

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH JOINTLY WITH COMMITTEE ON AGING

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HELD AT: Council Chambers - City Hall

B E F O R E: Corey D. Johnson & Margaret S. Chin  
Co-chairpersons

COUNCIL MEMBERS:

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PAUL A. VALLONE

A P P E A R A N C E S (CONTINUED)

2 [gavel]

3 CHAIRPERSON JOHNSON: Good morning. I am  
4 Council Member Corey Johnson, Chair of the Health  
5 Committee of the City Council. I want to thank  
6 Council Member Margaret Chin, Chair of the  
7 Committee on Aging for sponsoring this legislation  
8 that we are considering today and for being a true  
9 leader and addressing this important issue. I also  
10 want to acknowledge Council Member Paul Vallone who  
11 also has worked a tremendous amount on this piece  
12 of legislation and is number two on this bill.  
13 Today the committees are holding a hearing on Intro  
14 number 358 which will regulate social adult daycare  
15 in New York City. Social adult daycare programs  
16 provide functionally challenged individuals with  
17 specialized services for older adults and a  
18 protective setting during part of the day. Social  
19 adult daycare is becoming a more important piece of  
20 our city's care system every year as our senior  
21 population grows. To a family member providing care  
22 to a loved one with Alzheimer's and dementia social  
23 adult day programs are a real life line. They're in  
24 a safe setting where trained staff work with  
25 participants to improve their quality of life not

2 just at the program but also when, when they return  
3 home. There are currently eight programs funded by  
4 the New York City Council which must follow  
5 regulations issued by the New York State Office of  
6 the Aging. I know a number of those providers are  
7 here today and I want to thank them for working  
8 with us for this process. However there are  
9 hundreds of private centers operating largely  
10 without any oversight over these services for our  
11 vulnerable population. Through a scheme the  
12 operators of these centers are able to collect  
13 Medicaid reimbursements for each participant  
14 enrolled by recruiting seniors that do not require  
15 a level of care that social adult daycare programs  
16 are designed to offer. Like many of my colleagues I  
17 am greatly disturbed by the growth of these  
18 facilities and the potential for Medicaid fraud or  
19 worse. Under introduction 358 New York City  
20 Department of Health and Mental Hygiene and the  
21 Department for the Aging we'll work together to  
22 regulate these centers. DFTA will appoint an  
23 ombudsman to receive complaints and investigate  
24 information it has regarding programs and will  
25 refer such complaints to DOHMH and the state. DOHMH

2 will then inspect these centers as, as necessary to  
3 ensure that only functionally impaired adults  
4 attend these programs and that these participants  
5 receive appropriate services in a safe environment.

6 I am proud to co-sponsor this legislation that will  
7 protect older adults from social adult daycare  
8 operators who engage in deceptive practices. Social  
9 adult daycare programs are needed here but we only  
10 want honest providers, providers that are committed  
11 to offering the full range of required services by,  
12 by properly trained staff, not those looking to  
13 make a quick buck by draining away Medicaid  
14 dollars. No one in New York City should worry  
15 whether the program where they just dropped their  
16 mom or dad off to is actually going to provide a  
17 safe and supportive environment. Again I'd like to  
18 thank Council Member Margaret Chin, the sponsor of  
19 this legislation, Council Member Paul Vallone, and  
20 advocates for their work on this bill and for their  
21 commitment to protecting all elderly New Yorkers.

22 Lastly I would like to acknowledge my colleagues on  
23 the health committee who have joined us. We are  
24 joined by Council Member Peter Koo and I'm sure  
25 we'll be joined by others. I also want to thank my

2 Legislative Director Louis Cholden Brown, our  
3 Health Committee Council Dan Hafetz, Policy Analyst  
4 for the Health of the Committee Crystal Pond,  
5 Carillion Francisco [sp?] the finance Analyst for  
6 the Health Committee in their work for, in  
7 preparing for today's hearing. And I also really  
8 want to thank the aging Committee Council Telly  
9 Kaylor [phonetic], Kelly Taylor for all of her  
10 incredible work over a long time in getting us to  
11 this hearing today. Now I'd like to turn it over to  
12 Council Member Margaret Chin.

