



Testimony

of

**Otis Pitts**

**Assistant Commissioner, Environmental Health**

**New York City Department of Health and Mental Hygiene**

before the

**New York City Council Committee on Aging**

on

**Intro 411**

April 23, 2018

City Hall – Council Chambers

New York, NY

Good morning Chairperson Chin and members of the Committee on Aging. I am Otis Pitts, Assistant Commissioner in the Division of Environmental Health at the New York City Department of Health and Mental Hygiene. On behalf of Commissioner Bassett, thank you for the opportunity to testify on Intro 411.

The Department permits and inspects food service establishments under Article 81 of the New York City Health Code, which defines “food service establishment” as a place where food is provided to the consumer whether it is provided free of charge or sold, and whether consumption occurs on or off the premises. Our regulated establishments range from restaurants and mobile food units to cafeterias, caterers, and food operations within charitable organizations. Social Adult Day Cares that serve food to clients may be included in this category as well, and are required to be permitted and inspected by the Department if they meet the Health Code’s definition of a food service establishment.

The Department is working with the Department for the Aging (DFTA) to identify Social Adult Day Cares, and then will determine which ones are covered under the Health Code. We have begun the process of inspecting and permitting these facilities, and will soon send letters to all Social Adult Day Cares registered with DFTA. This letter will notify them of the process for applying for a food service establishment permit.

The Department supports the intent of Intro 411, which would require the Department to annually inspect social adult day cares classified as food service establishments, and report on these activities. We are committed to working with DFTA and the city’s Social Adult Day Care facilities to regulate the proper entities as food service establishments, and we look forward to working with Council on this piece of legislation.

Thank you. I’m happy to take any questions.



**TESTIMONY**

Presented by

**Caryn Resnick  
Deputy Commissioner, External Affairs**

on

**Oversight: Social Adult Day Care  
Prop. Int. 399-A: Report on Senior Centers  
Int. 411: Inspections for Social Adult Day Cares & Senior Centers**

before the

**New York City Council  
Committee on Aging**

on

**Monday, April 23, 2018  
10:30 A.M.**

at

**Council Chambers, City Hall  
New York, NY 10007**

Good morning, Chairperson Chin and members of the Aging Committee. I am Caryn Resnick, Deputy Commissioner for External Affairs at the New York City Department for the Aging (DFTA). From DFTA, I am joined by Dr. Robin Fenley, Assistant Commissioner for the Bureau of HealthCare Connections; and Karen Taylor, Assistant Commissioner for the Bureau of Community Services. Also, I am joined by Otis Pitts, Assistant Commissioner for the Division of Environmental Health at the New York City Department of Health and Mental Hygiene (DOHMH). On behalf of DFTA Commissioner Donna Corrado, I would like to thank you for this opportunity to provide testimony on social adult day care, as well as on Prop. Int. No. 399-A, in relation to requiring DFTA to report on senior centers. DOHMH will testify on Int. No. 411, in relation to food safety inspections for social adult day cares and senior centers and reporting.

#### **SOCIAL ADULT DAY CARE OVERVIEW**

Formal opportunities to ensure that the growing population of older adults are actively engaged in community life come in many forms. During the past few years, New York City has witnessed the proliferation of social adult day care (SADC) programs, which contract with Managed Long Term Care (MLTC) companies. Social adult day care is a structured program of socialization for individuals whose physical and cognitive needs are beyond their ability to independently participate in activities, such as that which could be found at senior centers or other community programs for older adults. Social adult day care programs provide structured and supervised activities, meals, some personal care assistance, monitoring of overall well-being, and as optional services, transportation or case coordination. DFTA currently oversees nine social adult day care programs that are supported by Council discretionary funding.

The availability of Medicaid financing through the MLTCs has fostered the continual growth of new social adult day sites throughout the five boroughs, most notably in Brooklyn and Queens. As of today, 350 sites have registered: 142 in Brooklyn, 134 in Queens, 33 in Manhattan, 26 in the Bronx, and 15 in Staten Island.

