult day care would conspicuously post the most recent issued performance summary card at or near its entrance in accordance with rules promulgated by the department.

Bill section 2 of Int. No. 1278 provides that the local law would take effect 180 days after it becomes law, except that DFTA shall take necessary steps for the implementation of this local law, including promulgating rules, prior to such date.

ANALYSIS OF INT. NO. 1519

Int. No. 1519 - A Local Law to amend the administrative code of the city of New York, in relation to supplemental nutrition assistance program enrollment at senior centers.

Int. No. 1519 would amend chapter 1 of title 21 of the Administrative Code by adding a new section 21-131.1.

Section 21-131.1 relates to supplemental nutrition assistance program and enrollment at senior centers

- a. The Commissioner of Social Services would distribute applications for the supplemental nutrition assistance program to all senior centers. Senior center has the same meaning as defined in section 21-201.
- b. The Commissioner of Social Services would in coordination with the Commissioner of DFTA would establish and implement a program to enable enrollment in the supplemental nutrition assistance program at all senior centers. Such program would at a minimum enable seniors to enroll in the SNAP assistance program in person at each senior center.
- c. Beginning January 1, 2018, and on the first business day of each succeeding calendar quarter thereafter, the Commissioner of Social Services would submit a report to the Speaker of the City Council indicating, at the minimum:
 - 1) The numbers of seniors enrolled in the supplemental nutrition assistance program at each senior center in the previous calendar quarter; and
 - 2) The number of seniors enrolled in the supplemental nutrition assistance program at each senior center during the calendar year.

Int. No. 1519 would amend Chapter 2 of title 21 of the administrative code of the City of New York by adding a new section 21-207.

Int. No. 1519 would further amend the administrative code by adding section 21-207 in relation to SNAP enrollment. Subdivision a of section 21-207 provides that the DFTA Commissioner, in coordination with the Commissioner of Social Services, would require each senior center to offer programming no less than once each month to enable eligible seniors to enroll in SNAP, established pursuant to section 95 of the social services law.

Bill section 3 of Int. No. 1519 provides that the local law would take effect 120 days after it becomes law, except that the Commissioner of Social Services and the Commissioner of DFTA

may take all actions necessary for its implementation, including promulgating rules, prior to such effective date.

ANALYSIS OF RES. NO. 112

Res. No. 112- Resolution calling upon the Department for the Aging to restore the congregate weekend meal program and conduct a public awareness campaign to promote congregate and home delivered meals.

Res. No. 112 would state that the federal government provides local agencies on aging with funding for nutritional programs for seniors through the Older Americans Act. The resolution would further state that the New York City Department for the Aging (DFTA) contracts with non-profit organizations to operate nutrition programs offering seniors community-based (congregate) and home delivered meals.

The resolution would further explain that all individuals age 60 and over, and their spouses, are eligible for free congregate meals, regardless of income or assets. The resolution would further state that DFTA contractors provide congregate breakfast, lunch, and dinner meals at more than 200 senior centers across the City during the week.

Res. No. 112 would state that in 2009, DFTA eliminated a component of its nutrition program that provided seniors with a meal to take home to be eaten during the weekend, also known as a “6th congregate meal,” citing budget cuts. The resolution would also state that more than 24,000 seniors in New York City take part in DFTA’s nutrition program, with 7.3 million congregate meals served and 4.25 million meals delivered in 2013. The resolution would further state that over 175,000 seniors, approximately 11.5 percent of those over age 60 in New York City, report being food insecure.

Res. No. 112 would further explain that free nutritious congregate and home delivered meals can help prevent disease, reduce the effects of chronic illnesses, promote socialization, and keep low-income seniors from going hungry.

The resolution would argue that restoring congregate weekend meals and encouraging the utilization of DFTA's nutrition programs would positively impact the lives of thousands of the City's seniors, and would therefore state that the Council of the City of New York calls upon the Department for the Aging to restore the congregate weekend meal program and conduct a public awareness campaign to promote congregate and home delivered meals.

