CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HEALTH
COMMITTEE ON AGING

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HELD AT: Council Chambers
City Hall

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MARIA DEL CARMEN ARROYO
JESSICA S. LAPPIN
Chairpersons

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Mathieu Eugene
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A P P E A R A N C E S

COUNCIL MEMBERS:

James Vacca
Margaret S. Chin
Peter A. Koo
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A P P E A R A N C E S (CONTINUED)

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CHAIRPERSON ARROYO: Good afternoon, everyone. Welcome. Thank you all for being here on such a beautiful afternoon. I think we can rather be doing something else with sand involved, right? That would be a beach and getting some sun. don't get it twisted. Good afternoon. My name is Maria del Carmen Arroyo. I chair the Committee on Health and today we are holding a joint hearing with the Committee on Aging, and my colleague Council Member Jessica Lappin who chairs that committee is running a little late, but we didn't want to delay the proceedings any further. She will join us momentarily, and we will hear from her when she arrived. Today we are holding a hearing on Intro number 1052, which seeks to regulate social adult daycare providers in new York City. Social adult daycare programs are supposed to provide functionally challenged individuals including those suffering from Alzheimer's, dementia and other chronic health conditions with very specialized services for older adults in a protective setting with appropriately qualified staff for part of the day. While these are essential services for a

vulnerable population, many private centers operate largely without oversight, and we can disagree or agree about who is responsible for that, but there is currently eight programs funded by the New York City Council through our discretionary dollars, which must follow regulations issued by the New York State office for the aging; however, there are hundreds of private facilities that are not required to follow any regulation. New York State does not require a license, certification, registration or any other formal document to operate these centers. Through that scheme the operators of these centers are able to collect Medicaid reimbursement for each participant enrolled by recruiting seniors that do not require the level of care that social adult daycare programs are designed to provide. Like many of my colleagues, I am greatly disturbed by the growth of the number of facilities. Our best count to date is about 200 over the last year. Something that has happened very, very rapidly and I believe they are not done. We will see more open, and the potential for Medicaid is incredibly high and the potential for something much worse to

happen to an individual serviced by those providers is really our largest concern. We don't want Medicaid dollars to go to waste. We need Medicaid dollars to go for services that are necessary for individuals and that those services be available provided in the appropriate setting by the appropriate professionals as the state on regulations require. To the end of trying to get a handle on this issue, we have introduced this legislation, which seeks to impose the same standards apply to government funded programs to all social adult daycare centers in the city ensuring that only functionally impaired adults attend these programs and that these participants receive appropriate services in a safe environment. I am proud to sponsor this legislation that will protect older adults from social adult daycare center operators who engage in deceptive practices. Our seniors deserve the highest quality service that we can provide and we must ensure that nothing interfere with our ability to offer our seniors the best care possible. I want to thank and commend Council Member Jessica Lappin for co-sponsoring this

legislation with me. I want to thank the advocates of our city for their work on this bill with us and for their commitment to protecting older New Yorkers. There are some really good programs in our city. We want more of those to operate in our city and we want to make sure that those who do operate all adhere to the same standard of care and those that operate currently that are regulated very much want to function on a level playing field, and right now the field is not level at all. I want to thank the Committee staff, who have worked overtime on everything that we are going to talk about today--first, Kelly Taylor [phonetic], counsel to the Committee on Aging and my committee staff, Dan Hayfitz [phonetic], counsel to the committee, to my left, Crystal Goldpon [phonetic], policy analyst and Krillian Francisco [phonetic], who handles the financing issues. Before I introduce the panel, I want to make sure that any of you who are here to testify you have to fill out a form, give it to the sergeant at arms, otherwise we will not know that you are here and want to say something and we very much want to hear from you. I would like to

introduce my colleagues who are joining us this afternoon: Council Member Peter Koo, Council Member Vallone, Council Member Chin and Greenfield, and I am not sure what committees they sit on since we have both, so thank you all for being here, and other members will come in and out. We are in the middle of some budget conversations that are very important, and they kind of distract us a little bit, but rightfully so. At the panel we have Andrea Cohen representing the Mayor's Office, Caryn Resnick from the Department for the Aging, Eileen Mullarkey Department for the Aging and Assistant Commissioner Frank Cresciullo from the Department of Health and Mental Hygiene. I think you guys have done this before. You can choose whichever order, identify yourself for the record and you may begin when you are ready.

ANDREA COHEN: Thanks for inviting us to speak to you today about Intro 1052, a proposal to create an oversight function at the Department of Health and Mental Hygiene for social adult daycare programs operating in the city and an ombudsperson function at the Department for the

Aging. I am Andrea Cohen, director of health services in the Mayor's Office. I'll be giving the testimony today, but I am joined at the table by Caryn Resnick as you mentioned from DFTA, Eileen Mullarkey, the assistant commissioner of long term care at DFTA and Frank Cresciullo who are here to answer any questions along with me. We share the concerns prompting the introduction of this bill. I want to start with that--strongly share those concerns namely the recent opening of large numbers of new social adult daycare programs in the city and some evidence that some of the new programs are not providing quality services which is of great concern, but are aggressively recruiting participants away from high quality providers; however, recognizing that these programs are paid for almost entirely through state Medicaid managed care arrangements and that city agencies lack the infrastructure and funding to oversee potentially hundreds of these programs in the city, we don't support the specific approach set out in this legislative proposal. In addition we understand that the state has taken some specific actions to address reported abuses

among social adult daycare programs and we will be watching those extremely carefully to determine whether those actions are having the intended affects. Let me first describe the current financing and regulatory arrangements for social adult daycares in New York City and the reasons for a spike in new program openings. As you know, the Council funds approximately eight social adult daycare programs as you mentioned Chairperson Arroyo, which serve about 80 New Yorkers through contracts with the Department for the Aging. As part of these contracts, the social adult daycare programs are required to meet the standards that are set out in the State Office for the Aging or SOFA regulations and DFTA provides oversight in the form of contract enforcement on those standards for the eight programs. Social adult daycare is also a covered benefit, but only under Medicaid managed long term care plans. I am going to call them MLTC plans. Sorry for all the acronyms, but it is a long phrase. It is also a benefit under the smaller Medicaid waiver program known as the Lombardi program, or nursing home without walls, and I think it is a less used

benefit under that program. it is primarily a benefit under Medicaid managed long term care. As a result of changes made through the governor's Medicaid redesign team process many more Medicaid beneficiaries needing long term care services while they live in the community are enrolling in these Medicaid MLTC plans, and therefore, they are newly becoming eligible to receive social adult daycare services. For example, since May 2011 enrollment in Medicaid MLTCs in New York City has nearly tripled from fewer than 30,000 individuals to almost 90,000 enrollees today. Those are approximate numbers. To serve this influx of new enrollees Medicaid MLTC plans are quickly expanding their capacity by contracting with new community based long term care service and support providers like social adult daycare providers, and it has been reported that some are also using social adult daycare centers as recruiting centers for their managed care plans. It is a very competitive environment between these plans. Because these new social adult daycare providers are being paid for and contracted through the state Medicaid program we believe that the state

should be responsible for ensuring the quality of the services provided and the integrity of the taxpayer funded program. we are in discussions with the state about steps they are taking to address reported problems with the surge in programs and potential quality issues with programs, and we will continue to monitor the impact of the recent steps they have taken. So I want to first talk about some steps that the state has already taken in the Medicaid program. So first they have formally required the Medicaid managed long term care plans to attest in order to be eligible plan that all of their contracted social adult daycare providers meet SOFA requirements, so you can sort of say a backend way of getting the SOFA regulations that currently apply to SOFA funded or AAA funded or programs that those regulations would also apply to the Medicaid contracted programs. Another action that the state has already taken is they are modifying eligibility for the managed long term care plans, and therefore for social adult daycare programs so that Medicaid beneficiaries whose only long term care need is light housekeeping services cannot be

automatically eligible for managed long term care plans any more, and then the last step that they have already taken is they are auditing and requiring plans to also do self-audits on eligibility for enrollees who were referred to the managed long term care plan by a social adult daycare center so their first entry was to the social adult daycare center and then to the plan or for whom social adult daycare is the only service on the individual's care plan, so we are hopeful that these actions as well as additional proposals that are being debated in Albany right now to provide more active regulation and oversight of social adult daycares by or funded by the state will curb the abuses that have been reported. I want to note, and this is in my written testimony because this is sort of a minute by minute sort of update. There is a bill that is pending in Albany in this session right now. It has passed the assembly and I believe is on the Senate calendar, which would give SOFA the authority to regulate all social adult daycare centers regardless of funding source, so there is a least a reasonable chance that that will be

passed in the next couple of days, again, already passed by one chamber and on the calendar for the other. So while we actively engage with the state to urge them to regulate SADCs, social adult daycare centers and Medicaid managed long term care plans more comprehensively, we have serious concerns about the city unilaterally taking on this responsibility. Presently, the Health Department lacks the infrastructure and the expertise to oversee a new large inspection program involving overseeing, inspecting and regulating reimbursable social and cognitive therapeutic services by a provider type social adult daycare that they don't current interact with. DOHMH would incur a substantial expense. We have roughly estimated it at about a million dollars per year. Once the inspection program was up and operational there would also be significant startup expenses and delay associated with developing a brand new oversight and registration program, including cost accrued writing [phonetic] regulations, hiring staff and allocating space for a new unit of the Department, so it is a very major undertaking. Another concern is that the

Health Department would lack any effective mechanism to enforce its rules and oversight. While the current Intro 1052 would authorize the Health Department to impose new civil penalties on non-compliant social adult daycare centers, it doesn't provide a mechanism to enforce payment of the penalties. The Department would not have contract enforcement authority that DFTA currently has with the programs that it funds. In its current inspection programs like restaurants and childcare and Frank Cresciullo can speak more about this, the Health Department issues permits, and then can suspend or refuse to renew those permits when violations are present or fines go unpaid, and ultimately they can even seek the revocation of those permits for establishments that persistently fail to comply with regulations, but because there isn't a permitting regime in Intro 1052 poorly operated social adult daycare centers could continue to operate and the Council's expectations of effective oversight might be unrealized. The Department for the Aging would also have to expand from its role enforcing contract terms for eight programs and 80

individuals to serving as an ombudsperson or entity for 200 programs and thousands of participants. This could also be a costly expansion. We will continue to monitor this issue, engage with the state and work with you to identify alternative approaches to addressing these recent problems; however, at this time, we do not support incurring substantial cost and taking on major new regulatory roles that can and should be the responsibilities of the state in our view. Thank you and I am happy to take questions as well as the other experts at the table.

CHAIRPERSON ARROYO: No one else testifying on the panel? Okay. We have been joined by Council Member Mark-Viverito. So we are hopeful that the state absolutely does what we hope it would do, and it preempts us from having to further this conversation on this introduction; however, in the event that that does not happen, we are going to pursue this conversation, and I thank you for the insight on some of the things that you find problematic with the legislation because that informs us better and helps us figure out how to get through it. The notion that the

Department of Health and Mental Hygiene doesn't have the mechanism to enforce civil penalties is something that I find very conflicting. That is what the Department of Health does for a lot of other types of services and goods that this city has oversight of, so my hope is that given that you have so many smart people in that agency that that is a process that we can figure out without a great deal of pain and stress. I mean we do it for restaurants in our city and apparently, we do it so well that the civil penalties that they incur are a significant source of revenue for the city, and while this introduction is not looking to increase revenue for the city, it does provide for the opportunity for us to generate the revenue necessary to set up the appropriate oversight and mechanism to ensure that those providers in our city that are engaged in the social adult daycare market are doing so appropriately, that the Department of Health doesn't have the mechanism to provide oversight for the regulatory requirements is another one that I am conflicted about. It is the New York City Department of Health, and you guys are very, very good at oversight. You guys

are very, very good at ensuring that what regulations exist regardless of the market or the industry that we regulate that those regulations are followed and if they are not, there are punitive measures available to the city to deal with operators that do not adhere to those regulations, so on the record, we disagree whether or not the Department of Health has the mechanism, can establish a mechanism, can follow a mechanism through our process to ensure that these operators are regulated appropriately and as I said at the beginning if the state acts and preempts then we have all gotten together here to have a very nice conversation about a very important topic, and I think that is a good way to spend some time. Council Member Vallone, do you have questions before I keep going on my tirade? We have been joined by Council Member Vacca. Council Member Chin?

COUNCIL MEMBER CHIN: Thank you, Madam Chair. I am listening to the city's testimony. Do you agree with us that this is a problem that all of a sudden in a two year period that so many of these adult daycare centers have

popped up all over the city?

FEMALE VOICE: I might just start by saying I don't think the fact that there are new entrants providing valuable is by itself the problem, but there has definitely been evidence that it hasn't been well managed, and that some of the new entrants are not quality providers, so the concern isn’t the number, but the concern is poor quality and inappropriate recruiting and other things like that, so yes, I think the Department for the Aging and the Administration definitely perceives this as a problem.

COUNCIL MEMBER CHIN: And this is what we have been hearing from constituents, the senior centers in our district and also with the discussion with the Department of Aging, and that is why the City Council waiting for the state to do more decided if they are not going to move, we have to do something to have some regulations because all of these centers that start up, do they have to register? Do they have to let the city know that they are starting up this business?

FEMALE VOICE: No. Currently, they do not.

COUNCIL MEMBER CHIN: So that is one of the issues that we are raising in this legislation that first they should minimally at least have to register until we know, who is running these kinds of operations, so my question to the Department of Health is that right now, is it true that you already inspect our senior centers--the senior centers that have kitchen facilities that the Department of Health do come and inspect our senior centers?

FEMALE VOICE: So kitchens.

COUNCIL MEMBER CHIN: I have from our center they have to do a lot to make sure they comply. So you already do that type of inspection, right?