#### **STATE SOCIAL ADULT DAY CARE OVERSIGHT**

Managed Long Term Care companies are funded by the New York State Department of Health (NYSDOH) Medicaid Program to coordinate and provide community health care services, which

include social adult day care. As part of the Medicaid program, NYSDOH has taken steps to ensure these services are provided to eligible individuals, in accordance with New York State Regulations and Standards. NYSDOH requires that MLTCs conduct initial and annual site visits of all their contracted SADCs, in order to monitor compliance with the minimum State regulations and requirements, including the New York State Office for the Aging (NYSOFA) Social Adult Day Standards. MLTCs are mandated to assess the cognitive and physical status of all potential SADC participants prior to authorizing attendance. Further, MLTCs are to ensure SADC compliance with all related audits, as well as maintain documentation of such compliance. Additionally, NYSDOH requires that all MLTC-contracted SADCs self-certify annually with the New York State Office of the Medicaid Inspector General (OMIG), attesting that they are in compliance with the NYSOFA Social Adult Day Standards and local building, fire safety and health codes.

#### **LOCAL LAW 9 OF 2015 UPDATE**

Local Law 9 of 2015 required DFTA to register SADCs and created the SADC Ombuds Office at DFTA. In this capacity, DFTA accepts and responds to SADC-related inquiries and complaints, and has developed an online registration database for all social adult day programs operating within New York City. DFTA has recently updated this system to allow SADC providers to create a unique account for their program, with direct access to their registration information for real-time program information updates.

Local Law 9 of 2018 requires that DFTA create and maintain an online public searchable database of social adult day care programs registered with the agency. While DFTA works with the New York City Department of Information Technology and Telecommunications to build an enhanced database with additional functionality for the public, there are currently two interim ways for the public to obtain information on SADCs. One option utilizes the New York City Open Data portal, which provides access to a complete list of registered sites that is available for download. The second option is through DFTA's website: on the agency website, individuals can search by borough, zip code, program name, and service type. Once a specific program is selected, complete program information will be available, including name, address, phone number, days and hours of operation, service provided, and whether the program is DFTA-funded.

Through concrete practice and day-to-day application of the law since the SADC Ombuds Office was launched, DFTA has tested and developed a working protocol to establish a system to receive comments and complaints about SADCs, investigate such complaints and inform relevant agencies of the results of such investigations. Though this process has taken longer than initially anticipated, we are currently working closely with the Law Department to develop rules to formalize this protocol, and implement the corresponding penalty schedule.

Since DFTA was designated as the SADC Ombuds Office, important interagency relationships have been forged and new partners have emerged, each integral to DFTA's implementation of the law. On the City level, these active partners include the Fire Department, the Department of Buildings and DOHMH. Key partners on the State level include the NYSDOH Division of Long Term Care, NYSOFA and OMIG.

DOHMH, who will testify later about food safety inspections in SADCs and senior centers, will send letters to all registered SADCs this month. The letters will inform SADCs about requirements for food service establishment permits and food safety inspections. DFTA provided DOHMH with the most recent list of registered SADCs to facilitate their site visits to ensure that food service establishment permits will be obtained, if necessary.

Ongoing collaborative activities proceed along two tracks: addressing complaints and education. The discussion of complaints and education are combined during DFTA's participation in bimonthly meetings with the MLTCs convened by OMIG, and public education forums on social adult day care services. The public education team includes DFTA, OMIG and the New York State Attorney General's Medicaid Fraud Control Unit.

In addition, on March 23<sup>rd</sup> of this year, DFTA hosted the first Social Adult Day Regulations training for the 20 MLTCs with contracted social adult day programs in New York City. Additional invitees included DOHMH, NYSOFA, OMIG, and the New York State Adult Day Services Association (NYSADSA), which is a statewide membership organization for operators of social adult day programs. As many complaints received by the SADC Ombuds Office include nutrition or food quality concerns, the focus of this initial training was on the NYSOFA Nutrition Standard.

NYSADSA led the training and DOHMH discussed the Health Code requirements for licensing of food handlers and certification of food service establishments.

**PROP. INT. NO. 399-A: REPORT ON SENIOR CENTERS**

As I mentioned, our testimony will also discuss Prop. Int. No. 399-A. I would like to preface this discussion with a brief update on the senior center model budget.