ANALYSIS OF RES. NO. 262

Res. No. 262 - Resolution calling upon the Department for the Aging to ensure that halal meals are available as part of the home delivered meals program.

Res. No. 262 would state that the federal government provides local agencies on aging with funding for nutritional programs for seniors through the Older Americans Act; and that the New York City Department for the Aging (DFTA) contracts with non-profit organizations to operate nutrition programs offering seniors home delivered meals. The resolution would also state that in 2013, DFTA contractors delivered 4.25 million meals to seniors throughout the City, serving approximately 17,000 each day. The resolution would further state that according to DFTA, a number of home delivered meal providers offer specialized meals such as kosher meals and culturally relevant meals to those identifying as Chinese, Polish, and Korean.

Res. No. 262 would further state that it is estimated that between 600,000 and one million Muslims live in New York City. The resolution would further state that observant Muslims adhere to a halal diet, consuming only approved foods that have been prepared in accordance with Islamic law. The resolution would further state that currently, none of the 16 contractors currently participating in DFTA's home delivered meal program offer halal meals. The resolution would also state that free home delivered meals can help prevent disease, reduce the effects of chronic illnesses, promote socialization, and keep low-income seniors from going hungry.

Res. No. 262 would argue that offering culturally and religiously appropriate meals allows more seniors in the City's increasingly diverse aging population to benefit from the home delivered meals program. The resolution would further argue that many Muslim seniors would go hungry rather than go against their religious beliefs by eating non-halal meals and would therefore state that the Council of the City of New York calls upon the Department for the Aging to ensure that halal meals are available as part of the home delivered meals program.

ANALYSIS OF RES. NO. 1225

Res. No. 1225 - Resolution calling upon the New York State Legislature to significantly increase funding for the New York State Long-Term Care Ombudsman Program

Res. No. 1225 would state that the long-term residential care industry in New York State has had a long history of providing poor care; and that numerous studies have shown that the same problems identified over the last few decades are still causing harm to residents in long-term care facilities today, such as inadequate care and monitoring, inappropriate medication management and neglect.

The resolution would also state that residential care facilities include nursing homes, which provide continuous medical or skilled nursing care and related services above the level of room and board. The Resolution would further state that residential care facilities also include adult care facilities (such as adult homes, enriched housing and assisted living programs), which provide non-medical residential care services to adults who are substantially unable to live independently. Res. No. 1225 would cite the fact that, according to the Kaiser Family Foundation, New York State has the highest number of nursing home residents in the country, with 105,131 residents out of a total of 1,347,983.

The resolution would then explain that according to the New York State Department of Health (“DOH”), nearly 50 percent (250 of 531) of all licensed adult care facilities and nearly 30

percent (175 of 628) of all nursing homes in New York State are located within New York City. The resolution would also state that, an investigative series by The New York Times in 2002 uncovered widespread abuse, inhumane conditions and suspicious deaths in adult homes in New York City.

Res. No. 1225 would also state that the New York Times series detailed numerous instances of squalid and vermin-ridden rooms, assault of residents by workers, suicides of mentally ill residents due to lack of supervision and treatment, forcible treatment and surgical operations for Medicare and Medicaid fees and misappropriation of residents' funds. The resolution would then state that the New York State Office of the Attorney General brought criminal charges against nine employees of a New York City nursing home in 2006 after a hidden camera investigation revealed chronic patient neglect and falsification of patient records. The resolution would further state that the hidden camera revealed that a patient developed dangerous pressure sores because the home failed to regularly attend to the patient and also showed that the patient often received no assistance in eating and often went without any food or drink entirely.

Res. No. 1225 would explain that a class action was brought in 2013 against New York State on behalf of individuals with serious mental illness residing in 23 adult homes in New York City for failure to provide services to residents in the most integrated setting appropriate to their needs. The resolution would then explain that the 1978 Amendments to the Older Americans Act required every state to operate a Long-Term Care Ombudsman Program ("LTCOP") that advocates for the health, safety, welfare and rights of residents of nursing homes, adult homes and other similar adult care facilities. The resolution would further explain that in New York State, the LTCOP is administratively housed within the New York State Office for the Aging ("NYSOFA") and provides services through a network of 36 local programs.