13 CHAIRPERSON CHIN: Thank you. Good  
14 morning. I'm Margaret Chin, Chair of the Aging  
15 Committee. I want to thank Chair Johnson of the  
16 Health Committee for holding this hearing today. We  
17 also have been joined by Council Member Vallone of  
18 the Aging Committee and he also Chaired the  
19 Subcommittee on Senior Centers. Social adult  
20 daycare programs are an essential service for  
21 families of seniors with Alzheimer's and dementia  
22 that has unfortunately gained an unfair reputation  
23 as these reputable businesses have cooperated their  
24 names in order to profit off a loophole in the  
25 state's Medicaid program. These pop up social

2 adult daycare are exploiting seniors by promising a  
3 level of care they do not offer and billing  
4 taxpayers by taking Medicaid dollars they have not  
5 properly earned. Popups have offer free toasters,  
6 sodium loaded takeout food, and rooms with big  
7 screen T-V to lure participants away from senior  
8 centers threatening their funding as the center's  
9 attendance drop. We have given the state ample  
10 opportunity to fix this problem. We agreed to shell  
11 the bill last session. After being assured that  
12 these popups would be reined in it's been more than  
13 a year since and yet the chorus of complaints  
14 continues. Patience is not a virtue when tax  
15 dollars are being wasted and the vulnerable are  
16 needlessly put at risk. It's been now two years,  
17 five hearings, and one front page New York Times  
18 expose since we learn about this problem. These  
19 popups not only threatened the safety of seniors  
20 they are threatening the very existence of our  
21 senior center. If they can bring enough over to the  
22 popups there's a real chance the senior centers  
23 won't be able to maintain the attendance they need  
24 to keep their doors open. There more than enough  
25 room for senior centers and properly run social

2 adult daycare program in this city. But we can't  
3 stand by and let these popups push our senior  
4 centers and threaten the business model of  
5 reputable programs. At every hearing we discuss  
6 social adult daycare we all agree that these popup  
7 programs are a serious problem that should be  
8 addressed. Right now in New York City you need a  
9 license to run a game of bingo but not to take care  
10 of a person with Alzheimer? We need to fix that.  
11 Now that we are under a new administration I'm  
12 confident that we can come to an agreement with the  
13 mayor and make sure we finally put this problem to  
14 rest. And I want to thank all the advocates and all  
15 the good social adult daycare providers that are  
16 here today to testify. And I also want to thank  
17 Kelly Taylor, the Council for the Aging Committee  
18 for her long hard work on this and also my Chief of  
19 Staff Yumah Kidasay [sp?] on this issue. Thank you.

20 COUNCIL MEMBER VALLONE: Thank you very  
21 much Council Member Chin. Thank you for our co-  
22 chairs today. As stated as the Chair of Senior  
23 Centers this is an issue that addresses every  
24 senior in our city because of the choices that are  
25 given and not properly explained, the resources



2 that are taken away from our seniors, and for the  
3 centers that are trying to do the right thing that  
4 have to compete with these popups that are not  
5 providing the care that we would demand for our  
6 parents, our loved ones, the seniors in our city.

7 So I'm looking forward to today's hearing and  
8 taking concrete steps to move forward with our two  
9 committees and the City Council to address this  
10 growing plague and situation on the, on our seniors  
11 who are expecting more from us and so I turn to you  
12 to step up and do that. So thank you very much.

13 CHAIRPERSON JOHNSON: Thank you Council  
14 Member Vallone. We're going to start with our first  
15 panel. I will call you up. Karen Resnick Deputy  
16 Commissioner for External Affairs at DFTA, Ilene  
17 Malarkey Assistant Commissioner for Long Term Care  
18 at DFTA, and Elliott Marcus Associate Commissioner  
19 for the Bureau of Child Care and Bureau of Food  
20 Service and Community Sanitation and the Division  
21 of Environmental Health at the Department of Health  
22 and Mental Hygiene. So you may testify in whatever  
23 order you would like. Make sure that the red button  
24 is on on the mic and please introduce yourself,  
25 identify yourself before you speak for the record.

2 Yes, and we are going to swear you in. [cross-talk]

3 You can swear them in. We're going to have our

4 Committee Council swear you in.

5 COMMITTEE COUNCIL: Can you please raise

6 your right hand? Do you affirm to tell the truth,

7 the whole truth, and nothing but the truth in your

8 testimony today and to respond honestly to council

9 member questions?

10 [cross-talk]

11 COMMITTEE COUNCIL: Thank you.

12 CHAIRPERSON JOHNSON: Thank you very

13 much. You may begin.