FEMALE VOICE: Yes, but the SOFA regulations would require very different kind of oversight inspection and would go to staffing the programs and activities that were done the oversight, the nutrition, there is not currently a nutrition component to the inspections. It is cleanliness and hygiene.

COUNCIL MEMBER CHIN: But the Department of Aging do that kind of inspection,

right, regulate all of the senior centers? Department of Aging has to look over their nutrition, their menus and staffing and all of that, right? You guys do that?

FEMALE VOICE: Correct, we do.

COUNCIL MEMBER CHIN: So you already have that expertise?

FEMALE VOICE: We do that in our over 200 senior centers, and we do that in the eight social day programs.

COUNCIL MEMBER CHIN: So you have the capacity. You might need more now.

FEMALE VOICE: But we would not have the capacity to do over 200 social daycares.

COUNCIL MEMBER CHIN: You have to train and you have the expertise, right?

[crosstalk]

FEMALE VOICE: --that do that kind of oversight.

COUNCIL MEMBER CHIN: And you need to just expand in terms of number of staff that can help to do this oversight?

FEMALE VOICE: In terms of the programmatic piece, I mean one of the big issues I

think, and it is why we think we should be deferring to the state is that this really results from the Medicaid reform work and so, the potential abuses really revolve around Medicaid, which we have had absolutely no interaction and interface with the Medicaid system, so when it comes to actually being able to enforce, we would have no authority. We could simply say yes, you are or you are not adhering to the SOFA regs, but then whether that MLTC or SADs provider is inappropriately billing Medicaid and potentially committing fraud, we would have no say in that. That is really a State Department of Health only role.

COUNCIL MEMBER CHIN: We agree with you that the problems started from the state level with the Medicaid reform that all of these centers popped up. I mean granted there were some good ones, but more and more are just getting out of hand, and I think even amongst some of the providers they themselves are helping to push for regulations because some of them, if they are doing the right thing, they also want to pick out the bad actors in this scenario. We will continue

to work with you to push the state, but if they keep dragging their feet, the city has to assume some responsibility to start monitoring all these centers that are in our neighborhood and I know that commissioner from the Department of Aging she is very concerned about this issue, so I think we are asking you to work with us to see how we can at least start doing some oversight, what part of the legislation that you think we can at least administratively do without a law or what we can do to work together to make sure that everything that we have raised, all the concerns are being addressed.

FEMALE VOICE: We can do that. I think what is happening at this state is very much in flux. There is significant attention to it. We repeatedly direct their attention to it. They are aware of this hearing today, and we hope that they will take the actions that they need to, but we are prepared to be in consultation with you if that does not happen.

CHAIRPERSON ARROYO: Thank you, Council Member Chin. The issue, Deputy Commissioner Resnick, is that we understand that

you have no authority as the Department for the Aging. We also understand that the Department of Health has no authority because there is no local law that empowers either one of the agencies to act. That is why we are having this conversation today. I think and I will reiterate, and then I will turn it over to Council Member Vacca--and we have been joined by Council Members Rose and Council Member Dickens. Thank you for being here. We as a city I believe have the wherewithal to put the appropriate mechanisms together to get a handle on oversight of social adult daycare programs in our city. We need to be prepared to do that in the event that the state actions do not move forward, and I think the clock is ticking up there, and I believe that they are leaving this Thursday, tomorrow or Friday from their legislative session, so it is again, my hope that we do get the appropriate legislation in place at the state, but in the event that we do not, we will move forward. Council Member Vacca?

COUNCIL MEMBER VACCA: Yes. Thank you, Chair Arroyo. You know, I am not content with waiting for the state. We all know how slow

the legislature there moves, and now that they are adjourning they won't be back until January, so the issue becomes what can we do in the city, and some of the testimony given concerns me greatly. When you indicate on page 2 DOHMH lacks the infrastructure and the expertise to oversee a new large inspection program, well, if you lack the infrastructure and the expertise and you think that it is important, which I think your testimony does allude to on page 1, then you get the expertise and you create the infrastructure. You may lack it now, but what we in the Council want is we want oversight to protect the people. We have hundreds of these places now and they are opening increasingly so you don't like the legislation we are proposing, but we want to work with you and modifying the legislation because we feel the Council has a role and that the city of New York has a role. You indicate that if violations were given, there is no enforcement entity to enforce the violations. Well, then we have to look at the enforcement entities we now have in place in our city, and we have to define what entity we want to use. Now the Health

Department uses largely ECB so does the buildings Department. I am not saying ECB is the place to go, but I will tell you that the Health Department has a lot of people out there who you say obtained an expertise when it comes to restaurant inspections. Some people will say they have not, but I will acknowledge that some do. Those people obtained an expertise after you trained them, after you gave them the lay of the land, and this is something similar, so I join with my colleague. I don't accept the excuse that we just can't do it. We have to find a way to do it. We, and I speak for myself, but I co-sponsor the bill with other members, we always look to the administration for input on how to modify a bill and we are open to modifications, but to say that this is the state's responsibility and we are going to wait for the state I don't accept that.

FEMALE VOICE: So in response to a number of the concerns that you mentioned, so we are hopeful, but we don't know this until it actually happens. It may have happened in the last hour, but I don't know that that is the case that there may actually be legislative action in

Albany this session I mentioned. I think before you came in that the Assembly has already passes a bill and the companion is pending in the Senate, so it really may happen before the end of this session. Some other regulatory actions have already been taken. I think it is fair to say we don't yet know what impact that will have. We believe the state has some other regulatory steps that it could take. In terms of the Department's ability to pick up a new area and your concern about speed and waiting for the state, the Health Department we think is excellent at what it does and the inspections that it does, but you can't create something quickly, immediately where there is no sort of infrastructure for it. It is certainly possible that in the absence of some other action that a city agency could take on this responsibility. I think the question that we are asking is the expense, the time that it would take to do it, and the fact that there is a much more logical and empowered government entity there simply because they are the bill payer and the regulator already. It makes sense for us to really push them to do the job that they should be

doing and to use our city role in that way. So it is not--I am not trying to suggest that a city agency could never come up with a new area to inspect or that it shouldn't. what I am saying is that under the circumstances right now where you have state agencies responsible for this and paying for this they have many tools that they could use, and we need to pressure them to use them more effectively, and we think that that can work more quickly and probably more appropriately than us starting up something new right now.

COUNCIL MEMBER VACCA: I do want to conclude and say Albany has many one house bills, so if that is the case, then we have to get our heads together, ask for your help. If this is a one house bill, we will know by Friday, and then I do think we have to say where can we step in effectively and do what we have to do? But we need your commitment. We need your expertise because your agencies both have expertise in dealing with issues affecting the elderly, contracting out to non-profits, contracting out to senior centers, daycare centers. Where can we use that expertise, replicate where we have to, bring in new people

with a different skillset should we have to do that because I think the cost to society is much greater if we don't. The cost in money is nothing compared to the cost to families and individuals if we let a segment serving the elderly just continue as it is. Okay. Thank you.

CHAIRPERSON ARROYO: Council Member Dickens?

COUNCIL MEMBER DICKENS: Thank you so much, Madam Chair, and thank you for your testimony. I agree with my colleague, Council Member Vacca, that this is something that city of New York needs to be duly concerned about, but having said that and knowing that this is a segment of population that we cannot allow to just wander off without any control or limits. There is a budget analysis that has to be considered. Can you get to the Chair a cost analysis after Friday after you know what legislation comes out as to the number of additional personnel for inspections, for cost of, including healthcare benefits and staffing, technology, et cetera that would be required in order to do an effective job because there is no point of even the City Council

putting in legislation that has no teeth and absolutely no meaning. So if we are going to protect the people instead of doing legislation that is paper, we would need to do legislation that is paper with currency, and that means that we would have to put some additional funding in unless you have got some leftover revenue, which we would like to know about, and so, is it possible that after Friday because Council Member Vacca said Friday, that you could get to the chair a cost analysis as to how the impact would be upon the budget?

FEMALE VOICE: We have done a rough and quick cost analysis.

COUNCIL MEMBER DICKENS: [interposing] I don't mean a rough and quick. We have an idea of how many people you would need to do an effective knowing how many of these sites has popped up in the five boroughs because if we are going to protect people, then we need to be effective in protecting them and not fooling people.

FEMALE VOICE: Right.

COUNCIL MEMBER DICKENS: I don't

believe in lying to people. I don't believe in fooling them. If we are going to do this, then we really need to do it properly and effectively to protect this population, so if you can get together in a timely fashion the cost analysis as to the impact on the budget that I am asking that you get to my Chair the information that can be disseminated to the members. Can that be done?

FEMALE VOICE: Yes.

COUNCIL MEMBER DICKENS: How long would it take?

[crosstalk]

FRANK CRESCIULLO: I would just like to add that it can be done, some rough estimates, but without knowing the total number of programs that will be regulated, it is going to be very difficult to give an exact cost.

COUNCIL MEMBER DICKENS: Maybe this Committee can provide some information, some of the community based organizations certainly has information to some of these sites that have cropped up that we can get an idea, and if we say there is 200 sites that has cropped up within the five boroughs then we can do it based upon 200

sites, and it doesn't mean that it has been written in stone. It means it gives an idea as to a cost analysis.

FEMALE VOICE: We can give you a cost analysis and we will let you know what some assumptions are so if it turns out that there is something outside our control, the number of sites you will be able to sort of factor that in.

COUNCIL MEMBER DICKENS: Thank you. Thank you very much.

CHAIRPERSON ARROYO: Thank you, Council Member, and I think a part of what needs to be factored into the calculation or the estimate, the number of individuals, and I think that statement about the Department of Health does not have a mechanism is something that you know, you do childcare centers, and they have to go through a litany of things and regulations in order for you to permit them, and I know that there is great concern among the provider community that we can't make this process so difficult for our providers that we just add a great deal more cost to everybody concerned. That is not the goal here, but we regulate daycare

centers in our city, and we are talking about centers that provide for an age group on the opposite side of the spectrum that the Department of Health does not have a mechanism to provide oversight on regulation penalties and all of those things. we just need to look inside the agencies and model some of this after some things that you know work and then use this as an opportunity to improve what doesn't work in the existing mechanisms in our city, the number of staff that are required to inspect and what kind of expertise staff will need to have so that if we are looking at an individual's record, a participant's record to determine that that individual is indeed eligible for the services that are being provided that requires an individual with expertise to be able to identify that, and again, I have really, really deep confidence in that whatever mechanism is necessary if the state does not preempt what we are trying to accomplish here that we have the ability to create that mechanism and that yes, it is going to cost, but we are going to be able to balance that with ensuring that penalties are paid, enforcement is done appropriately and we are

not going to hear again that you don't have the mechanism and that you don't have the oversight because that is exactly what we are having a conversation about creating here. So setting up the new program to monitor and fine this type of business, fine as in violations, what do you expect the cost implementing the legislation would be? What are the costs associated with following sections of the bill, registration requirements, responding to complaints and ensuring compliance with the program standards, the ombudsman program? How many inspectors do you think you will be necessary assuming 200 is the number that we are looking at. How long would it take for inspectors to be properly trained or to create the job descriptions for lack of a better term so that we know what kind of qualified individuals or the qualifications of individuals. Consider again the existing mechanisms that the city already has to provide oversight and inspection processes and do we charge for the registration? How much can we generate from the requirement of the legislation, but more importantly how much can we--we don't want to generate revenue because people are not

following the law. We want to be able to create a mechanism that people will follow, but that those that don't pay a heavy price for not doing so, and how quickly we can ramp up to make sure that that mechanism is identified, created and implemented, and I think that is about--that is enough. Questions? Okay. Give me a second. Why I sound so smart is because the staff is good at what they do. I did mention the using of--what inspectors do you have in the system already for the different types of inspections that are done throughout the city, how many of those could be utilized in the training of new ones, but also can you explain to me what would be different with a social adult daycare except that we don't have the authority at this point and how that differs from the oversight that we do provide for childcare in the city?

FRANK CRESCIULLO: Sure, I would be happy to. So the Bureau of Childcare is primarily responsible for licensing and oversight of all regulated childcare facilities in the city as you know. We issue operating permits. We conduct field inspections. When necessary we take

enforcement action against non-compliant facilities. We review physical - - conditions. We look at staffing qualifications, clearances, staff ratios and the overall safety and supervision of children. The Bureau has no role in the funding of childcare programs or the allocation of public funds to childcare services, so it is not part of operation structure. We do not evaluate fraud or how public funds are allocated to childcare services whether they are being used appropriately or if the intent of the population of children's services the children are receiving the intended funds. So--

CHAIRPERSON ARROYO: [interposing] But you do have oversight.

FRANK CRESCIULLO: We have oversight responsibility to maintain that the programs are in compliance with the health code. Yes. But it does not include things like the assessment of the population being serviced, so whether or not the target population is receiving the public funds intended for them to receive and whether or not it is achieving its intended outcome is not part of our current operation, and

that is a very big difference between what the provisions of this bill and what we currently doing. It is going to require specialized staff. When you asked how many of our current inspectors could train additional inspectors there really aren't any. We don't have staff who have the skills necessary to implement a lot of the provisions of this bill, so I think that is the biggest difference. So from the Department for the Aging, you do have the expertise in reviewing case management programs and ensuring that individuals that are enrolled with the case management programs are absolutely receiving the services that according to our care plan or some formal documentation. Am I incorrect in stating that?

FEMALE VOICE: You are correct. We do do that for the SADs programs that you, the Council, provide funds for.

CHAIRPERSON ARROYO: So the question here is not whether DOHMH has the expertise or would be able to have that oversight, but with the combination of city agencies working in tandem that we can absolutely provide the

oversight on the clinical requirements for the services that are supposed to be provided by social adult daycare programs. Is that correct?

FEMALE VOICE: Potentially, and with additional resources. I mean now staffing pattern for the eight SADs is what? A few individuals, which would not be sufficient.