The resolution would then explain that according to the NYSOFA, each local ombudsman program has a designated ombudsman coordinator who recruits, trains and supervises a corps of trained volunteers (currently more than 1,000 statewide) that provide a regular presence in nursing homes and adult care facilities. The resolution would then state that under Title VII of the Older Americans Act, LTCOP responsibilities include identifying and resolving complaints made by or on behalf of residents, providing information to residents about long-term care services, representing residents' interests before governmental agencies, seeking administrative, legal and other remedies to protect residents, and recommending changes to laws and policies on behalf of residents.

Res. No. 1225 would then state that while New York State has the largest nursing home population in the country, its LTCOP is severely underfunded and understaffed compared to other states' LTCOPs. The resolution would then cite the fact that, according to the U.S. Department of Health & Human Services ("HHS"), California, has the second largest nursing home population in the country (97,970 residents) after New York State. The resolution would further state that California, despite being second, far surpassed New York State in terms of LTCOP staffing, complaints handled and funding every single year from 2007-2013.

The resolution would further state that according to HHS, California's LTCOP closed nearly 20 times as many cases in 2013 as did New York State's LTCOP, with 30,964 closed cases compared with only 1,606 closed in New York State. The resolution would also state that according to HHS, California gave \$3,788,210 to its LTCOP in 2013, while New York State gave only \$229,236 - less than one-tenth of the amount California provided. The resolution would explain that according to the Long Term Care Community Coalition, New York State's LTCOP is

the fifth lowest in the nation in terms of percentage of state funding it receives and 16th lowest in the actual dollars it receives.

Res. No. 1225 would further explain that according to the Long Term Care Community Coalition, given New York State's size (nearly 20 million residents) and the fact that it has the largest nursing home population in the country, these figures indicate a serious lack of support by the State in ensuring that long-term care residents have meaningful access to LTCOP services.

The resolution would then argue that in order to fulfill its mandate to advocate for and protect nursing home and adult care facility residents, state support for New York State's LTCOP should rise at least to the level that California provides. The resolution would further argue that increased financial support for the LTCOP will help to improve the quality of care and quality of life for the large number of long-term care residents in New York City, and would therefore state that the Council of the City of New York calls upon the New York State Legislature to significantly increase funding for the New York State Long-Term Care Ombudsman Program.

ANALYSIS OF RES. NO. 1226

Res. No. 1226 - Resolution calling upon the New York State Legislature to pass and the Governor to sign A.5820-A, in relation to violations of safety conditions in adult care facilities

Res. No. 1226 would state that the long-term residential care industry in New York State has had a long history of poor care, and numerous studies have shown that the same problems identified over the last few decades are still causing harm to residents in adult care facilities today, such as inadequate care and monitoring, inappropriate medication management, and neglect.

The resolution would further state that adult care facilities, such as adult homes, enriched housing and assisted living programs, provide temporary or long-term, non-medical

residential care services to adults who are substantially unable to live independently but who do not require a nursing home.

Res. No. 1226 would cite the New York State Department of Health (“DOH”), nearly 50 percent of all licensed adult care facilities in New York State (250 of 531) are located within New York City. The proposed resolution would further explain that an investigative series by The New York Times in 2002 uncovered widespread abuse, inhumane conditions and suspicious deaths in adult homes in New York City.

The resolution would further state that the New York Times series detailed numerous instances of squalid and vermin-ridden rooms, assault of residents by workers, suicides of mentally ill residents due to lack of supervision and treatment, forcible treatment and surgical operations for Medicare and Medicaid fees and misappropriation of residents’ funds.

Res. No. 1226 would further explain that the New York State Office of the Attorney General filed a lawsuit in 2002 against the former operators of a Brooklyn adult home for failing to provide for the health, safety and welfare of the residents, while forcing residents to live in deplorable condition. The resolution would further state that the lawsuit detailed numerous occasions where common areas and residents’ rooms were infested with mice, cockroaches and flies and showed how operators diverted payments made by residents for room and board to entities the operators owned, while neglecting to pay for utilities and upkeep of the adult home.