14 KAREN RESNECK: Good morning Chairperson

15 Chin, Chairperson Johnson, and members of the

16 Health and our Subcommittee Chair Vallone, and

17 members of the Aging and Health Committees. I'm

18 Karen Resnick Deputy Commissioner for External

19 Affairs at the New York City Department for the

20 Aging. And I am joined today by Ilene Malarkey to

21 my right Assistant Commissioner for Long Term Care

22 at DFTA and Elliot Marcus my colleague Associate

23 Commissioner for the Bureau of Child Care at the

24 New York City Department of Health and Mental

25 Hygiene. Thank you for inviting us to testify about

2 Intro number 358 in relation to regulating social  
3 adult daycare. As you mentioned social adult  
4 daycare is a structured program that offers a  
5 protective setting to functionally impaired  
6 individuals with either cognitive or physical  
7 frailty. Generally these programs provide  
8 socialization opportunities, structured activities,  
9 personal care, meals, supervision, and monitoring.  
10 Additionally SADC services may include activities  
11 designed to maintain and improve daily living  
12 skills, transportation, caregiver assistance and  
13 case coordination. Medical adult day programs by  
14 contrast are affiliated primarily with hospitals  
15 and nursing homes and they furnish social  
16 activities as well as more intensive health and  
17 therapeutic services such as occupational and  
18 physical therapy. DFTA currently funds seven social  
19 adult daycare programs with baseline funding. These  
20 programs were previously supported by council  
21 discretionary funding and monitored by the  
22 Department for the aging. Thanks to the generous  
23 support and commitment of the older adult  
24 population three additional SADC programs were  
25 funded by the city council. And the seven original

2 programs were awarded enhancements in their  
3 budgets. DFTA requires the SADC's funds to meet the  
4 standards set forth and the New York State Office  
5 for the Aging regulations. As the contract agency  
6 DFTA provides oversight for compliance with those  
7 standards for the 10 programs that are currently  
8 funded. The environment for operating SADC programs  
9 has changed with the development of new financing  
10 and regulatory arrangements for SADCs and New  
11 York's Medicaid program. This appears to have led  
12 to an increase in the opening of new SADC programs  
13 or popups as you refer to them throughout the five  
14 boroughs during the past two years. Social adult  
15 daycare is a covered benefit under Medicaid Manage  
16 Long Term Care plans and prior to two years ago was  
17 used less frequently as a service option. As a  
18 result of mandated changes by the governor's  
19 Medicaid redesign team there was a massive influx  
20 of Medicaid beneficiaries into MLTCs many of whom  
21 required personal care. Since May 2011 enrollment  
22 in in Medicaid MLTCs in New York City has tripled  
23 from fewer than 30 thousand enrollees to almost 90  
24 thousand enrollees in 2013. To serve this influx of  
25 new enrollees in a more cost effective manner

2 Medicaid MLTC plans are quickly expanding their  
3 capacity by contracting the comparable but less  
4 expensive community based long term care service  
5 and support services such as SADC programs. The  
6 large influx of clients... [cross-talk]

7 UNKNOWN MALE: Audio test one two three,  
8 one two three. Mic check one two.

9 KAREN RESNECK: The large influx of  
10 clients eligible for this comparatively inexpensive  
11 service created an environment right for the  
12 proliferation of SADC programs in New York City and  
13 the potential for exploitation of a very frail  
14 population. It is reported that some are also using  
15 SADCs as recruiting sites for the manage care  
16 plans. Initially the MLTC programs were directly  
17 responsible for the oversight of these centers. In  
18 October of 2013 the state Department of Health  
19 issued a set of policy requirements for oversight  
20 of SADC programs at New York State that contract  
21 with MLTCs. Because these new SADC providers are  
22 being paid for and contracted through the state  
23 Medicaid program it falls to the state to provide  
24 oversight for ensuring the quality of the services  
25 provided and to protect the integrity of the