CHAIRPERSON ARROYO: We agree so we would not use the logic of we don't have enough resources as an impediment to implementation. We agree that you do not have, neither one of you have the resources necessary to ramp up an oversight program for a social adult daycare, and the responsibility that we have here is to make sure that in doing so in providing the legislation, the authority to both of you or one of you or maybe an additional agency that there are resources that have to be brought to the table in order for either one of the agencies concerned to do their job appropriately and well. That is what we are looking for here. So resources and mechanisms I don’t want to hear again.

FEMALE VOICE: Okay.

CHAIRPERSON ARROYO: Okay, because

we are just going to make me crazy, and I like to be a nice lady. So as a city DOH, what mechanisms do we have that allow you to intervene on a complaint based type of program or oversight? 311 gets a call. The guy in the corner is doing X, Y and Z.

FRANK CRESCIULLO: Another big difference between what we do with childcare and this bill is that we issue operating permits to the childcare centers in New York City. We have full authority to enter a childcare center. Anytime we have a concern about its operation all records need to be made available to us, all staff need to be made available to us. So that is a very big part of the leverage that we have to make sure that programs stay in compliance. A registration doesn't have the same legal weight as a permit issuance.

CHAIRPERSON ARROYO: Okay. Point well taken. Thank you. So is there a mechanism in the city that is driven by complaints, that triggers DOH or some other agency to intervene because there is a complaint logged by someone somewhere?

FRANK CRESCIULLO: Yeah, our internal policies are when we get a complaint depending on severity level of the allegations we respond. We respond within 24 hours or three days depending on the--

CHAIRPERSON ARROYO: So the inserts is yes?

FRANK CRESCIULLO: We have policies in place and of course some regulations to support our policies.

CHAIRPERSON ARROYO: Okay. So where we had a process prior to regulation or oversight, do you have something that we can compare the before and the after in terms of quality of care and/or service prior to a regulation being implemented and after a regulation being implemented and seeing a difference in the number of complaints being reduced in a particular service area?

FRANK CRESCIULLO: We have at DOH have plenty of data in the Childcare Bureau that shows sort of before and after performance for the bureau itself as well as for the regulated entities. We have dating back years, and you can

see trends in violations and numbers of complaints. Basically the number of complaints have dropped over time in comparison to the increase in our inspection schedule.

CHAIRPERSON ARROYO: So from the data that you have we can safely say that what we monitor ultimately service improves and/or complaints are reduced.

FRANK CRESCIULLO: Well, if you believe a lower number of complaints is indicative of a more quality program, then yes.

CHAIRPERSON ARROYO: But you can compare a restaurant over time after a certain number of inspections receiving less violations?

FRANK CRESCIULLO: Yes, in theory. I don't know if that is a trend you will see in restaurants, but sure.

CHAIRPERSON ARROYO: You don't know that that is the trend you will see?

FRANK CRESCIULLO: In restaurants--

CHAIRPERSON ARROYO: [interposing] When we had a hearing here about letter grading, we heard you guys--

FEMALE VOICE: Frank oversees

childcare.

CHAIRPERSON ARROYO: We heard very loudly from the administration that once this increased enforcement around health, safety standards around our restaurant industry that you are seeing improvement or less violations being issued to our operators.

FEMALE VOICE: Correct. That is true.

CHAIRPERSON ARROYO: So it is safe to say that what we monitor--

FEMALE VOICE: I think we would love to say that anything we monitor improves. I think we probably--

[crosstalk]

FEMALE VOICE: We can say that in the case of restaurants that the change to--

CHAIRPERSON ARROYO: [interposing] And the daycare centers?

FEMALE VOICE: And Frank can comment to the data on that, but obviously it depends somewhat on the regime and whether the oversight regime and whether it is one that it is in the context as well designed and executed.

CHAIRPERSON ARROYO: Okay.

FRANK CRESCIULLO: We have seen a lot of improvement in the operation of childcare centers as well as home based providers in New York City, and it corresponds to our field operations. You will see a very big increase over the years in the number of inspections we conduct, and yeah, I do believe that low number of complaints is an indication of quality services. we in fact in New York City have the lowest number of complaint reports in the entire state, and I attribute that to our inspection schedule.

CHAIRPERSON ARROYO: Okay. Colleagues, any other questions? We have been joined by Council Member Rivera and Mendez and Council Member Brewer and Van Bramer was here. Okay. Well, thank you for your testimony. Oh, I am sorry, Gale. I didn't know.

COUNCIL MEMBER BREWER: Thank you. A couple of questions. Number one is how many of the pop ups have relationships either directly or indirectly that you know of regarding non-profits? Are they working with a non-profit, are they a non-profit are they combining? 'Cause my

understanding is--

FEMALE VOICE: [interposing] The majority we believe are for profit.

COUNCIL MEMBER BREWER: But my understanding is there are some that are working with non-profits. Do you know how many?

FEMALE VOICE: No. I am looking at the association to see if they know. We don't know.

COUNCIL MEMBER BREWER: We don't know. Okay, and does that change the situation at all in terms of what--I mean whether it is a good thing or a bad thing or we don't know? We don't know?

FEMALE VOICE: I don't think we know. The oversight question is that as we have explained we have oversight over those we are contracting with, so as far as whether they are for profit or not for profit, and we don't have a contractual relationship it just makes it more difficult.

COUNCIL MEMBER BREWER: Okay, but you could ask some of the nonprofits 'cause you know them all that you contract with are they

doing any kind of partnering, right?

FEMALE VOICE: Yes.

COUNCIL MEMBER BREWER: Number two, I would just give the whole thing to Elizabeth McGee [phonetic]. I would just put her in charge, and she is of course, the head of the Mayor's Office of everything, and she is phenomenal, so is there a reason not to do that, Andrea? I am serious. She is already doing it for making buildings safe and she knows exactly what to look for. She has got PD, DOB and she can add staff from your office or whatever and she is ready to go. Why duplicate that kind of investigation which is an overall joint taskforce?

ANDREA COHEN: The principles of a joint taskforce might work. She definitely--

COUNCIL MEMBER BREWER: [interposing] She walks on water.

ANDREA COHEN: She has her hands full. She does an excellent job--

[crosstalk]

COUNCIL MEMBER BREWER: Wait a minute. I know that your commissioner does also, but McGee is--she is amazing. She has got all of

the pieces and she just makes our city a better place, so I am just saying why duplicate what is her responsibility? I am asking if that would make sense.

ANDREA COHEN: I think in all likelihood it probably would not, and the reason is that the area that she is working in mostly has to do with facilities, and infrastructure and the operations around that and obviously has done an excellent job.

[crosstalk]

ANDREA COHEN: This is about the provision of services for very vulnerable people, and it is just a very different arrangement, a different expertise required, a different kind of inspector, different operational setup.

COUNCIL MEMBER BREWER: I just think that they are already are in a lot of facilities. Sometimes there is a facility aspect and certainly the illegal hotels are similar in the sense that you are dealing with tourists or students or vulnerable people.

FEMALE VOICE: To the extent that there could be facility issues--

[crosstalk]

COUNCIL MEMBER BREWER: --a whole new system, but to piggyback to complement with social services experts would use her multi-agency--PD you might need.

FEMALE VOICE: Special enforcement. To the extent that there might be facility issues, yes, we could definitely think about that and talk to her about that. That was another angle into the problem.

COUNCIL MEMBER BREWER: Alright. Thank you very much. Hyman and McGee, they are fabulous. Good bye.

CHAIRPERSON ARROYO: Thank you, Council Member. Thank you for your testimony. I think we have gotten more information from the administration on this issue in the last 45 minutes than we have had over the last couple of months in having conversations about how we can put language and teeth into oversight of social adult daycare. I cannot tell you how frustrating that is the amount of time that we have lost where we could have had much improved language and legislation that we need to enact in the city if

the state does not act. So I can't let you leave this room without telling you that that is wholly unnecessary, and I resent that deeply that the staff of these two committees have been working with the administration engaging in conversation and that the information that comes forward in the testimony that you provide today was not information that we got before today. I find it offensive and disrespectful. Now the next panel--

FEMALE VOICE: [interposing] Chairperson, if I could just--

CHAIRPERSON ARROYO: No, we are not going to debate that. Thank you. Christopher Nadeau [phonetic], Elizabeth Geary [phonetic], Bobbie Sackman [phonetic], Cara Berkowitz [phonetic]. So it's Cara, Bobbie, Elizabeth and Christopher. And for the administration as always, we are going to leave somebody in the room, right?

FEMALE VOICE: Yes.

CHAIRPERSON ARROYO: Okay. Thank you. I know that I butchered most of your names, so you are going to identify yourselves for the record and begin your testimony when you are

ready. I called four people and I see five at the table.

CATHY FITZGIBBONS: I don't think I was called, Council Member, but we are together.

CHAIRPERSON ARROYO:

CATHY FITZGIBBONS: Cathy Fitzgibbons.

CHAIRPERSON ARROYO: You guys know how to do this. Speak into the mic, identify yourselves for the record, and begin you are ready.

ELIZABETH GEARY: Good afternoon. My name is Elizabeth Geary, and I am the president of New York State Adult Day Services Association, an umbrella group for providers of both social and medical model programs in New York State. You have really adequately I think described the service, and so I don't want to repeat that again, but I do want to say that the result of social model adult day service programs that operate according to the regulations is a significant benefit to all New York State residents and families. Since 1978 NYSADSA's mission has been to develop, promote and enhance adult day services

as an integral part of the continuum of care through providing training, information and public education for the adult day services industry. In collaboration with the New York State Office for the Aging and the New York City Office for the Aging NYSADSA has sponsored four full day trainings in New York City so that those who wanted to understand the New York State minimal standards and regulations would have access to that information. More than 300 individuals, programs and managed care organizations participate in these trainings and some came multiple times in order to understand what they should be doing. In the near future as a result of funding from the state budget, NYSADSA will launch even broader training and technical assistance efforts in order to ensure that existing SADs programs, social adult day programs, those were in development and other entities contracting with them including Medicaid managed care organizations have access to accurate information about the implementation standards and regulatory requirements for SADs programs operating in New York State. We are very

grateful, Council Member Arroyo and members of the City Council for your focus on developing legislation that clarifies the expectations of those who market their services as social adult day and for creating a mechanism to ensure that these expectations are met. The importance of right sizing care and ensuring that public and private dollars are spent appropriately cannot be exaggerated. Social adult day programs are not intended to serve the generally healthy senior population. Senior centers are established for that purpose. According to New York State statistics, historically more than one-third of those who attend social adult day programs need hands on assistance with toileting, mobility, eating and 67 percent--and that number is ever increasing--need constant supervision and monitoring as a result of dementia. As you said, they are a very frail population, but that said, in New York City many neighborhoods have been underserved. Culturally sensitive SADs programs will enable those who attend to remain at home in the community while their family caregivers continue to work or manage other family concerns.

In some ways the increased interest in developing new SADs programs is also a testimony to community needs. For more than 35 years, SADs programs have emerged in response to community needs. In the last 1970s ARC Fort Washington [phonetic] developed the first program for physically frail. Riverstone adult day services in Washington Heights developed a program for Spanish speaking residents with Alzheimer's disease. Self-health an agency with a special focus on Holocaust survivors developed an Alzheimer's program. Visions developed a program for the blind. Village Care developed a program for those with HIV, AIDS and the list goes on. This is because elder law Title 9 Section 6654.20, minimal standards and regulations for SADs enables programs to have the flexibility of design in order to meet specific emerging community needs; therefore, NYSADSA is especially supportive of the proposed Intro 1052's mandate that all programs operate according to the New York State regulations. Thank you again. In the current environment, and with the rapid expansion of SADs programs, we also support the registry that the

Intro 1052 establishes. We believe it will not only be a necessary first step in a broader oversight plan, but that it will also facilitate referrals to well run programs throughout the city. The registry will ensure that no program will operate beneath the radar and at the same time will support the flexibility of current regulations. NYSADSA also thinks that this will work well in tandem with the Savino Millman [phonetic] bill that has already passed the State Assembly and is currently being considered by the Senate. This bill prohibits the use of the term social adult day services and social adult daycare if programs do not meet the definitions in the statute. NYSADSA however respectfully recommends to the City Council that in the end oversight of all programs operating in New York State should come from the State Office for the Aging. The Savino Millman bill will establish that, and we are concerned that within the Department of Health Mental Health there is a leaning in the direction of medical models that might result in medicalizing [phonetic] social adult day programs or possibility creating a layer of burdensome

requirements that are not consistent with the intentions of New York State social model regulations. Last year, the governor sage commission issued their final report and noted that as a result of the overarching medical model of the Department of Health in related federal law and guidance programs that are administered by the Department of Health are generally far more expensive and in many cases less attractive to the older New Yorkers who need the services than comparable programs offered under the authority of the Office for the Aging. We think that there is a parallel consideration to be taken when we look at oversight through NYC DOH and Mental Health. We do support the core concept of penalties for non-compliance because we think that stiff penalties will eliminate programs that do not meet the regulations; however, at the same time we caution that program audits must be consistent with the New York State regulations and not overstep those requirements and jeopardize longstanding community based programs that may be unfamiliar with formalized program audits and may or may not have Medicaid or other government

funding of any kind. We think it would be a disservice to everyone if the reaction to what the press calls pop ups results in a very burdensome process that is costly for programs that already operate on very tight budgets. Finally, in the same way we agree that the New York City Department for the Aging would be the appropriate place for an ombudsman if the New York State Office for the Aging is not given statewide oversight for all programs. In closing, I want to state again NYSADSA's core principles related to the operation of social model adult day services. Number one, that all SADs programs regardless of funding source should operate according to elder law Title 9, new York State Regulations. Number two, that a mechanism for consistent statewide oversight must be established and Intro 1052 may take us closer to that goal, and number three, programs that inappropriately determine participant eligibility or do not deliver all SADs core services or meet the administrative standards of New York State regulations should feel the effect of enforcement oversight and action up to and including forced closure. NYSADSA--and I say

this eagerly--stands ready to assist the New York City Council and all other government bodies in their role of ensuring that both public and private funds are utilized to the best advantage of our aging population. We thank you for seizing the moment to work to ensure that only high quality SADs programs operate in New York City and beyond. Thank you.