The resolution would further explain that a class action was brought in 2013 against New York State on behalf of individuals with serious mental illness residing in 23 adult homes in New York City for failure to provide services to residents in the most integrated setting appropriate to their needs.

The resolution would further cite Title 1 of Article 7 of the Social Services Law (“SSL”) provides DOH with oversight and enforcement authority over adult care facilities in New York State. The resolution would further indicate that according to a 2011 study of DOH inspection reports by the Long Term Care Community Coalition (“LTCCC”), although DOH identified regulatory violations in more than 5,000 inspections of adult care facilities between 2002 and 2010, only eight percent of those inspections led to enforcement actions.

Proposed Res. No. 1226-A would further state that Title 1 of Article 7 of the SSL permits DOH to assess civil penalties of up to \$1,000 per day, but not per violation, for regulatory violations that adult care facilities commit. The resolution would further note that under this penalty scheme, a facility with one violation and a facility with many violations are subject to the same penalty cap of \$1,000 per day. The resolution would further explain that the maximum penalty per day has not been raised since the law’s inception in 1977.

The resolution would note that pursuant to Title 1 of Article 7 of the SSL, DOH is prohibited from imposing penalties if a facility either has corrected a violation within 30 days of receiving notice of the violation or is acting in accordance with a plan to correct the violation, unless the violation endangered or resulted in harm to residents. The resolution would further note that according to MFY Legal Services, the current framework provides no incentive for facilities to comply with DOH regulations and instead allows facilities to repeatedly violate the regulations with impunity.

Res. No. 1226 would further state that according to the 2011 LTCCC study, even in the case of endangerment violations, only 74 percent of such violations led to the imposition of penalties by DOH between 2006 and 2010. The resolution would further state that A.2743 introduced by Assembly Member Richard N. Gottfried and currently pending in the New York

State Assembly, seeks to amend the SSL by strengthening DOH enforcement of applicable standards governing adult care facilities.

The resolution would further state that the bill permits DOH to assess penalties per violation, in addition to the existing daily penalties. The resolution would further note that the bill increases the maximum penalty for a violation from \$1,000 to \$5,000. Proposed Res. No. 1226-A would further state that the bill grants DOH discretion to issue a reduced penalty for a violation if a facility either corrects the violation within 30 days or is acting in accordance with a plan to correct the violation.

The resolution would further explain that the bill also provides that rectifying a violation does not preclude the assessment of a penalty if the violation, although corrected, was a violation in the same category as a violation that DOH cited at the previous facility inspection. The resolution would further state that the bill prohibits hospitals, residential health care facilities and other adult care facilities from making referrals for admissions to any adult care facility that currently has its operating certificate revoked, suspended or denied by DOH, has been placed on DOH's "Do Not Refer" list, or is subject to civil penalties for violating DOH regulations. Res. No. 1226 would further state the bill prohibits any new admissions to an adult care facility facing an enforcement action if DOH finds that a condition exists that is dangerous to the health, safety or welfare of any resident. The resolution would further indicate that the bill eliminates an SSL provision that permits facilities receiving DOH's highest rating to undergo inspections only once every 18 months instead of annually, reserving the 18-month inspection schedule for facilities that DOH finds in compliance with applicable statutes and regulations in the most recent inspection.

Res. No. 1226 would assert that the bill provides a strong incentive for adult care facilities to comply with DOH regulations and correct violations promptly. The resolution would attest that

the bill would help to protect the health, safety and quality of life of the large number of vulnerable residents in adult care facilities in New York City and would therefore provide that the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.5820-A, in relation to violations of safety conditions in adult care facilities.