2 taxpayer funded program. The state has taken  
3 several actions in response to the reported  
4 problems in the proliferation of SADCs programs.  
5 The state Department of Health established a  
6 specific requirement that MLTC plans assess SADC  
7 entities for compliance with the minimum NYSOFA  
8 requirements prior to an MLTC plan entering into a  
9 contract for provision of service. DOH also issued  
10 a policy memo to remind MLTC plans that SADC  
11 entities must comply with the NYSOFA regulations as  
12 per their contractual requirements. Additionally  
13 MLTC plans were required to conduct initial and  
14 annual onsite visits of all SADC contractors in  
15 order to monitor compliance with the minimum  
16 requirements. MLTCs were prohibited from  
17 contracting with any entity that does not meet  
18 NYSOFA requirements. DOH also required MLTC plans  
19 to maintain documentation of compliance in their  
20 records for all related audit activities. The  
21 Department of Health contracted with the Island  
22 Peer Review Organization, IPRO to order, audit to  
23 the compliance of MLTC plans with NYSOFA regs. IPRO  
24 projected that on site reviews of the SADC programs  
25 would be completed in 2014. NYSOFA provided initial

2 training to IPRO staff on the use of the monitoring  
3 tool which it developed to complement the  
4 standards. The administration shares the concerns  
5 prompting the introduction of this bill and in  
6 particular the, the opening of a large number of  
7 new SADC programs in New York City and reports that  
8 some of the new programs are not providing quality  
9 services. Also there have been accounts that a  
10 number of the newly launched SADC programs have  
11 been aggressively recruiting participants from high  
12 quality providers. In light of the specific actions  
13 that have been taken by the state to address  
14 reported abuses among SADC programs DFTA believes  
15 there is a noticeable down turn in the number of  
16 reported abuses. DFTA in partnership with the city  
17 council will continue to work with this state to  
18 determine whether the state's actions have had the  
19 intended outcome of reducing and eliminating fraud  
20 and abuse among SADC providers. Recognizing that  
21 these programs are paid for almost entirely through  
22 state Medicaid manage care arrangements and that  
23 the city agencies lack the infrastructure and  
24 funding to oversee the universe of SADC programs in  
25 New York City we believe it's premature to

2 establish an entirely new regulatory scheme without  
3 fully understanding the scope of the current  
4 problem. This is particularly true in light of  
5 recent actions taken by the state to address  
6 reported abuses. At the present time DFTA logs  
7 reported complaints that come to our attention  
8 about SADC providers and refers them directly to a  
9 designated staff person at the State Department of  
10 Health. Intro number 358 requires the establishment  
11 of a Social Adult Daycare ombudsman at DFTA whose  
12 role it would be to investigate complaints at all  
13 SADC programs and refer them to the state, obtain  
14 an annual list of all providers operating SADC  
15 programs, make recommendations to the commissioner  
16 regarding the operation of SADCs, post signs  
17 indicating how to contact the ombudsman on the  
18 premises of SADCs, make information available on  
19 its website about how to contact the ombudsman, and  
20 provide a written report to the City Council by  
21 April one of each year documenting all of the  
22 actions of the previous year. This would require  
23 that DFTA expand from its current role of enforcing  
24 contract terms for 10 social adult daycare programs  
25 that we directly fund to acting as an ombudsman for



2 potentially hundreds of programs with thousands of  
3 participants. This expansion would be costly. We  
4 will continue to monitor this issue, work with the  
5 state, and collaborate with our colleagues in the  
6 City Council to ensure that the State Department of  
7 Health oversight initiatives are effective in  
8 monitoring and ensuring quality service delivery in  
9 all SADs programs. At this time we are eager to  
10 continue to carefully monitoring SADC complaints  
11 and working to resolve issues with this council and  
12 the state. Thank you again for this opportunity to  
13 provide testimony on Intro number 358. I'm pleased  
14 to answer any questions that you may have.

15 CHAIRPERSON JOHNSON: Thank you very  
16 much Deputy Commissioner. Is there going to be  
17 additional testimony from the other two.. [cross-  
18 talk]

19 KAREN RESNECK: No there is not but we  
20 are prepared to answer your questions.

21 CHAIRPERSON JOHNSON: Great. Thank you.  
22 Council Member Chin do you want to start? Go ahead,  
23 it's your bill.

24 COUNCIL MEMBER CHIN: Thank you.  
25

2 CHAIRPERSON JOHNSON: Oh just quickly I  
3 want to mention that we've been joined by Council  
4 Member Mark Treyger from Brooklyn whose a member of  
5 the Aging Committee.

6 COUNCIL MEMBER CHIN: Okay in the last  
7 part of your testimony you said that this expansion  
8 would be costly. How much would it cost? Do you  
9 have an estimate?