CATHY FITZGIBBONS: Good afternoon. My name is Cathy Fitzgibbons. I am senior policy analyst for elderly welfare from the Federation of Protestant Welfare Agencies. We are doing testimony on behalf of FPWA, the Council on Senior Centers and Services, the Human Services Council. UJA Federation of New York and United Neighborhood Houses. Together we represent hundreds of agencies providing social services to thousands of New Yorkers in all five boroughs. We share a particular concern for the elderly and have advocated for social adult say services for many years. we would like to thank Council Member Lappin, Council Member Arroyo, and all of the Council Members here today for your work on social adult day services and for holding this important

hearing. We appreciate the opportunity to testify on Intro 1052. First though we would like to thank the City Council for restoring 400,000 dollars in funding for SADs programs in the FY 2012-2013 budget. We hope these funds remain in the Department for the Aging budget and are increased to 2.3 million to further support existing or new social adult day service programs. This funding stream allows seniors who are not eligible for Medicaid, but do not have the financial means to pay out of pocket to access social adult day services. it also helps greatly their family caregivers. I will now turn it over to my colleagues, Bobbie Sackman and Cara Berkowitz to talk about our specific thoughts and recommendations on Intro 1052 for our SADs system.

BOBBIE SACKMAN: Hi. Good afternoon. My name is Bobbie Sackman, Director of Public Policy with the Council of Senior Centers and Services. I also want to join in with what everyone else has said. Our job as advocates is to complain about things going on and so to have City Council respond is very gratifying, so I do want to start with that because this problem is

not going away, and I suspect will get worse before we possibly see the end of it. So I wanted to go through--you will see that there is some recommendations, and Cara and I are going to go through those. I do want to say as they all have said that we want to use SOFA's regulations as the basis of what gets used to measure and to have oversight of adult day programs. I also want to add though that we are pleased that Intro 1052 does not support the licensure of social adult day services and we are concerned that licensing requirements would jeopardize the viability of these programs, and I know that there is some discussion with the folks from City Hall and DOH, and I think sometimes it skirts that because I don't know under the childcare world. I know there is licensure, and we don't want to put good programs out of business which they could because they don't have the infrastructure for as much licensure. In terms of the oversight by DOHMH and as I think Betsy was also saying that we need more clarification in terms of not only the fear or the concern of medicalizing, but how it would work from the viewpoint of a provider. Are you going

to have oversight by the Department for the Aging and DOH? Will you have more than one site visit, and then you will see the next one has to do with the impact on the vendex, which you know is what providers live by because they get very nervous obviously if they don't have a good vendex rating for their organization. so some of it has to do with how would the responsibilities be divvied up so it doesn't become burdensome and then the next one was also number three about the concern about medicalizing social adult day. There actually is section 17-502b gives authority to the DOHMH Commission to "establish additional requirements for social adult daycare programs operating under this chapter." I don't know if that would lead to allowing for additional regulation or not, so I am just raising that question, and I think it is just something to get talked about but we actually would look at it from the opposite as it says it is to build protection against moving towards a more medical model and to keep the social model intact, and then in terms of Medicaid funding and social adult daycare how would Medicaid funded programs be monitored--well, that is what I just

said. Will they both have--will there be a delineation in terms of what their roles are and their oversight, so we don't sort of drive the agencies crazy and we get them to do their jobs.

CARA BERKOWITZ: Thank you. My name is Cara Berkowitz. I am the director of city and federal affairs at UJA Federation of New York. This was already covered a little bit, but we also want to talk again about how the city could handle and regulate social adult day centers. The first one on our list is financial penalties. While imposing these penalties makes sense, it isn't clear per the testimony from the city whether DFTA or DOHMH would be responsible for the audits. We would also like to know beyond that what is the threshold for non-compliance that will trigger financial penalties? We think that is really important to know so these programs can be properly regulated. Next, we recommend that DFTA have an ombudsman role . we are pleased that DFTA will be given authority to play this role, but we are concerned about as the city already said, financial and staffing resources required of them to carry this out adequately. Clarification is

also needed of the section of the health code talking about making recommendations to the DOHMH commissioner about improving social daycare programs. There is a lot of concern as we heard about quality, and we are concerned about that, and also regardless of which agency takes it on about people having a direct portal at the city level if there is a concern to be able to address it adequately and not having it as Bobbie would say fall into a black hole. Finally nutritional regulation. We recommend that language be included, which would require all social adult day services comply with DFTA nutritional regulations for all meals served at the program. we think this is another big step to ensuring quality and making sure that these programs are serving seniors appropriately. So we also do support the role of DFTA to house a registry for all social adult day programs so we can adequately know what is happening in the city. We believe this registry would be a good resource for those seeking these services and for simply keeping track of them as well. So in conclusion, we believe that these programs have been proven to be

a sound investment in the lives of older adults and their care givers and it is imperative to continue supporting and adequately funding these programs. We believe that the city legislation would help protect vulnerable older adults and their families who depend on these services. we hope you would consider incorporating our concerns and suggestions into the final version of Intro 1052. Thank you very much for the opportunity to testify.

CHRISTOPHER NADEAU: My name is Christopher--

CHAIRPERSON ARROYO: [interposing] Christopher, I am sorry. We have been joined by Council Member Foster, Council Member Lappin. Thank you for being here.

CHRISTOPHER NADEAU: I am departing from my colleagues. Normally I wear the New York State Adult Day Services Day Association hat among others as vice president of the board, but I am really speaking today as a provider, as the executive director of New York Memory Center. Prior to my leadership when I took over six years ago, the organization name was Park Slope

Geriatric Day Center. We were the first city Department for the Aging funded social model day program. So my perspective is a little bit different than my colleagues speaking as a provider, but I think there is definitely three things that we can agree on, and that is that is a better system of oversight is needed for social adult day that the state minimal standards and regulations for social adult day should be enforced, should be the vehicle to enforce that, and that social adult day stands as the least expensive community based service to tax payers that allows vulnerable adults to remain vibrant members of our community while avoiding unnecessary institutionalization. If we project that 7 to 8,000 older adults will be serviced within 200 social adult day centers in New York City within the next year and if they all meet the minimum standards of care, we are talking about a total gross revenue to Medicaid managed long term care plans of approximately 364 million dollars. Under current rules and regulations each of the over 20 Medicaid managed long term care plans in New York City is a required to provide separate

oversight, ensure the quality of care provided under the SOFA minimum standards, and since my center is contracted with approximately 12 plans that would require me to make myself and my staff available for oversight by each of these providers including my state Office for the Aging contract, which is another oversight. And each plan would need to hire staff, train them, supervise them, develop internal policies and procedures for oversight and monitoring and create a system of enforcement. If you are beginning to feel exhausted, so am I. there is another way, it is not licensing, it is certification. Of the hundreds of millions of dollars Medicaid is spending in New York City if we dedicated only a small fraction of that to certified social model day programs Medicaid funded or not we can provide for less time consuming less intrusive and less costly way to provide oversight to ensure quality. It is estimated that approximately five million dollars would cover the cost of providing a statewide system of certification for social model day programs. Keep in mind that other community based long term care services in New York State

require some form of licensing or certification whether it's adult day healthcare, personal care, home care, and the question is what makes social adult daycare any different? We provide feeding, toileting, assistance with ambulation, socialization, counseling, nutrition and other services. I think now is the time to act and we should accept responsibility for this call to action to do it right, to not professionalize this service through a quality and efficient oversight system would be a decision to continue to marginalize the importance of this critical service. There is many different ways we can structure this, and I don't want to go into that. Maybe we can start a conversation, but we can do it cost effectively. We do need to keep in mind that social adult day service programs are small by nature, they are specialized and structured with very little ability to bear the cost of certification. Senate bill 5397 and Millman's bill 7736 being read for--well, passed in the Assembly is encouraging that there is a provision in the bill requiring the director of the state Office for the Aging to study and report on

projected costs and benefits and establishing uniform standards and requirements and regulations and the provider report by the end of the calendar year. We need to look at best practices in other states as it relates to ensuring quality standards within social day centers are carefully consider the options. Thank you.

CHAIRPERSON ARROYO: Thank you all for your testimony, for your feedback. We really do appreciate it, and that unlike the experience that we have had with the administration has been very readily available to us. So I thank you for that. Christopher, you indicate at the end of your testimony that we need to look at best practices in other states as it relates to ensuring quality standards for SADs. Do you have examples of what states might have, a mechanism that we can examine?

CHRISTOPHER NADEAU: I don't. There is a state association for adult day, and we can inquire in terms of what other states are doing and try to get a sense of how other states are providing oversight. I do know that there is a federal bill in the House of Representatives

where they are considering reimbursement for adult day services under Medicare and every year it gets more sponsors and it doesn't pass, but I know having met with colleagues in other states that a lot of the other states moved towards either licensing or certification so that should that ever pass Congress that they would have access to Medicare dollars.

CHAIRPERSON ARROYO: On the panel you are the only provider?

CHRISTOPHER NADEAU: I am the only provider, yes.

CHAIRPERSON ARROYO: Okay. so I am going to go back and forth between the advocates.

CHRISTOPHER NADEAU: Oh, I am sorry. Betsy is a provider as well. I apologize.

ELIZABETH GEARY: I am a provider, but not New York City.

CHAIRPERSON ARROYO: So on the provider end, do you--I think you are now currently dealing with the mandate of the state regulations given that you are both providing services under state funded programs. What is your experience regarding how that impacts your

cost of doing business, operation, challenges, benefits?

ELIZABETH GEARY: I am going to just address it by saying that my program does follow the regulations. It is out in Suffolk County. We do not get New York State funding or any other government funding; however, from years of practice starting here in New York City, it was very clear that the minimal standards established a structure to create a program that would operate smoothly and that would avoid pitfalls, so the direction that you are taking the conversation in mandating that all programs follow the New York State regulations starting there is I don't think overly burdensome to the administratively or in any other way.

CHRISTOPHER NADEAU: The SOFA standards have served us really tremendously well. Those standards are flexible. They are very clear in terms of what you have to do on a minimal basis, and it allows you to be creative, and add services and enhance your program however you see it based upon the needs of your community, so I think that the SOFA standards is really the beacon

of light that keeps us on track from year to year so that we stay within those boundaries and exceed those boundaries. They are minimum standards, but it has served the state well for many, many years.

ELIZABETH GEARY: I would like to go back to the state issues. I believe it is Wisconsin a couple of years ago we did look at all of those comparisons, and I believe it is the state of Wisconsin where programs are certified initially, and then the state agency or whatever oversight body there would be goes out only if a complaint is registered. It works on the basis of there is an initial certification, and then there is an annual paper review where the documents have to be submitted and they are reviewed in the state office, and then if there is a complaint, an investigator goes out, so I don't know if that is helpful to the conversation.

CHAIRPERSON ARROYO: On the advocate front, and maybe the providers as well, have you noticed any drop off in the attendance of the senior centers that are operating in the city given what is happening?

BOBBIE SACKMAN: Yeah, I don't know

if she is testifying today, but we have a senior center director here from Brooklyn, who has actually been on the forefront of a lot of this. Yes. What is still happening is that somebody calling themselves an adult day program will literally take seniors from a senior center whether it is through aggressive advertising, a site that might look nicer, he I will give you 50 or 100 dollars, if you bring your friend over, and so we have no reason to believe that that has stopped. So it impacts the--everything has a ripple effect, so it impacts how many people are coming to your senior center, which not only just hurts the environment of the center itself, but then you are not going to meet your DFTA numbers. You don't serve the same number of meals, they don't come to your classes. So again, everything has--and it is not for anything wrong that a senior center has done, and so yes, this still exists. What I haven't quite figured out about all of this and how it is going to shake out is I don’t know and maybe 'cause you have more of a state wide view than I do and national, I don't know how anyone makes a profit out of adult day

and I mean that seriously 'cause it is only supposed to be 20 people or 15 people that you serve in a day, so maybe a little bit more if you have a morning and an afternoon for example. It is not a senior center, which is what these folks think it is where you can ring in 200 people and then maybe you do make a profit but that is not legitimate, so I haven't quite figured out where that profitable side is unless maybe you are a chain. I just I don't quite get that, and what I wanted to just reiterate which Cara raised from our testimony--

CHAIRPERSON ARROYO: I don't want to read into what you are saying, so the fact that they are popping up, and I am not sure that that is the press' phrase.

[crosstalk]

CHAIRPERSON ARROYO: That so many are operating. Obviously somebody is making a profit otherwise they wouldn't be doing what they are doing?

BOBBIE SACKMAN: [off mic]

CHRISTOPHER NADEAU: I am making a profit. I am a charity though, a 501(c)3. When I

took over the agency six years ago I moved away from government funding as much as possible given the environment with the economy and our relationship with the last commissioner. Historically there has been cuts and unfunded mandates with social adult day and then of course, the city exited the field of social adult day and now we are back in it, but most of our income was from private pay clients on a sliding scale, and then we made up the difference through foundation funding and corporate funding. What you are seeing now is you are seeing providers have developed a business model around it much more fine-tuned than what I have done, which is realizing that once you reach a threshold of about 40 folks a day, you are generating income, and if you have a morning and an afternoon shift program then you are generating income off of that without any other funding.