Int. No. 1278

By Council Members Chin, Koo, Menchaca, Salamanca, Treyger, Barron, Palma, Richards, Vacca and Vallone

A Local Law to amend the administrative code of the city of New York, in relation to the posting of a performance summary card for social adult day cares

Be it enacted by the Council as follows:

Section 1. Section 21-204 of the administrative code of the city of New York is amended to add a new subdivision e to read as follows:

e. Social adult day care performance summary card. 1. For purposes of this subdivision, “performance summary card” means an individualized card that summarizes a social adult day care’s compliance with rules and regulations promulgated by the director of the state office for the aging related to social adult day care program standards and participant rights, as well as any applicable rules promulgated by the department.

2. The department shall issue a performance summary card to each social adult day care operating in the city. The performance summary card shall include information regarding any penalties imposed on a social adult day care pursuant to subdivision c of this section during the twelve month period prior to the issuance of such card. Such card shall further include additional information such as the capacity of the social adult day care, the length of time for which the social adult day care has operated, a comparison of the social adult day care to other social adult day cares in the city, and other information required by the department. Such card shall be updated and reissued by the ombudsperson at least once every twelve months. The social adult day care shall conspicuously post the most recently issued performance summary card at or near its entrance in accordance with rules promulgated by the department.

§ 2. This local law takes effect 180 days after it becomes law, except that the department shall take such steps as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date.

ENB
LS #8450
9/23/16 8:52 AM

Int. No. 1519

By Council Members Koslowitz, The Speaker (Council Member Mark-Viverito), Chin, Levin, Salamanca, Gentile, Vacca and Vallone

A Local Law to amend the administrative code of the city of New York, in relation to supplemental nutrition assistance program enrollment at senior centers

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-131.1 to read as follows:

§ 21-131.1 Supplemental nutrition assistance program enrollment at senior centers. a. The commissioner shall distribute applications for the supplemental nutrition assistance program to all senior centers. For purposes of this section, the term “senior center” has the same meaning as such term is defined in section 21-201.

b. The commissioner shall, in coordination with the commissioner of the department for the aging, establish and implement a program to enable enrollment in the supplemental nutrition assistance program at all senior centers. Such program shall, at a minimum, enable eligible seniors to enroll in the supplemental nutrition assistance program in person at each senior center.

c. Beginning January 1, 2018, and on the first business day of each succeeding calendar quarter thereafter, the commissioner shall submit a report to the speaker of the city council indicating, at a minimum, (1) the number of seniors enrolled in the supplemental nutrition assistance program at each senior center in the previous calendar quarter; and (2) the number of seniors enrolled in the supplemental nutrition assistance program at each senior center during the current calendar year.

§ 2. Chapter 2 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-207 to read as follows:

§ 21-207 Supplemental nutrition assistance program enrollment. a. The commissioner shall, in coordination with the commissioner of social services, require each senior center to offer programming no less than once each month to enable eligible seniors to enroll in the supplemental nutrition assistance program established pursuant to section 95 of the social services law.

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of social services and the commissioner of the department for the aging may take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

ARP
LS # 9724
3/13/17 1:05PM

Res. No. 112

Resolution calling upon the Department for the Aging to restore the congregate weekend meal program and conduct a public awareness campaign to promote congregate and home delivered meals.

By Council Members Johnson, Chin, Cohen, Eugene, Gentile, Koo, Rose, Vallone, Mendez, Menchaca and Ulrich

Whereas, The federal government provides local agencies on aging with funding for nutritional programs for seniors through the Older Americans Act; and

Whereas, The New York City Department for the Aging (DFTA) contracts with non-profit organizations to operate nutrition programs offering seniors community-based (congregate) and home delivered meals; and

Whereas, All individuals age 60 and over, and their spouses, are eligible for free congregate meals, regardless of income or assets; and

Whereas, DFTA contractors provide congregate breakfast, lunch, and dinner meals at more than 200 senior centers across the City during the week; and

Whereas, In 2009, DFTA eliminated a component of its nutrition program that provided seniors with a meal to take home to be eaten during the weekend, also known as a “6th congregate meal,” citing budget cuts; and

Whereas, More than 24,000 seniors in New York City take part in DFTA’s nutrition program, with 7.3 million congregate meals served and 4.25 million meals delivered in 2013; and

Whereas, Over 175,000 seniors, approximately 11.5 percent of those over age 60 in New York City, report being food insecure; and

Whereas, Free nutritious congregate and home delivered meals can help prevent disease, reduce the effects of chronic illnesses, promote socialization, and keep low-income seniors from going hungry; and

Whereas, Restoring congregate weekend meals and encouraging the utilization of DFTA's nutrition programs would positively impact the lives of thousands of the City's seniors; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Department for the Aging to restore the congregate weekend meal program and conduct a public awareness campaign to promote congregate and home delivered meals.