10 KAREN RESNECK: We have not come up with  
11 an estimate. We did have numbers that we looked at  
12 last year and I believe that it was in... over a  
13 million? 2.6 million.

14 COUNCIL MEMBER CHIN: 2.6 million last  
15 year. I think according to our record is only a  
16 little bit over half a million, 512 thousand.

17 KAREN RESNECK: Was that both DOH and..  
18 And that was for this both DOH and DFTA combined.  
19 But that was DOH.

20 COUNCIL MEMBER CHIN: This is the cost  
21 of the ombudsman,

22 KAREN RESNECK: Do we have it with us?  
23 We'll have to get back to you.

24 COUNCIL MEMBER CHIN: Okay. I mean we  
25 would like to know what the cost would be. In your

2 testimony you talked about the changes that the  
3 state has implemented. To this day I mean our  
4 general, our council in the committee's been also  
5 trying to contact the state. To this day they still  
6 haven't given the city the list of all the new  
7 social adult daycare that has started. I mean  
8 anecdotally we go around in our district and we see  
9 new signs you know going up and another pop up  
10 center is open up. I mean we calculate more than a  
11 dozen opening up down in my district. There are a  
12 lot of them in Flushing and Brooklyn and in other  
13 part of the city. But we have not gotten an  
14 official list from the state. Have Department of  
15 Aging gotten the official list from the state?

16 KAREN RESNECK: No I, I believe at the  
17 time of last year's hearing we had a number from  
18 the state of 197 programs throughout the city.

19 COUNCIL MEMBER CHIN: Yeah they gave us  
20 a number, a estimated number but they never gave us  
21 a list of who these centers are, where they're  
22 located, who's operating them... I mean those  
23 information are critical right? Even... [cross-talk]

24 KAREN RESNECK: Well as of, as of last  
25 evening we had a discussion with the, with Mark

2 Kissinger who's overseeing the social day programs  
3 and the manage long term care entities and  
4 apparently there is a report forthcoming from IPRO  
5 who is the contact agency that has gone in and done  
6 an assessment of all the programs. So I think that  
7 will be a very telling report when it's issued.

8 COUNCIL MEMBER CHIN: I guess one of my  
9 biggest issue or question is that the social adult  
10 daycare that are funded by the city, the ten that  
11 your talk about that we were able to provide more  
12 funding this year through the council and were  
13 happy, really happy that we could provide more  
14 funding to these program. Because basically I think  
15 they were only getting like 50 thousand dollars a  
16 year. And they were really taking care of the  
17 seniors who are really need it. They are the one  
18 with Alzheimer, with the dementia, with the special  
19 needs. And meanwhile these pop up center that we  
20 see, that we see advertisement in the local paper,  
21 they send busses to pick you up you know outside  
22 your doorsteps. You walk in there and people are  
23 having fun. I mean I visited quite a few of them.  
24 They have you know pool contests, you know shooting  
25 pool contests. They have ping pong contests. They

2 have other things going on. And the biggest  
3 question is that even though they don't get city  
4 funding, city council funding or city funding they  
5 get Medicaid dollars. That is government funding  
6 right? It doesn't make sense that nobody is really  
7 monitoring them. I, one of the question is, I guess  
8 with the, the deputy mayor from... that I have with  
9 the deputy mayor who was... I mean the perception is  
10 that people think that because the state instituted  
11 some changes that things have improved but it  
12 really hasn't. It still a big problem. And I wanted  
13 to ask about the inspection that the, that the  
14 Department of Health does in this city. Associate  
15 Commissioner Marcus, right?

16 ASSOCIATE COMMISSIONER MARCUS: Yes.

17 COUNCIL MEMBER CHIN: When I spoke to  
18 some of our senior enter I was told that the senior  
19 center get Department of Health inspection on  
20 their, you know in their kitchen facility right?

21 ASSOCIATE COMMISSIONER MARCUS: That's  
22 correct.

23 COUNCIL MEMBER CHIN: And Department of  
24 Health also inspect the caterer that, the cater

2 that the senior center contract if they don't cook  
3 their own food is that correct?

4 ASSOCIATE COMMISSIONER MARCUS: That's  
5 correct. If the caterer's in New York City we  
6 inspect them.

7 COUNCIL MEMBER CHIN: Okay so these  
8 social adult daycare they provide lunch to the  
9 senior. And they have a kitchen right. So  
10 Department of Health can go in there and do the  
11 inspection correct?