BOBBIE SACKMAN: What I was trying to say and maybe I am not correct about this is I was thinking of the Medicaid funded side, not the private pay. If you are in a community and for some reason you could have enough private pay

folks, God bless you because that is not the majority of the population or families out there that can afford it. So I was wondering if you are going to eventually try to get Medicaid funding where the profit is if you are only going to serve as you should a very small number of people, but you know--

[crosstalk]

CHAIRPERSON ARROYO: [interposing] I just wanted to be clear, but I appreciate the--

BOBBIE SACKMAN: [interposing] What I was trying to get to is I think there is still going to be a shake out where folks who thought they were going to make a profit are going to discover it is not the world that they thought they were walking into.

CHAIRPERSON ARROYO: And then they will close and then seniors are going to be left dangling with no alternative or service to turn to.

BOBBIE SACKMAN: Well, some might have a local center to go back to.

[crosstalk]

CHAIRPERSON ARROYO: Assuming DFTA

doesn't reduce the funding for those centers because the seniors are not going so do we have a sense of what the centers are experiencing as it relates to lost participation

BOBBIE SACKMAN: Again, I don't have the numbers, but what I can tell you, and actually I think Councilwoman Chin has seen this I know in her district and - - is here from Brooklyn, Amico, they literally are watching people walk out their doors, so it is happening.

CHAIRPERSON ARROYO: I know that you as the Council of Senior Centers and Services if you can help us get a handle on what our DFTA funded centers are experience, and do we need to prepare for one of the consequences being not enough participation and then DFTA is going to have to make decisions about the size of the contract that providers are--

BOBBIE SACKMAN: [interposing] I will tell you what we might have to prepare for, and I don't know if you wanted to say something. I don't think - - centers are going to close because of this, but if you don't spend all your money you have accruals at the end of the year,

and in the good old days, DFTA reinvested those accruals within the system. DFTA now takes the accruals and they go in the budget somewhere, so it goes into other spending, and so DFTA and probably other city agencies we are always losing money because nobody spends 100 percent, some of it because they get it so late in the fiscal year as well. So my concern is losing money to the system, the providers being calling out on their vendex ratings by DFTA that you are not meeting your numbers when they are caught up in this situation. Did you want to add something?

FEMALE VOICE: I wanted to reiterate the point. One is beyond the sheer loss of people attending the centers I have heard in our network that for people who are renting out the space where they operate the senior centers that someone else will come along and say to the landlord we are so much more viable and profitable, we will be. I think that is what we are hearing, as Bobbie mentioned as speculation about what will happen even though we can't figure out how it would work, please at the end of your lease terminate the current senior center and give

it to us, so that is also, Domenic actually helped avert a situation in Coney Island already where this was going to happen, but I am sure there are other places because we are hearing a lot that people are being approached about taking over. From my guess the for profit perspective it's enticing because the population is already there. It is already set up, so that is another concern about these centers being taking over wholesale and something that should be looked into.

CHAIRPERSON ARROYO: Council Member Lappin?

CHAIRPERSON LAPPIN: I did have one question for whomever on the panel wants to address it. One council member who said to me that they represent an area where there are not a lot of DFTA funded senior centers, so isn't this a great thing is there is a pop up that is then serving a population that was in need even if they are not cognitively impaired kind of who cares, there is now a center and they need a center, and so what is the response to that?

FEMALE VOICE: I just want to say that eligibility is a key criteria for us to get a

good handle on. In social model adult say, it is very clear that the general senior center population is not appropriate for a billable service like social model adult day that they either need to have a cognitive impairment or a need for assistance with an activity of daily living.

CHAIRPERSON LAPPIN: I understand that is what is supposed to be happening, but you know, it is not happened, and sort of in a sense to play devil's advocate, so what is the harm if this senior is getting a place to go and I think I know the answer, but I want you to tell me.

BOBBIE SACKMAN: Give us 2.3 million dollars so we can open up more social adult daycares, but also, and not being so facetious what is so ironic about this--by the way you said that Arc Fort Washington was the first adult day program in the city - - . I directed that program in the 1980s, but I only point that out that this service has been in the wilderness for decades. We could never get anybody's attention--

[crosstalk]

BOBBIE SACKMAN: There needs to be more adult day.

CHAIRPERSON LAPPIN: But this is not a population that needs a social adult day. This is an argument that here is an able bodied senior who wants to go to a senior center--

BOBBIE SACKMAN: [interposing] - - in their neighborhoods.

CHAIRPERSON LAPPIN: Right, but there isn't one, and if we can access Medicaid money to essentially create one, what is the harm?

BOBBIE SACKMAN: The harm is that we are not using public dollars as precious as they are properly and legally, and I would sit here as an advocate saying we cannot defend the improper use of public dollars.

CHAIRPERSON LAPPIN: I would agree, and I would also ask.

[crosstalk]

CHAIRPERSON LAPPIN: In terms of the individual isn't there a set number of Medicaid hours that that individual is entitled to?

CHRISTOPHER NADEAU: In a day

program?

BOBBIE SACKMAN: In home care?

CHAIRPERSON LAPPIN: Well, if you are accessing--if I get enrolled, and I am an able bodied senior in a program, a social adult daycare mode, doesn't that count sort of towards my individual Medicaid dollars--it is not unlimited the amount of money the state will spend on me?

CHRISTOPHER NADEAU: So the plans get 3800 dollars a month, and they then determine the clinical needs in coalition with the individual and the family and then determine the care and how they are going to spend it together. Some clients they will go over that 3800. Some clients they will spend under. In terms of the social day programs, they will contract with the Medicaid managed long term care plan however they agree upon. Some plans contract for four or five hours a day, some go into the evening, and some have weekend hours.

FEMALE VOICE: I think there might also be a per day rate of reimbursement.

CHRISTOPHER NADEAU: Some have a per day, some have a per hour.

CHAIRPERSON ARROYO: So the provider gets 3800 per member per month.

CHRISTOPHER NADEAU: The Medicaid managed long term care plan.

CHAIRPERSON ARROYO: Right. Per month.

CHRISTOPHER NADEAU: Per month. Yes/

CHAIRPERSON ARROYO: We are doing some quick math. I am not really good at it, but that is a lot of money for an annual--on an annualized basis, Council Member Lappin's question is regardless of the level of service and care of the individual requires in this program for these services it is technically unlimited--the provider is not going to get more than 3800 dollars per month to provide the services to an individual. So I can go to the social adult daycare seven days a week or two days a week, so it really doesn't address the amount of service units or what things that I can do as a recipient.

CHRISTOPHER NADEAU: My past life at Montefiore Hospital running a mental health - - managed service organization where we contracted

with - - sometimes you spend more than what you are given to manage that population, and you hope that some folks will need less care and you will spend less and other folks will require more, so you could conceivably spend way more than what you are given from the state--

CHAIRPERSON ARROYO: [interposing] I am sorry, Council Member Lappin. But the issue here for us is that who we see being enrolled in these programs are individuals that are fairly healthy and are able to take care of themselves with no help. So if I am enrolling that type of senior into my program, it is going to cost me less to provide the services to that individual, so there is the profit. If I am enrolling the healthy people--

BOBBIE SACKMAN: [interposing] Legitimately.

CHAIRPERSON ARROYO: Well, but I think the issue here is who is being enrolled or individuals that do not require social adult daycare services, so if it is a healthier senior the provider technically is spending less on the service provided to that individual.

BOBBIE SACKMAN: If I could just respond for a moment. I think one of the other things this state moved towards after that New York Times article - - that this really happened is they came out and they said that social daycare cannot be the primary treatment. In other words, you really have to be a homecare client, and what is going to happen under Medicaid managed care as we all know is they are simply going to cut the hours that people are going to be able to get certainly moving forward if not the current clients, and so one of the ways--and it might be totally appropriate. I am not saying it is all bad. Might be that somebody participates in adult day because maybe they are not getting as many homecare--maybe they didn't need as many homecare hours. It is an alternative, but it can't be the primary so I think what we are beginning to see is how this is going to bump up against this whole Medicaid redesign, which I don't think has shaken out yet. I think the next whatever year or two when we see what happens to the level of service people get, not just adult day, but homecare especially, I think a lot of this is going to

shake out more. But right now, what was happening I guess is that people were using adult day as the primary walk through my door, and you will become my member of my MLTC, and I think that was one of the first things the state sort of came down on.

CATHY FITZGIBBONS: I think also because one thing we are really really concerned about at FPWA is there is going to be such a rapid growth of the Alzheimer's population within the coming years and these sorts of programs are just vital, social adult day are vital programs for that population and they are - - so we are just looking at it as we need as many of these good programs around for the future.

BOBBIE SACKMAN: Out of the 200, 50 or 100 of them turn out to be legitimate, it is wonderful. It is a good thing.

CHAIRPERSON ARROYO: Council Member Brewer followed by Council Member Chin.

COUNCIL MEMBER BREWER: I just had a question about the services because my understanding is in some of the more questionable programs, not the great ones that you described, people are being tested for high blood pressure

and so on much more frequently than any human being would need for obvious reasons, so couldn't one of the reviews be the kinds of services that you get for your 3800 dollars? I am just wondering if that is the way to look at some of these things. What are you getting for your--

FEMALE VOICE: Who is the appropriate person and are they getting the appropriate services.

COUNCIL MEMBER BREWER: Is that something that is already done or is that something that should be done? I am asking in terms of these centers.

FEMALE VOICE: I think it is part of what will be a monitoring process and that monitoring is currently assigned to the MLTCs, the Medicaid managed long term care, and what they are basically charged with doing is in terms of the services verifying that four core services are indeed being provided to every individual based on an individualized care plan, so those four core services include assistance with activities of daily living, and that is one of the places where it is ambiguous in terms of eligibility whether

people have been going to social model instead of senior centers because of the lack of senior centers in the neighborhood because of the aggressive marketing, et cetera, et cetera, et cetera.

COUNCIL MEMBER BREWER: That needs to be clarified on the State level.

FEMALE VOICE: One of them, I know that DOH at the state level is absolutely qualifying eligibility and I think that there is an aggressive inspection of social model programs going on as well as MMLTCs to just look at that eligibility criteria, but there are four core services--assistance with activities of daily living, nutrition, supervision and monitoring. Excuse me.

COUNCIL MEMBER BREWER: So obviously one could determine from the state level that you are getting too much or you are not getting the kinds of services that you need because obviously I just think there is a lot of overbilling going. That is what I am understand.

FEMALE VOICE: They are not billing on a per service basis. They are billing on a

daily basis or an hourly basis.

COUNCIL MEMBER BREWER: The city says they can't find them all, but why can't the state?

FEMALE VOICE: Because there hasn't been a registry.

COUNCIL MEMBER BREWER: I know, but someone is billing for some - - .

[crosstalk]

COUNCIL MEMBER BREWER: Are they billing from the clouds?

[crosstalk]

CHRISTOPHER NADEAU: The state can ask the plans who they are contracted with and we can get a master list of all of the day programs.

BOBBIE SACKMAN: I think again that is why it can't be left up to providers, advocates, council members to say okay, here is my latest five pop ups I have heard about. It needs to be a - -

COUNCIL MEMBER BREWER: Yeah, that is why I was asking if it is traceable. My other question is similar. These are all for profits I assume for the best of your knowledge. We don't

know?

FEMALE VOICE: I don't know but I do know that during the training sessions that we held with the Department for the Aging both city and state that there were not for profits from diverse communities across New York City who participated in those trainings. For many of them they were not yet up and running, but they were interested in understanding the regulations. That said, the majority are definitely for profit.

COUNCIL MEMBER BREWER: And so is it I know this may be an out of turn question but is it possible to state that everybody has to be a non-profit or that is not kosher?

CHRISTOPHER NADEAU: I will just speak as a provider. I visited a few new programs that are for profit, and some of these centers not only what they have designed clinically in terms of meeting the SOFA standards, but the centers that they have designed--and I have only visited a few, the few that I have visited were incredibly impressive programs for the community, and what is interesting is what is happening is is that we are serving underserved populations now that we have

never served--well, not that we have never served before--that have been underserved. So the Hispanic, Latino community, the Asian American community. We are seeing those folks fitting and trying to meet those needs, so I would say for profit or not certainly there are folks that are designing some good programs.

COUNCIL MEMBER BREWER: Okay, I appreciate it. And then finally. I obviously know project pilot and I have been there many times, and that is one example of how to do it right, and I think Nancy Harvey does an amazing job, but again, could it just be the state because I know somebody mentioned earlier, we don't want an oversight situation that makes it burdensome, but you wanted oversight. What do you think it should be--like you said the state doing it, and how would that communicate to the city if you think that that would be the appropriate level? These are hard questions. I don't know the answer.

FEMALE VOICE: I am not sure an answer about how it would be communicated.

[crosstalk]

FEMALE VOICE: --the state is sharing its monitoring tool if a program is funded by New York State. They are sharing their monitoring tool with the…

COUNCIL MEMBER BREWER: City agencies?

FEMALE VOICE: Medicaid managed long term care, who are then supposed to certify that their programs are in compliance with the - - .

COUNCIL MEMBER BREWER: I am just asking because the world is siloed [phonetic] often, and I am trying to make sure that this isn't one more example.

FEMALE VOICE: Yeah, and a couple of the things that Bobbie and I were talking about as the commissioners were up here talking was it is important in the city to have a point person, the ombudsman role is perfect for that as well as some registry. Those are the two keys that at a minimum we should have going on in the city right now.

COUNCIL MEMBER BREWER: Okay. I am always nervous about siloes. Thank you very much.

FEMALE VOICE: If I might add 'cause Bobbie brought it to my attention to put it on the record that the New York State Department of Health now has in the contract for all MMLTCs that the MMLTC must certify that the programs that they are contracting with are following the New York State regulations. That only got put in so a lot of people came in ahead of time, and now it is being cleaned up.

CHRISTOPHER NADEAU: I would just add so imagine having 15 different contracts, running a center, providing caregiver support services and all of this and then being visited by 15 different oversights--

COUNCIL MEMBER BREWER: [interposing] I don't want that. I am just trying to think of how exactly--'cause the restaurants experience that, and you don't want it in the non-profit sector too. Thank you.