Last month, during DFTA's testimony before this Committee on the FY '19 Preliminary Budget, Commissioner Corrado announced that the Administration allocated \$10 million in baselined funding for senior centers beginning in FY '18, which will increase to \$20 million by FY '21. These funds, as you know, were designated to help create parity in our senior center budgets and provide adequate funding to achieve an expanded array of programming across the senior center system.

We would like to take this opportunity to briefly go over the process by which DFTA arrived at a fair and equitable model budget, as well as the process by which the \$10 million will be distributed to providers in FY '18 and FY '19. DFTA and the Mayor's Office of Management and Budget (OMB), with input from our network of providers and other stakeholders, conducted a thorough analysis of the existing line-item budgets and spending patterns across our portfolio of 249 senior centers. As a result, we identified several characteristics that exemplify high-quality programs, highlighting strong leadership and a rich array of health and education programming. We then compared existing budgets to the funding patterns that support the key attributes of high-quality programs, and calculated the need for each center based on where their current budgets compare to the 'model.'

The network of 249 senior centers was divided into five groups based on Average Daily Participants, in recognition of the fact that there are certain costs that vary based on the size of a center, such as the need for modestly more staff to run a very large center compared to a very small one. At the same time, the model recognizes that there are certain fixed costs for running a center, irrespective of Average Daily Participants. The resulting amounts given to each center were divided between an amount for 'program staff' and another for 'programming,' based on each

center's areas of need. However, funding remained flexible across line items, within certain parameters; thus, allowing centers to identify their most critical needs and submit proposals accordingly.

In March, senior centers—all but 26—were notified of the amounts they will receive for both FY '18 and FY '19. They have since submitted their proposals for use of the funds. Depending on individual urgent needs, a number of centers have proposed that some of the funds allocated to them be used for purposes other than those dictated by the model. Centers were also permitted to propose one-time needs for the FY '18 allocation.

This was a thoroughgoing, year-long process in which many of our external partners played an important role. Ultimately, we believe our mutual goal of equity was met. We are confident in the soundness of our formula and processes, and intend to implement a similar methodology for future rightsizing efforts. For instance, as you know, the model does not address food costs. We are currently in the process of working on an evaluation of food services across programs. This work is being done with the help of a consultant, and we anticipate the analysis will be completed later this year. Our goal for the second phase of the model is to evaluate how to achieve efficiencies in food procurement, preparation and delivery, while increasing quality and choice.

The senior center model budget process is in line with the spirit of the legislation. While DFTA collects a number of the data elements in the proposed legislation, other data elements are not readily available and may also pose data gathering issues for our senior center provider network. We would be happy to discuss further as the Administration supports efforts to share pertinent information with the Council and the general public.

#### **CONCLUSION**

Thank you again for this opportunity to provide testimony on social adult day care and Prop. Int. No. 399-A. Following testimony from DOHMH on Int. 411, my colleagues and I are pleased to answer any questions you may have.





Making New York a better place to age

**New York City Council  
Committee on Aging, Council Member Margaret Chin, Chair  
April 23, 2018  
Testimony by LiveOn NY**

LiveOn NY is dedicated to making New York a better place to age. At the core of LiveOn NY's mission is the desire to support our membership organizations, numbering over 100 organizations that provide over 600 community based programs and services for older adults, ranging from individual community-based centers to large multi-service organizations throughout all five boroughs. We are pleased to focus our efforts towards promoting better policy which will provide for better aging both today and for the years to come.

**Int. 399-A**

LiveOn NY does not take a position on Int. 399-A at this time. LiveOn NY thanks Council Member Vallone and cosponsors of this legislation for their efforts to better understand the utilization of services at senior centers. We agree that analyzing current utilization and reimbursement rates can better help us understand how to best serve the current and growing needs of older adults so that the city can project and build the system for the future.

**Data Collection at Senior Centers**

Senior centers are already required to submit an incredible amount of data through the Senior Tracking Analysis and Reporting System (STARs) database tracking system, which is as time consuming for an understaffed network as it is important. For that reason, when LiveOn NY looks at legislation that could potentially require additional data collection, we examine it from the lens of a provider to see if it would require new data points to be collected, and if so, the potential impact it would have on an already understaffed senior center.