KET
3/7/14 12:47PM
LS 526/2014

Res. No. 262

Resolution calling upon the Department for the Aging to ensure that halal meals are available as part of the home delivered meals program.

By Council Members Ulrich, Espinal, Chin, Constantinides, Dromm, Eugene, Gentile, Koo, Lancman, Levine, Vallone, Williams, Rodriguez, Mendez, Richards, Miller, Rosenthal and Menchaca

Whereas, The federal government provides local agencies on aging with funding for nutritional programs for seniors through the Older Americans Act; and

Whereas, The New York City Department for the Aging (DFTA) contracts with non-profit organizations to operate nutrition programs offering seniors home delivered meals; and

Whereas, In 2013, DFTA contractors delivered 4.25 million meals to seniors throughout the City, serving approximately 17,000 each day; and

Whereas, According to DFTA, a number of home delivered meal providers offer specialized meals such as kosher meals and culturally relevant meals to those identifying as Chinese, Polish, and Korean; and

Whereas, It is estimated that between 600,000 and one million Muslims live in New York City; and

Whereas, Observant Muslims adhere to a halal diet, consuming only approved foods that have been prepared in accordance with Islamic law; and

Whereas, Currently, none of the 16 contractors currently participating in DFTA's home delivered meal program offer halal meals; and

Whereas, Free home delivered meals can help prevent disease, reduce the effects of chronic illnesses, promote socialization, and keep low-income seniors from going hungry; and

Whereas, Offering culturally and religiously appropriate meals allows more seniors in the City's increasingly diverse aging population to benefit from the home delivered meals program; and

Whereas, Many Muslim seniors would go hungry rather than go against their religious beliefs by eating non-halal meals; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Department for the Aging to ensure that halal meals are available as part of the home delivered meals program.

KET
5/2/14 11:05AM
LS 1233/2014

Res. No. 1225

Resolution calling upon the New York State Legislature to significantly increase funding for the New York State Long-Term Care Ombudsman Program

By Council Members Chin, Barron, Palma and Vallone

Whereas, The long-term residential care industry in New York State has had a long history of providing poor care; and

Whereas, Numerous studies have shown that the same problems identified over the last few decades are still causing harm to residents in long-term care facilities today, such as inadequate care and monitoring, inappropriate medication management and neglect; and

Whereas, Residential care facilities include nursing homes, which provide continuous medical or skilled nursing care and related services above the level of room and board; and

Whereas, Residential care facilities also include adult care facilities (such as adult homes, enriched housing and assisted living programs), which provide non-medical residential care services to adults who are substantially unable to live independently; and

Whereas, According to the Kaiser Family Foundation, New York State has the highest number of nursing home residents in the country, with 105,131 residents out of a total of 1,347,983; and

Whereas, According to the New York State Department of Health (“DOH”), nearly 50 percent (250 of 531) of all licensed adult care facilities and nearly 30 percent (175 of 628) of all nursing homes in New York State are located within New York City; and

Whereas, An investigative series by The New York Times in 2002 uncovered widespread abuse, inhumane conditions and suspicious deaths in adult homes in New York City; and

Whereas, The New York Times series detailed numerous instances of squalid and vermin-ridden rooms, assault of residents by workers, suicides of mentally ill residents due to lack of supervision and treatment, forcible treatment and surgical operations for Medicare and Medicaid fees and misappropriation of residents' funds; and

Whereas, The New York State Office of the Attorney General brought criminal charges against nine employees of a New York City nursing home in 2006 after a hidden camera investigation revealed chronic patient neglect and falsification of patient records; and