CHAIRPERSON ARROYO: Thank you, Council Member. We were joined by Council Member Eugene, and now Council Member Chin?

COUNCIL MEMBER CHIN: Thank you. I think that so far I mean from lately when the

state mandated MLTC kind of takes more responsibility and I think we are seeing some changes with some of the providers, I mean the better ones are actually--I think some of them are very happy there are some regulations, so that they can at least--people can tell the difference. Which one is better? Which one is good? Which one is not? And I think that even the seniors themselves the one that came to my office to complain are the ones that go to these - - and they know the meals is not good because they contracted with a restaurant. They just go and buy some orders, and then they just serve it. So the seniors themselves are also checking out these places and reporting to us, but I agree with you that we have got to do something in terms of the registration so that at least we know who they are and some of these places are providing services where we don't have it in some communities or in some neighborhoods, and some of the centers that I visited you do see a very small population of the ones that maybe are disabled, and they have special therapists there working with them, but a larger sector of it is actually seniors who should

be going to senior centers, and they are quite happy there, and what they are telling me is that well, this is long term healthcare prevention. They come out and they are active, they are going to be healthier. But I think what is missing in this social adult daycare program that is still not serving the vulnerably population that it was meant to service because these social adult programs are not advertising in the newspaper that they have a special program for people with Alzheimer's or people who need physical therapy or have difficulty walking or whatever. They are not advertising that, and I think that is what needs to change. I mean the most vulnerable population needs the service and they should be getting it, and they are not.

FEMALE VOICE: It is a very thin line between marketing and outreach, and so what we call outreach they would probably call marketing and again, I think you are right. At the end of the day this is sort of the special ed of aging services. it is meant to be small. It is meant to have a certain level of care and certain kinds of activities because you are

dealing with either people with dementia or perhaps physical disabilities.

FEMALE VOICE: I just wanted to say that I had run a social adult day in New Jersey years ago as a part of my home healthcare agency, and we advertised pretty much according to what the NYSOFA regulations state that our clients were functionally or cognitively impaired, in the latter stages of Alzheimer's. These programs can and should be doing that.

COUNCIL MEMBER CHIN: - - they are advertising the program. you can come and play mahjong and you can play certain sports and get a good lunch. They are not advertising on the special needs, and I think that hopefully, with more regulation from the state that some of these programs can really meet the needs of the vulnerable population, and you know, they could have some regular seniors there too, but the bulk of the people they should be really helping are the ones that really need the help.

FEMALE VOICE: I think that is also the answer to Jessica's question about is it-- should social adult day programs cater to everyone

if there is a need, and I think what you are saying is important because if you can make money off clients that don't have a need because they are healthy it is a huge disincentive to recruit and do outreach with the vulnerable population. So I think it is really beyond that it is fraudulent not to be serving the population that you are supposed to, I think that is a real issue. Why take the sickest and most vulnerable if you can take the healthiest, if you are looking at it from a pure profit perspective? So we agree with you.

CHAIRPERSON ARROYO: We can talk to you the rest of the afternoon, but we cannot. So I want to thank you for your testimony. Thank you for your collaboration and certainly we will keep you in the loop on changes of language and ideas and factors that you have pointed out. We thank you for that input. I am going to call up, Sandra Christian [phonetic], Ridgewood Bushwick Senior Citizen Council, Dr. Joan Pastore [phonetic], Amico, David Horne [phonetic], also from Amico, Peter Miuy [phonetic], also from Amico and Joseph San [phonetic]. Make your way up. I hear you

have some stories to tell us. Just pull a chair up close and that's good. Welcome. Identify yourselves for the record, and you may follow whichever order you think fits best.

SANDRA CHRISTIAN: Hi. Sandra Christian, Ridgewood Bushwick Senior Citizen Council. Thank you, Council Members, for bringing up this legislation and whether we get it from the state or the city, the need is there. I am not going to reiterate. I actually wasn't going to testify, but when you had some questions about numbers of senior centers, I thought I would also bring that up. I think that the key in whatever we look at is going to be functional status and how that is evaluated and whoever is doing that, that is the key. Just today, I was talking to a couple of the senior centers. One of the centers has a large group of Filipino clients that come every day. Today five to ten of those clients came for breakfast, walked across the street where a new pop up is now picking people up at Wyckoff Hospital, and took them transportation to the center where they go out to a restaurant or the get meals delivered in. They have about five

large screen TVs that will go to a station of their language, so Filipino station, Armenian station, and that is the services they get, and they get nail salons and hair salons. These people are functional. They can go to the center every day. They might need assistance with mobility minor with a cane, but not by person, and I think if the piece about housekeeping is not something that someone could mandatory enroll that will be good. I think the question on the MLTC site is serious in looking at these programs because that is the key the functionability [phonetic]. They go in, they just have to give a Medicaid card. They are being enrolled in programs. They don't know what program they are being enrolled in. they are targeting minority communities, Medicaid minority communities and that is who they want. They can go to a senior center, and they do. I have one client who has gone to a program, they are open Saturdays and Sundays. She has been told she can come Saturdays and Sundays to social adult day. She goes five days a week all day, breakfast, bingo, lunch at her regular center that she has been going to for

ten years. Walks with a cane, lives in the community, ambulates, has no homecare need, and the need for unmanaged long term care 120 days of long term care should be the standard, and it is going to be who is monitoring them. There are some changes I think after the VNS [phonetic] outcry in the paper. People that are contracting them are being looked at more seriously, and there may be change, but at one of my centers--we actually were serving over our numbers and put in an increase in our most recent DFTA contract, got that increase with the new contracts. We are now down to 85 percent largely because of the pop ups in the community. So I just thought I would add that in.

FEMALE VOICE: [off mic]

CHAIRPERSON ARROYO: Introduce yourself as you begin your testimony. You do it, then he does it, like that.

DR. JOAN PASTORE: My name is Dr. Joan Pastore and I am the director of Amico Senior Center located on the borough park borders of Dyker Heights community and Bensonhurst in southern Brooklyn. I also serve as a clinical

assistant professor at Stonybrook University and I am a field instructor for NYU School of Social Work. To my right is Colonel U.S. Army retired Joe San, who is president of the Amico Advisory Board. Next to him is Peter Miuy, also a member of the Amico Advisory Board and a retired businessman in the Dyker Heights community and David Horne, who is a graduate student at NYU and both Peter and David gathered a lot of the information that I am going to president here to you today. In the community where Amico Senior Center is located there is approximately or at least I should say 30 to 40 pop up centers that have opened up since last July when the new managed long term care policies went into effect. We do acknowledge that these policies were very well intentioned to help the frail elderly stay in their homes and communities, and we applaud the governor for addressing the long term needs of the elderly. Unfortunately, today we are seeing the results and damage that has taken place because of a new system that was set up with great intentions, but left unregulated. These social adult daycare centers that were supposed to

provide services to the functionally impaired older adults have instead chosen to aggressively recruit the well elderly out of the New York City Department for the Aging senior centers no doubt for a higher profit through Medicaid reimbursement. These centers are not providing support services for the frail population, but rather providing a non-supervised recreational facility for the well elderly. As a result, we now have many frail older adults still being ignored possibly neglected while the well elderly who could easily go to a DFTA center are going to social adult daycare centers at the cost of 3800 dollars per month of Medicaid dollars. These pop up centers are commonly and openly referred to in my community as cash cows and gold mines by local business owners. These practices of unregulated social adult daycare centers has also caused much damage to the Department for the Aging senior center community. At Amico, there has been a 17 percent reduction in overall daily attendance. Other senior center directors in southern Brooklyn report even larger percentages of members lost due to the introduction of social adult daycare in the

community. This phenomenon of a lower participation rate of the well elderly can be seen in all New York City Department for the Aging Centers where this influx of pop up centers has occurred. Newer poor immigrant groups who have Medicaid seem to be especially targeted through aggressive and exploitive marketing techniques that include cash incentives for joining, additional cash payments for bringing in new members and gift certificates for regular attendance at the social adult daycare centers. This practice of recruiting newer immigrant groups with Medicaid has also set up a climate of resentment between newer immigrant groups and more longtime citizens who feel new immigrants are taking precious resources away from them. Because of the daily and countless number of complaints which Amico received we started looking into these centers and collecting information to report these pop up centers to local and state agencies, which we thought would have oversight responsibility. We soon learned that there were no agencies whether city or state that had oversight responsibility to these centers, nor were there

any regulations in place to oversee these facilities. Many times these facilities seem to have left no paper trail even to locate except for their numerous advertisements in ethnic newspapers and flyers which most times were written in languages other than English. Having exhausted all other options, we turned to the New York State Attorney General's Medicaid Fraud Division who initially ran into similar obstacles. Today we are grateful to the New York City Council and applaud your efforts to introduce and pass legislation that will regulate pop up social adult daycare centers. It is our hope that with the passage and implementation of this legislation that these fraudulent centers will either be forced to provide the right services to the right population or cease to exist. After reviewing the proposed legislation and guidelines, I would like to make the following recommendations. First, that the Department for the Aging work hand in hand with all state regulatory agencies and be given adequate resources to perform all necessary functions to monitor all aspects of social adult daycare centers as prescribed by the New York

State Office for the Aging. Second, all screening of potential S-A-D or SAD candidates should be checked by qualified independent monitor to ensure honesty in reporting and necessity of need of the older adult and accurate level of functioning. Third, clear definitions and distinctions should be assigned to adult daycare participants by age. Right now the state regulations say adult. I am not quite sure if they mean anyone over the age of 21 or if they are specifically targeting older adults age 65 and over, level of impairment, which would include complete assistance with--do they need complete assistance with ADLs and IDLs and then type of impairment--physical, mental health issues and/or dementia. Older adults should be matched with the proper level of services needed and not grouped together with adults from other age groups or adults who needs are significantly different. Fourth, appropriate staffing should be determined by the level of need of the individuals and the number of participants, not just the assigned random number of two staff per center. Fifth, the term qualified person as director should be more specified, for example, an RN or a

licensed master of social work. Sixth, the amount of social adult daycare centers that are allowed to operate within a given community should be determined by the demographic needs of that community and not the desire of businessmen or businesswomen to make a profit. Finally, there should a central registry and database so that all social adult daycare centers are easily identifiable and located. That is it. I thank you for this opportunity.

CHAIRPERSON ARROYO: Thank you. We have been joined by Council Member Gentile. Thank you.

JOSEPH SAN: First of all I want to thank the Chairman Lappin and also Chairman Arroyo for giving us the opportunity to speak on our experiences with these pop ups from the perspective of a provider of a DFTA type senior center. I think everybody has gone through what has happened that the population of these pop ups have come up significantly, and in my testimony I am not going to go into it and repeat the same thing that people said before, but we, Dr. Pastore, has said, we have got hit pretty bad with

the participation in our center, but we did have some experiences that I would like to share with you and basically that is some of these members that have joined frequented these pop ups have come back and one of the probably first thing we ask them is well, why did you join? Obviously, the first thing they say is well, it is enticing. We have got free food coupons to buy things. We get free meals. We get transportation. Why should I come to your place? Then after that, we asked again. I said well, what is the requirements for membership? And they said they only take people with Medicaid cards. So these are things like horror stories. One person came back very emotionally upset. They were concerned that their Medicaid card has been misused without their knowledge. They don't know how it is being used, and they are very concerned and they asked us to help them close the account and try and open a new one. They also reported telephone calls from these SADs that they join asking them to sign a statement of the fact that they need special caregiver services, which they don't need because they come to our center before these pop ups and

they are dancers, they play ping pong and whatever. So therein lies the problem I think is because it is so profit driven. We are losing these people because of the free, free, free, which it is not because it is coming out from the government, which my grandchildren will probably have to make up the difference and pay for the bills and the taxes. So in light of all of this information, I think we applaud very much this effort by the City Council and New York State to try and put some kind of control regulations surveillance on these units. The only thing I would like to add on is that in the staffing requirements in the write up that somehow we should put language in there that these people should have qualified staff members that are knowledgeable of the culture that they are working in and the language so that they can communicate the requirements and the conditions of the program to the participants, and also I still would like to see--I don't know if it is possible--but these adult care centers should be open to everyone, not only because they have to have a Medicaid card. That's it. One of the things I did want to

mention--one experience that I want to ask Peter Miuy to elaborate on is one of these people that joined there had an experience with the doctor, so it is a medical condition, which I think is very significant.

PETER MIUY: Good evening. My name is Peter Miuy. I joined Amico about eight years already, but I had a friend of mine also a member, but - - she told me I quit. I said why. I want to go join the adult care center. Adult care center everything free. I said why? - - free? Lunch free, - - trip to Atlantic City free, - - free, everything is free. We have a coupon. I go to the supermarket - - 15 to 20 dollars. So why you still go there? I said look, you are our member. You are in good condition. You can play the ping pong. You can play mahjong. You can do everything fine. - - I quit. I go over there. I said okay. She goes there about one year already. All of a sudden she calls me last week - - . I said what happened to you? I tell you truth. I go to see the doctor. The doctor told me you have - - . - - . Blood pressure high, sugar high and cholesterol is high. I said why? I asked her why

you do that? Because the doctor said - - adult care center too much because - - eat the food from the outside Chinese restaurant. I'm like goodness. I said wow. I said look, you better come back to our center because at our senior center we have own kitchen. Most senior centers have their own kitchen. - - Dr. Joan Pastore - - take good care of our people because if they catch everything for low salt, low sugar, low oil, even the butter. We watch everything. We take good care of our center people. I tell her you better come back here. If you go there, you better suicide. Yeah. So truth. - - listen to the doctor. I said look, you have got to be careful. - - you tell them coming back because everybody is healthy--ping pong, dancing. - - so hopefully, the City Council watches out for the adult care center - - own kitchen to take good care of all kinds of people. We need that. Thank you very much.