That said, we know that data collection and analytics are key to building our system. At LiveOn NY's Senior Center convening in 2017, senior center directors identified the following two areas as key priorities for building senior centers of the future:

1. **Technology Resources.** This included not just equipment, software and programming for both seniors and staff, but more relevant to today's topic, support to facilitate improved data analytics capabilities needed by providers to improve outcomes and facilitate quality programming.
2. **Improved software and technology and accompanying support from DFTA,** such that senior center staff can better focus on supporting clients, instead of data entry and duplicative reports.

Generally speaking, it appears there are some datapoints in Int. 399-A that are already collected and recorded through the STARs system, however, there are some datapoints that are not currently collected. In addition, we offer the following comments:

- The term "affiliated sites" is not defined, and thus, it is unclear who would be subject to this law.
- Regarding the term "attendee," one of the underlying assumptions is that every person who attends a center uses the same level of service, which is not the case. Services are also reimbursed differently. It is unclear how "attendee" is defined, whether it relates to one type of

- service, any service, or some other way.
- Re: the “total budgeted dollar amount per senior” calculation, some outcomes/reimbursements at centers are based on the service itself, such as an exercise class. Some outcomes/reimbursements are based on units, like a meal served. Calculating the “total budgeted amount per senior” is not as straightforward as it sounds.
- Regarding any datapoints on case assistance, the requirement of the inclusion of a “brief description” would be difficult to pull from what is currently collected for case assistance. It would likely require an additional field added to summarize each case, which again, would be time consuming for providers.
- “Anticipated income from other sources” is not something tracked by DFTA, is not specific and would create new reporting requirements which is concerning.
- Regarding the ratio of case managers to seniors, senior centers do not have case managers.
- Because Int. 399-A proposes that all this information would be available via a publicly accessible report, there is a concern that this information could be confusing or misleading for individuals that do not understand the complexity of units and contract deliverables.

Overall, LiveOn NY supports the idea of using current data to understand the needs and to help project for the future, and appreciates Council’s consideration of the above comments. One recommendation would to better the universe of datapoints are currently collected by DFTA through the STARS system. Second, we urge the city to continue to invest in the vast staffing needs to support these programs and personnel to carry them out to best serve seniors.

#### **Int. 411**

LiveOn NY supports Int. 411. LiveOn NY believes it is important for senior centers and social adult day centers be safe establishments. It is our understanding senior centers are already inspected on an annual basis and thus, this bill would not add any new requirements upon senior centers. Senior centers are also subject to other various inspections and audits throughout the year and subject to the DFTA Senior Center standards which include nutrition requirements. At this time, we are not aware that senior centers are given grades, and would oppose any new requirements regarding grades at senior centers. We support imposing the same requirements that are placed on senior centers to social adult days that are food establishments.

It should be noted that the model senior center budget process did not include any additional funding for meal/raw food costs, costs for disposables or kitchen staff and workers. In our FY19 budget priorities, LiveOn NY requests that \$12.1 million in new funding be baselined this budget year, to increase the reimbursement rate for congregate and home-delivered meals. This funding is particularly important to increase the reimbursement rate for culturally-competent meals, such as kosher or halal, both of which currently result in a deficit to nonprofits upon each meal provided, despite cultural competency being mandated by DFTA. Funding for meals and meal preparation is crucial and related to the issue of food safety, and thus, the city must ensure providers have adequate funds to serve safe nutritious food in safe establishments.

Thank you for the opportunity to testify today.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: OTIS PITTS

Address: Assistant Commissioner

I represent: Environmental Health

Address: DOHMH

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Date: 4.23.18

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Name: Caryn Leschick

Address: Deputy Commissioner, External Affairs

I represent: DFTA

Address: \_\_\_\_\_

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Date: 4.23.18

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Name: Robin Fenley

Address: Assistant Commissioner, Health Care Connections

I represent: DFTA

Address: \_\_\_\_\_

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Date: 4-23-18

**(PLEASE PRINT)**

Name: Karen Taylor

Address: Assistant Commissioner, Community Services

I represent: DFTA

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Name: Andrea Gianfrani

Address: \_\_\_\_\_

I represent: LIVE ON NY

Address: \_\_\_\_\_

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