Whereas, The hidden camera revealed that a patient developed dangerous pressure sores because the home failed to regularly attend to the patient and also showed that the patient often received no assistance in eating and often went without any food or drink entirely; and

Whereas, A class action was brought in 2013 against New York State on behalf of individuals with serious mental illness residing in 23 adult homes in New York City for failure to provide services to residents in the most integrated setting appropriate to their needs; and

Whereas, The 1978 Amendments to the Older Americans Act required every state to operate a Long-Term Care Ombudsman Program ("LTCOP") that advocates for the health, safety, welfare and rights of residents of nursing homes, adult homes and other similar adult care facilities; and

Whereas, In New York State, the LTCOP is administratively housed within the New York State Office for the Aging ("NYSOFA") and provides services through a network of 36 local programs; and

Whereas, According to the NYSOFA, each local ombudsman program has a designated ombudsman coordinator who recruits, trains and supervises a corps of trained volunteers

(currently more than 1,000 statewide) that provide a regular presence in nursing homes and adult care facilities; and

Whereas, Under Title VII of the Older Americans Act, LTCOP responsibilities include identifying and resolving complaints made by or on behalf of residents, providing information to residents about long-term care services, representing residents' interests before governmental agencies, seeking administrative, legal and other remedies to protect residents, and recommending changes to laws and policies on behalf of residents; and

Whereas, While New York State has the largest nursing home population in the country, its LTCOP is severely underfunded and understaffed compared to other states' LTCOPs; and

Whereas, According to the U.S. Department of Health & Human Services ("HHS"), California, has the second largest nursing home population in the country (97,970 residents) after New York State; and

Whereas, California, despite being second, far surpassed New York State in terms of LTCOP staffing, complaints handled and funding every single year from 2007-2013; and

Whereas, According to HHS, California's LTCOP closed nearly 20 times as many cases in 2013 as did New York State's LTCOP, with 30,964 closed cases compared with only 1,606 closed in New York State; and

Whereas, According to HHS, California gave \$3,788,210 to its LTCOP in 2013, while New York State gave only \$229,236 - less than one-tenth of the amount California provided; and

Whereas, According to the Long Term Care Community Coalition, New York State's LTCOP is the fifth lowest in the nation in terms of percentage of state funding it receives and 16th lowest in the actual dollars it receives; and

Whereas, According to the Long Term Care Community Coalition, given New York State's size (nearly 20 million residents) and the fact that it has the largest nursing home population in the country, these figures indicate a serious lack of support by the State in ensuring that long-term care residents have meaningful access to LTCOP services; and

Whereas, In order to fulfill its mandate to advocate for and protect nursing home and adult care facility residents, state support for New York State's LTCOP should rise at least to the level that California provides; and

Whereas, Increased financial support for the LTCOP will help to improve the quality of care and quality of life for the large number of long-term care residents in New York City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to significantly increase funding for the New York State Long-Term Care Ombudsman Program.

LS #6944
1/21/16
MHL

Res. No. 1226

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.5820-A, in relation to violations of safety conditions in adult care facilities

By Council Members Chin and Palma

Whereas, The long-term residential care industry in New York State has had a long history of poor care, and numerous studies have shown that the same problems identified over the last few decades are still causing harm to residents in adult care facilities today, such as inadequate care and monitoring, inappropriate medication management, and neglect; and

Whereas, Adult care facilities, such as adult homes, enriched housing and assisted living programs, provide temporary or long-term, non-medical residential care services to adults who are substantially unable to live independently but who do not require a nursing home; and

Whereas, According to the New York State Department of Health (“DOH”), nearly 50 percent of all licensed adult care facilities in New York State (250 of 531) are located within New York City; and

Whereas, An investigative series by The New York Times in 2002 uncovered widespread abuse, inhumane conditions and suspicious deaths in adult homes in New York City; and

Whereas, The New York Times series detailed numerous instances of squalid and vermin-ridden rooms, assault of residents by workers, suicides of mentally ill residents due to lack of supervision and treatment, forcible treatment and surgical operations for Medicare and Medicaid fees and misappropriation of residents’ funds; and