[background conversation]

DAVID HORNE: My name is David Horne, and I am a social work intern at Amico. I went to a number of the pop ups in our

neighborhood once they started to find out what was going on. I think that maybe the most pertinent information that I can give is to circle back to the question of profitability because it seems like their investment is minimal, where it is an empty room, you get a big screen TV, a ping pong table. In order to enter you have to have a Medicaid card that you would immediately hand over, and even though they were kind of cagey about answering any kind of questions about specific programs that they would offer to people that were impaired in any way, it seems like they don't really exist. So once you get your TV and ping pong table going and you order out from the Chinese restaurant everything else is pure profit after that. That is really…

CHAIRPERSON ARROYO: Council Member Gentile?

COUNCIL MEMBER GENTILE: Thank you, and thank you all for being here. I owe a visit to Amico. I need to get back, but I have to tell you that the first time that this issue of adult day care centers and the impact it was having on the DFTA centers was when I visited Amico, and I

walked in and we go way back, many, many years back to before 2000 I have been visiting Amico and packed all of the time. You have two floors. Each of the floors are full of people, and the one-time about a year and a half ago that I got there both floors were basically empty, and I said to Dr. Pastore, I said, Joan, what happened to the people? And the one response she said to me was adult daycare. Adult daycare. That is all she said to me was adult daycare. So if nothing else that had that impact on me on what was happening to the DFTA funded centers and frankly any center that is not adult daycare. What is the difference in reimbursement that you get?

DR. JOAN PASTORE: I figured this out several years back excluding our rent and utilities and if I include staff and food and everything else, we basically have four dollars a day to operate for each person, so that includes staff and programs, supplies and food, so four dollars versus 93 dollars reimbursement for Medicaid, so of course they can afford to give all of these free things away. So yeah, you see there is a very big price difference there.

COUNCIL MEMBER GENTILE: You know it is such a disparity that it is clear why it is such a financial moneymaker and incentive for people to do this, but I am wondering now there are so many popping up every other block. Are they not competing against themselves?

DR. JOAN PASTORE: What I have heard is they are starting to complain about each other that they are stealing each other's clients, yeah. So we hope they put each other out of business.

COUNCIL MEMBER GENTILE: In fact this person will go nameless, but one of them who owns one of the centers called me up about this bill to see if this bill would actually help him with his competition - - could get in under before this bill took effect.

DR. JOAN PASTORE: Is this first initial W?

COUNCIL MEMBER GENTILE: I won't tell you. I won't mention names. I am curious. The reporting of the necessity of need you mentioned that the reporting of the necessity--is that done by a medical professional?

DR. JOAN PASTORE: It doesn't seem that way.

COUNCIL MEMBER GENTILE: Or it's not required to be a medical professional?

FEMALE VOICE: It is required for the managed long term care to have a nurse be doing an assessment. These people aren't being assessed by the managed long term care nurse until they need long term home care, and that is not happening.

COUNCIL MEMBER GENTILE: So the assessment is being made and not checked, just being accepted?

DR. JOAN PASTORE: We were told that a lot of people are being coached on how to pass the medical assessment and there is no real need there, so they are being coached by the staff there how to present false results so that it appears that they need home care when they don't. There should be a medical professional doing an assessment. Part of the problem we don't seem to get a straight answer on this, yes, they should be assessed by a medical professional whether it be a nursing agency or a medical doctor, and that was

my understanding that there are medical professionals eventually or at some point signing off on these, so that is the part where I put in my report that an independent monitor really should be there because who is really screening the people that are screening. Some of the information that I did get back from the attorney general's office is that they found and this is the investigator unofficially telling me that oftentimes there might be a medical person who is a silent partner in these facilities, and often times no one is really going to go up and question their judgment so that becomes a problem if you have people in the medical field who are not accurately or honestly reporting on a person's level of functioning and then you have people intimidated to question a doctor or a nurse's judgment.

COUNCIL MEMBER GENTILE: I am curious then also. Right now there is no requirement that a director or a whatever it is called, CEO or director, there is no requirement for that person to have some qualification?

DR. JOAN PASTORE: I was going by

the SOFA regulations which I received a copy of, and it basically says the director should be qualified, but what does that mean? - - RN or social worker, some sort of credential or experience because the SOFA regulations I looked at them and I appreciate that the folks that are doing the legitimate adult daycare feel that they have the latitude but some of them are very loosey goosey [phonetic], excuse that expression, so it doesn't specify what type of qualifications. The specs say a qualified director and one other staff person and they can be a volunteer. How do you run a program for 20 frail older adults with that kind of staffing level? I don't quite get that.

COUNCIL MEMBER GENTILE: This really seems the first attempt to try and corral some of this activity going on, so this is I think a great piece of legislation that is coming out of the City Council. I am just curious now you have talked about some that have come back because they thought it was Shangri-La on the other side, right? Have you seen that comeback of members beyond one or two?

PETER MIUY: Yeah, I see some of

the people are coming back, but they said they forced me to have - - home attendant care. If you don't join it, you have to quit, so they said, I feel I don't need it.

COUNCIL MEMBER GENTILE: Even though they went out and played ping pong and mahjong, they have a home care attendant.

PETER MIUY: - - . You pretend you are sick - - and then you get home attendant care or maybe you can pretend and go to the bathroom every time, change your diaper and then you need it, the home attendant care. That is how they tell the people to do it, to treat them. - - lie. - - .

COUNCIL MEMBER GENTILE: Madam Chairs, if this is not a fleecing of the taxpayer I don't know what is really. Thank you.

DR. JOAN PASTORE: Can I just add because I forgot on the Medicaid piece which Chair Lappin asked about, and why it matters, the state is going to pick up the bill on the Medicaid side. It is not a city financial issue, but as we go--I run a homecare program as well, and as we transition into mandatory enrollment, and that

period ends next December and people's hours in the Medicaid homecare system go down because they will go down and they are going to have to go down because now you have this whole other population that doesn't need Medicaid homecare services is going to social adult day, costing 85 dollars a day. People are going to start reducing hours more in the Medicaid side, and what could happen on the city side especially in minority populations is you will have increased falls, increased hospitalizations in New York City funded hospitals. There are always costs even if you are shifting it to the state level, so that is important.

CHAIRPERSON ARROYO: I think the concerns that you are raising is concerns that we unfortunately are starting to hear more and more as time goes on and as we see more of the social adult day care centers popping up in the communities. In certain areas in my district, there is one on Brockner and Lincoln Avenue, which is primarily an industrial community where seniors would never be able to walk to, but there is a little bus that parks in front every single day

and makes several rounds to pick up and bring people to a location that is clearly not suitable for the kind of programs that are supposed to be provided there. So the fact that we are on the ground and through the input of our advocates and our senior community, we have been talking in this Council since last year about this issue where we had a joint hearing with these two committees where we talked about this issue and what does this mean, and one of the greatest concerns for me was when the Department for the Aging Commissioner when asked well, what can we do about it, as much as I respect her, and I think we all do, but her response was what really triggered the panic when she went, you know that we have a problem because that lady is smart and she has been doing government for a very, very long time. And for her to shrug with no real answer means that we have a real serious problem. I thank you for your time and for your testimony and for staying engaged in the conversation because as we move forward obviously we need to massage some of the language, but we appreciate your input because it is going to greatly inform the outcome of what the

legislation will ultimately be in the event that the state is not proactive and adopts some form of legislation to regulate these providers. Thank you very much. Our next panel Christina Cam [phonetic], Hae Lin Choi [phonetic], Tom Connor [phonetic], Martha Wolf, Jim - - . Mr. Connor left. Tell him we are sorry he did that. Okay. Christopher? Hae Lin Choi. We have three at the table. We have Christina, Martha and Jim. Okay.

MARTHA WOLF: My name is Martha Wolf. I am the director of Community Dementia Care at Parker Institute - - wear a number of hats. I am co-president of NYSADSA's southern region, which is New York City, the five boroughs we are a part of certainly and secretary to the state and sit on the board with Betsy and work very closely with Christopher. Our program has been open going to be 24 years, and you are right. Back in September 2012 in fact I pulled my testimony from 2012, we had the joint Council hearing, I want to thank you again for hosting another one and calling another one so many months later because back then we talked about all our concerns and what our fears were as providers of

quality programs, and for these programs to be calling themselves social adult day when they were not it cast a--we knew it was going to cast a bad shadow on all of us, and that is exactly what happened, and so we appreciate the opportunity to come here to clarify a lot of things. I am not going to go through all of my testimony. Everybody has said everything. I mean I certainly support everything my state president has said and Cathy Fitzgibbons and Bobbie Sackman and so on. We do support a registry. We do certainly support the SOFA regulations, and for my program, we have never received NYSOFA funds, but we always followed NYSOFA regulations because it set a standard, and it set a standard of care and quality service. So for those programs in the city that - - old guard if you will that have been operating for so many years, and my program is open seven days a week, 12 hours a day and serves a late stage dementia population, moderate to later stages. For those of us who have been doing this for so so long and providing this service and know how needed it is, you know, we want to make sure that yes, certainly we want more programs

because they are needed in the city. There are pockets of this city we have known for decades that have not had access to these kinds of programs, but we want them to be quality programs and to be done correctly. One of the things that has happened since we met, there have been a couple of things because there has been so much activity with all of this, but one of the things positively that has happened is that NYSADSA was approached by Department for the Aging and asked to collaborate on a best practices manual on how to work with and negotiate with MLTCs not only for social adult day for those individuals who are interested in doing it right and learning how to do it, for new providers, but also for programs providing meals and also for senior centers because DFTA came to us because their senior center directors were being approached by these Medicaid managed care providers, and they knew what was going to happen--they were going to lose members. So not only has senior centers lost members, quality social model programs have lost participants, medical model programs that are Medicaid reimbursed have lost participants to

these programs, these pop ups that are not providing the services. So everybody had skin in the game. Everybody was seeing the effects of what was happening, and felt that we needed to come together and work together to try to get as much information as we could out there to people who were interested to do it right, and I have to tell you and I am sure Betsy can attest to it and Christopher and so on. DFTA was getting calls from people in the community and the question was I want to open a social daycare, how do I do it? DFTA's response was call Betsy Geary, call Martha Wolf, call Christopher Nadeau. I was getting 15-20 calls a week for individuals saying tell me how to open a center and our response we would discuss this was, I am not doing that. If you want to know how to open a center then we have these trainings coming up, you must meet the NYSOFA regs, you can pull them off the website, you come to the trainings, you learn how to do it. We will provide technical assistance. I am not going to stay on the phone with you and tell you how to open a center. I can't do that, won't do that. There were a lot of people who felt that just with

an idea they could go to an MLTC and say, oh, by the way, I am interested in opening a center, you want to contract with me. No. You have to have a physical space. You have to have your staff. You have to meet standard. You have to meet regulation. You can't be assessed on something that doesn't exist. So there were all sorts of things that were happening. I do want to clarify one statement that was made about the director and qualifications about the director. In the NYSOFA standards, it does say qualified director, but it also states by qualification that education and work experience have to be looked at to meet qualification. So does it say that the person has to be a social worker? No. Does it say the person has to be an RN? No. But what it does say is that the person must have appropriate educational background and work experience, and certainly it is up to the agency or whoever is hiring to hire the right person, someone who is qualified to do the job if you are going to open a program that meets the standard. When--I have had site visits. I know Christopher has. I know Betsy has. When we have had site visits from some of the MLTCs

'cause we have contracted with them for years, well before Medicaid redesign even came into play, and that was one of the reasons why Department for the Aging asked us to come in because we have had experience, but when we have site visits, the site visit should follow the NYSOFA regulations, and part of what I have to show them is my vitae, my staffing pattern, my job descriptions, my policy procedure manual, my safety regulations, all of it, my nutrition, where we get our meals, how we plan our meals. All of that--and our activity planning, our plan of care--all of that. So when it is done correctly, and it should be done correctly it is a cost effective viable service that is necessary for our most frail people in the city and across the state. You know, we have been doing these trainings with NYSOFA as Betsy spoke about. We have another one scheduled July 12th at Parker actually that is an all-day training on NYSOFA regulations, and then it is going to roll out across the state. There is another one scheduled at Fordham for Westchester, Orange and Rockland and then they will go across the state. So we are actively as an association working to

ensure as best we can that the social models that exist and the social models that people are interested in opening - - do meet NYSOFA regs, and they understand the importance of following those regulations as well as education MLTCs on what you are supposed to look for when you contract with the social model program. Again-- did I leave anything out guys? I want to thank you. In our program in 2012 we had over 9,000 visits, and visits is defined as a number of days a person is there. That is a lot. We were highly utilized because we have all those hours and caregivers need our service. Social model daycare programs are very, very unique and whereas, we have fought for and stand by the need for oversight to make sure that everyone meets standard. We have to be very, very careful about overregulation because like I said, if I was overly regulated, I couldn't be open 12 hours from seven in the morning to seven at night on Saturdays sometimes to 11 pm so caregivers can go to a movie, so that we can provide service and provide care for their family members so they can stay at home. We have to be very, very careful

about moving towards overregulation, but very staunch about quality of care and standard of care and NYSOFA regulations. We are very pleased about the Millman Savino bill. I think Betsy said it passed last night 89 to 0 on the Assembly side, and you know, we are hoping that hopefully by the end of the week that that will be passed totally by the Senate and we can move forward with that. Again, thank you very, very much for having this hearing today.

CHRISTINA CAM: I am Christina Cam. I am a program director at Café [phonetic] social adult daycare center. We are located in Chinatown. I would just like to add several things that should be an amendment so that there are some standards for social adult daycare centers, such as physical environment safety, a facility which has sufficient space to accommodate program activities and service, 50 square footage per person - - included because you don't want such a crowded environment for your seniors, especially for people who have wheelchairs--all of these pop ups are only 2,000 square footage and they can't really do much--bathrooms that are on

premises. There was a center that had bathrooms located in a mall and a lot of MLTCs actually approved that kind of center and I always wondered how that happened, but I don't know. Everybody is always out for the money. The bathrooms should be handicapped accessible. The ratio should be every 15 people to one bathroom. A shower room should be available. A lot of MLTCs insisted that I should have a shower in my center, but when I look at the pop ups across the street they don't have those things, and I always wonder why are these MLTCs coming to my center and demanding these requirements and I see them across the street. There are no requirements for them. I don't understand why my center is being bullied life that. There should be a restroom with a bed just in case something happens to one of my members, and the facility should be compliant to the Americans with Disabilities Act. A lot of centers don't have an elevator or a moving chair going up and down the stairs. Margaret Chin has visited our centers. She has seen that. The building must maintain and operate properly with the fire department. Thank you.

JIM FORAT: My name is Jim Forat [phonetic], and I am a senior. I am also an older adult, but that can be anywhere from the age of 19 to 90, and I would really like you to caution all of you to watch the language we are using around seniors and people over 60. I know that ageism exists even amongst ourselves, and people don't like to be called seniors and don't like to have their age known, but this is a reality, and I hope that the City Council will continue to use the word senior, and not this generic older adult, which is quite vague. I am not a professional. I have been on advisory councils of the senior centers that I go to, and a member of one of the innovative programs - - called sage, and I am very glad to see this bill. I am not going to comment on it because it has been commented on a lot, and everything that has been said is important, but I would like to talk about other issues that I think are equally important. The criteria for admission, who gets admitted and who is rejected I think it has been very clear in the testimony that that is a very critical question. The word social, adult social, I thought and perhaps, I am

wrong, but these centers were supposed to be for populations that could no longer be served by the senior centers, meaning--I have been a caregiver in two different instances with early dementia and late stage Alzheimer's so I know it's qualitatively different the needs of the senior. I am going to talk about seniors. I know some adults are under the age of 60 who may qualify under Medicaid for these services, but I am going to focus on this. I know that it is qualitatively different, and I know in the senior centers that I go to we have seen people in various stages of dementia and the staff not knowing what to do about it. I think the commissioner of the Department of Aging has begun a very rigorous program of educating staff, which leads me to my next issue is the criteria of who is hired. I know in my experience that many senior centers have people who are unqualified who have been there for a very long time, but have no real experience or education in how to deal with people like myself who are coming into senior centers--I am 72 now--with a sense of empowerment and do not want to be infantilized. In the situation where

you have early dementia to full blown late stage Alzheimer's it is a very different requirement for who is working there, and I have seen it in very high reminisce in assisted living places with extraordinarily expensive places the kind of staffing that they do there. They have a director who is usually pretty good, and then everyone else is paid about eight dollars an hour, and the qualifications about they are trained and how they treat people in those instances most of them are just given so many chemicals that they just sit there all day. It is almost like control. I worry about mixing early dementia, end stage Alzheimer's or whatever the cutoff point - - with people who are chronically ill, who are cognitively capable. You are putting them in the same place, and who is going to suffer? I think the cognitively capable person who is chronically ill is going to be very out of place in these centers, and I think that that has not been addressed in the bill, and I would hope that you begin to look at that. There is also the culture in which people come from, and in dementia all the filters go away, and so you get the real person,

what their history is, and let's say I am concerned about the 82 year old whole life lesbian who has only lived around lesbian culture and is used to being who she is, and now she is going to be even with her diminished cognitive ability she is going to be even more so who she is. How does she fit into that population and how is the staff dealing with that population? The culture of where people come from is very important at this stage, and all of the professionals that I have talked to who deal with Alzheimer's and dementia says it is very important that the person feels safe in an environment which recognizes the differences in culture, and that can be an ethnic culture. I gave one example, which is personal to me, but I am talking about any kind of culture. The health of the staff--does that mean that someone who is HIV positive but is healthy? Will that person be qualified to be hired? I just want to know what the criteria are there. It is listed but it doesn't--I want you to be very careful about how bias can creep in there. The affordable care act was referenced once in the last panel, but what impact will the affordable care act have on - - I

heard the negative aspect of it, but--by negative I mean there will be an increased population that will feel that they are able to go to these places and if the criteria is just anyone who has a Medicaid card, it really diminishes what the actual function of these kinds of centers are. If I am incorrect, Council people, and thank you, my Councilwoman of the senior center that I belong to - - Margaret Chin for staying through the whole day, I know everyone else is busy, but you have been here all day. I know the chair has to be here, so it is much appreciated. These are the kinds of questions that I think also need to be in the conversation, and I know it is difficult to get to this level of the conversation when you have got to really look at certification, regulation and registering. I think it is abominable and it is really your responsibility, and I think you have stepped up almost to the plate, but these places have to be certified. They have to be registered. We have to know who is behind them. You have taken care of some of those things, but the way it is now, it is wild men out there making as much money as they

possibly can, and that is the American incentive, but we are talking about our seniors. We are talking about our most frail population, and I hope that you will not listen to the lobbyists as much as some people in Albany do, and I am not saying that you do, but those voices are very strong because there is a lot of money on the table. That is what this is all about. It is about how do we make money, and remember that frail person who may be like I am--I have no family. I am an only child. I am a gay man who is single. I do not have children, which I guess is an exception to the new myth that all the gay people get married and have children. No, it's not true. - - the people of my generation, and I need to know that if I am in this position that I am going to be in a safe place where people will treat me as equally as any other person there and make my life as good as it can be at this point, at this stage of my life. Thank you.

[applause]

CHAIRPERSON ARROYO: You know what, Jim? There has been no lobbyists in this conversation whatsoever I think because the

industry has really not taken root. If we leave it out there the way it is today, chances are that lobbyists will become very much a part of this conversation, but at this point, there really hasn't been. Council Member Chin?

COUNCIL MEMBER CHIN: Yeah, I just wanted to ask Christina--thank you for coming down today, and I visited your center. Do you support the legislation that the City Council is proposing with some of the so called amendments that you wanted to put in?

CHRISTINA CAM: Not 100 percent. Just a little iffy about it. There is a lot of aspects. Yes, we do need some regulations. That is for sure, but who is to regulate? The MLTC should be regulating actually because they are the one who comes into the center and looks around and investigates, and I have been through so many inspections for the past couple of weeks, and then ultimately I am still waiting for OMEG [phonetic] to come in, but they haven't came in yet because what happened is that a lot of MLTCs are saying that there are no evidence that these pop ups are giving away kickbacks and coupons and cash, but

everybody knows they are just being like ostriches hiding their heads in the sand. They do know because they send out their outreach managers and their marketing specialists and they do know what is going on. They just keep their mouth shut because they know that if I don't compete with another MLTC the other MLTC is just going to get those members in their own program and eventually they are just going to get the money. So I have lost a lot of members because of that, but right now what is happening is that there is a lot of reassessments going on and now everybody is getting kicked out basically from the MLTC and my members are really upset because they said, okay, initially you said I am incontinent. I need help walking. I need a cane and so forth. Now you are telling me I am too healthy to attend a social adult daycare center and that I am being blacklisted to join other MLTCs. They are coming to me and asking me what should they do, and I don't really have an answer because nobody really knows. If you are blacklisted you can't join an MLTC. Is that true? I don't know.

MARTHA WOLF: Christopher wanted me

to just mention the one group that is missing in the room is representatives from MLTCs, and we have had them in our training sessions. I will say that. There is an appeal process that people can go through, so from an MLTC perspective, if you are denied certain things, there is an appeal process and so on, but what is happening is, and it goes back to assessment, which is a key word. Quite honestly, the MLTCs as you mentioned nurse is supposed to do an assessment, the SAMs, really looking at now what kind of assessment they are going to do. - - going to do the SAMs. Based on that assessment they determine a care plan, and a care plan is a living document because people's needs change, so today I might need this and that and tomorrow I need this and that and this six months down the road. So it is a living document, and it should be, and it is a joint effort between should be, between the assessor and the family care giver and the patient if they are cognitive able to participate. If they are not and they have some sort of dementia, then it is just the care giver. But the care giver, the family also has a chance at that point to express their needs

and their concerns and their ability to keep the person at home because that is the whole motivation is to keep the person in the community. So you have got that is supposed to happen. If a person is referred to a social adult daycare program, there is another assessment, which is a key. It is in the minimal standards. There is an assessment for social adult day, so technically a person could be eligible for an MLTC and not eligible for a social adult day program, so the onus originally is on the MLTC and then the onus is on the social adult day to assess the person correctly and to make sure that they are able to provide a) that they qualify and they are able to provide the services that they need, and if they can't, then we know each other well enough--it is a very tight knit community as far as providers--we know who to call or tell MLTC you know what, we can't do this, but this program, Christopher's program in Brooklyn, would be able to serve this person better, and we are able to do that because a lot of what we do is case management and care management ourselves, even though we are not recognized for it. So assessment is a big key to

this and looking at all the needs of the person, not just homecare, all the needs of what they need to be supported to keep the person at home. What hasn't happened is the assessment initially and for these--I hate to keep using pop up--I will use the word bogus? I don't know. But for these programs that have opened up under the guise of social adult day, which aren't social adult day, they don't do an assessment. There is no assessment. If you do it right, and traditionally, historically social adult day programs were never Medicaid funded programs. Never. We never got funding streams that way ever. We could never bill Medicaid directly, and so social model programs depended on private pay and how they set up a private pay structure. We all still have that. It is not just Medicaid dollars. It is private pay. Many of us if not all of us have sliding scales or subsidy rates, and then you may have contracts with MLTCs so that you can bring people in who have Medicaid and you are not billing Medicaid directly, so there are different ways of receiving--

CHAIRPERSON ARROYO: [interposing]

Or you are funded by the City Council or some other kind of grant program.

MARTHA WOLF: Yeah, or foundations and fundraising and all of that other stuff that all of us do and it is all out together to support these programs. Everybody does it differently. Everybody is supported differently. Parker supports the subsidy program for years. they subsidize up to whatever amount I would normally pay so that the board approved that. So programs find ways to support these programs in various ways, but never was it totally Medicaid dollars and the programs that are doing it right, still it is not total Medicaid dollars. It is only these new programs that have shown up that have--

CHAIRPERSON ARROYO: - - 100 percent,

MARTHA WOLF: 100 percent, and no one pays privately. It is all through Medicaid, and that is where they are feeling they are going to get their bucks and make some money, and like you said, a room with a TV and a ping pong table or whatever, and you are good to go.

CHAIRPERSON ARROYO: Jim, you

wanted to make a point?

JIM FORAT: I forgot to say two things, but I am very struck by what she has just said. I just want to speak up for poor people. This private pay solution has really created different classes of people that could have the benefit of adult daycare and under the affordable act I happen to be a person that believes in single payer. I think that these things should be available to all people under the federal insurance plan, but the oversight of that plan--we are talking about oversight. I am struck with hearing that it is $4.50 per senior at her senior center and 85 dollars per person at the adult, and so there is another elephant in the room is that we are underfunding seniors, and the seniors say this loud all the time. This is where our younger allies have to step up and say, it has to be a fair amount of payment to take care of the people.

CHAIRPERSON ARROYO: We wholeheartedly agree that our senior center infrastructure is severely underfunded and that DFTA at least at the city level given the size of the agency and its budget that it continually has

to deal with a target for a peg to eliminate some funding gap that exists in the city budget. Our argument is always DFTA gets a pass because the services that they are providing they are providing to individuals who otherwise would not be able to afford a senior center or the - - .

[crosstalk]

JIM FORAT: I kept hearing this figure that 49 percent of the citizens of New York city live on poverty level or below it. That is a hell of a lot--

CHAIRPERSON ARROYO: [interposing] The rate for seniors is much higher.

JIM FORAT: Yes, and I was about to say the rate for seniors is a good percentage of that, but thank you, City Council, for stepping up to the plate when the state has backed off. Thank you.

[applause]

CHAIRPERSON ARROYO: Christopher, you wanted to make…?

CHRISTOPHER NADEAU: This gentleman brought up some really great issues, and I don't mean to confuse things anymore but I know that as

we are considering this and if the state doesn't act that we are going to have a continuing dialogue, but just to provide a little bit more confusion to the issue is that this issue of the right folks and the right setting is more complicated than we can possibly imagine. The City Council is taking up an issue now in terms of Alzheimer's in our city, and so one of the biggest secrets in senior centers is that you have a huge population of early, early stage Alzheimer's and mild cognitive impairment in senior centers, and they are managing. They are managing until they can't. Prior to funding for social adult day for years, for the last ten years you have had folks on medical model adult day centers that were more appropriate for social adult day, so all of this rebalancing it's complicated. I just wanted to share that because you are right. We need to figure this out and certainly there is a lot more we can do. I just wanted to share that.

CHAIRPERSON ARROYO: I want to thank all of you for your input and for your testimony. As I always say my favorite part of the hearings is the public testimony. We always

leave the room a little wiser than when we walked in. There is a lot of work to be done, and the introduction that we are here considering today is the beginning in a process that if the state is not at a point where we feel confident that the industry that we are discussing will have the appropriate oversight because at the end of the day, we all want the same thing. We need the services in communities. We want to make sure that those services are being provided by appropriately positioned providers, so that when a senior or an individual who is eligible for this service whether it's an age criteria or not that the service is provided appropriately, safely and that the appropriate level staff is providing the services. so we have information that is going to help us the massage the legislation, but at the end of the day if necessary will be more thoughtful and appropriate for what we are trying to accomplish. I want to thank you all for your time and for your focus on this issue. We will talk again because I believe that we need to have another conversation about the language or we will amend and make sure that you are looped into that

process as we move forward as we always do, and we value your input tremendously so thank you all very much, my colleagues for hanging out. With that, I adjourn the hearing.

[applause]

[gavel]

C E R T I F I C A T E

I, Kimberley Campbell certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature Kimberley Campbell

Date 7/18/13