Whereas, The New York State Office of the Attorney General filed a lawsuit in 2002 against the former operators of a Brooklyn adult home for failing to provide for the health, safety and welfare of the residents, while forcing residents to live in deplorable conditions; and

Whereas, The lawsuit detailed numerous occasions where common areas and residents' rooms were infested with mice, cockroaches and flies and showed how operators diverted payments made by residents for room and board to entities the operators owned, while neglecting to pay for utilities and upkeep of the adult home; and

Whereas, A class action was brought in 2013 against New York State on behalf of individuals with serious mental illness residing in 23 adult homes in New York City for failure to provide services to residents in the most integrated setting appropriate to their needs; and

Whereas, Title 1 of Article 7 of the Social Services Law ("SSL") provides DOH with oversight and enforcement authority over adult care facilities in New York State; and

Whereas, According to a 2011 study of DOH inspection reports by the Long Term Care Community Coalition ("LTCCC"), although DOH identified regulatory violations in more than 5,000 inspections of adult care facilities between 2002 and 2010, only eight percent of those inspections led to enforcement actions; and

Whereas, Title 1 of Article 7 of the SSL permits DOH to assess civil penalties of up to \$1,000 per day, but not per violation, for regulatory violations that adult care facilities commit; and

Whereas, Under this penalty scheme, a facility with one violation and a facility with many violations are subject to the same penalty cap of \$1,000 per day; and

Whereas, The maximum penalty per day has not been raised since the law's inception in 1977; and

Whereas, Pursuant to Title 1 of Article 7 of the SSL, DOH is prohibited from imposing penalties if a facility either has corrected a violation within 30 days of receiving notice of the

violation or is acting in accordance with a plan to correct the violation, unless the violation endangered or resulted in harm to residents; and

Whereas, According to MFY Legal Services, the current framework provides no incentive for facilities to comply with DOH regulations and instead allows facilities to repeatedly violate the regulations with impunity; and

Whereas, According to the 2011 LTCCC study, even in the case of endangerment violations, only 74 percent of such violations led to the imposition of penalties by DOH between 2006 and 2010; and

Whereas, A.2743 introduced by Assembly Member Richard N. Gottfried and currently pending in the New York State Assembly, seeks to amend the SSL by strengthening DOH enforcement of applicable standards governing adult care facilities; and

Whereas, The bill permits DOH to assess penalties per violation, in addition to the existing daily penalties; and

Whereas, The bill increases the maximum penalty for a violation from \$1,000 to \$5,000; and

Whereas, The bill grants DOH discretion to issue a reduced penalty for a violation if a facility either corrects the violation within 30 days or is acting in accordance with a plan to correct the violation; and

Whereas, The bill also provides that rectifying a violation does not preclude the assessment of a penalty if the violation, although corrected, was a violation in the same category as a violation that DOH cited at the previous facility inspection; and

Whereas, The bill prohibits hospitals, residential health care facilities and other adult care facilities from making referrals for admissions to any adult care facility that currently has its

operating certificate revoked, suspended or denied by DOH, has been placed on DOH's "Do Not Refer" list, or is subject to civil penalties for violating DOH regulations; and

Whereas, The bill prohibits any new admissions to an adult care facility facing an enforcement action if DOH finds that a condition exists that is dangerous to the health, safety or welfare of any resident; and

Whereas, The bill eliminates an SSL provision that permits facilities receiving DOH's highest rating to undergo inspections only once every 18 months instead of annually, reserving the 18-month inspection schedule for facilities that DOH finds in compliance with applicable statutes and regulations in the most recent inspection; and

Whereas, The bill provides a strong incentive for adult care facilities to comply with DOH regulations and correct violations promptly; and

Whereas, The bill would help to protect the health, safety and quality of life of the large number of vulnerable residents in adult care facilities in New York City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A5820-A, in relation to violations of safety conditions in adult care facilities.

LS #6943
05/06/2016
MHL