12 ASSOCIATE COMMISSIONER MARCUS:  
13 Certainly we would do the food safety inspection.

14 COUNCIL MEMBER CHIN: Yeah I mean you've  
15 done it for a regular senior center right. And  
16 we've heard that a lot of these pop up they order  
17 food from the local restaurant. And the Department  
18 of Health you do inspection of local restaurants  
19 right?

20 ASSOCIATE COMMISSIONER MARCUS: That's  
21 correct.

22 COUNCIL MEMBER CHIN: So you could do  
23 the inspection.

24 ASSOCIATE COMMISSIONER MARCUS: If the  
25 inspection is limited to food service at these

2 centers we certainly can do it. We have... [cross-  
3 talk]

4 COUNCIL MEMBER CHIN: So on the food  
5 service part you guys can do that right?

6 ASSOCIATE COMMISSIONER MARCUS: That's  
7 correct.

8 COUNCIL MEMBER CHIN: I just want to get  
9 that on the record. Chair Johnson I'll, I have more  
10 question but maybe other colleagues can, can go  
11 first.

12 CHAIRPERSON JOHNSON: Thank you Council  
13 Member Chin. We've been joined by Council Member  
14 Cornegy, Council Member Koslowitz and that's it. I  
15 just want to talk a little bit more about your  
16 potential concerns with the bill. You testified  
17 that, that you're going to continue to monitor the  
18 issue, work with the state, and collaborate with us  
19 and the City Council to ensure that the State  
20 Department of Health oversight initiatives are  
21 effective in monitoring and ensuring quality  
22 service delivery of these programs. So as was  
23 mentioned in the beginning I believe this is the  
24 fifth hearing. I believe this conversation has been  
25 happening for almost two years. The state has not

2 taken action in an appropriate way as has been  
3 outlined. And I think you've acknowledged this is  
4 an incredibly vulnerable population that exists in  
5 New York City. And it is well within of course our  
6 right as a municipality to try to regulate and  
7 ensure safety and quality services here. Is it your  
8 position that we should wait for the state to act  
9 before the city acts because of the monetary cost  
10 associated with enforcement?

11 KAREN RESNECK: I think it's our  
12 position that it is the state's responsibility and  
13 not our responsibility contractually and otherwise..  
14 [cross-talk]

15 CHAIRPERSON JOHNSON: But then, but  
16 they're not, but they're not doing anything. So  
17 we're... [cross-talk]

18 KAREN RESNECK: They have done a number  
19 of things which I enumerated in, in a phone  
20 conversation yesterday we got some further  
21 information about what they're doing. So yes it,  
22 it, IPRO who was contracted to go in and actually  
23 do oversight has gone through and inspected the  
24 manage long term care affiliated social day  
25 programs. And they have found some issues. The,



2 they haven't released the full report yet. And they  
3 also offer that there is contemplation of some  
4 regulatory or certification process on the state  
5 level.

6 CHAIRPERSON JOHNSON: So basically the  
7 state actions amount to reminders to providers of  
8 their contractual requirements, some monitoring, an  
9 independent audit, and in the face of known  
10 examples of abuse that are occurring in New York  
11 City amongst an extremely vulnerable population it  
12 is my belief this response isn't strong enough. So  
13 far we have not heard of any unscrupulous providers  
14 being shut down. It seems that these steps aren't  
15 working. Do you know of any providers that have  
16 been shut down through what the state has been  
17 doing enforcement wise?

18 KAREN RESNECK: I, I don't know that.

19 CHAIRPERSON JOHNSON: But we know that  
20 there are unscrupulous providers?

21 KAREN RESNECK: I believe there are  
22 providers that have shut down but I don't have a  
23 list and I can't accurately say that.

2 CHAIRPERSON JOHNSON: So the bill that  
3 we are hearing today is a complaint driven bill. It  
4 is only when there are complaints...

5 KAREN RESNECK: Correct.

6 CHAIRPERSON JOHNSON: ...that are called  
7 in? There is no requirement for annual inspections  
8 by DOHMH or by DFTA? [background noises] I  
9 apologize. We're going to hold a moment. So given  
10 that it's only going to be complaint driven I'm not  
11 entirely sure why there is a tremendous amount of  
12 concern associated with, with cost involved. There  
13 are ghosts in the department, in the chamber today,  
14 we apologize. So I, I, I, how does that affect DFTA  
15 and DOHMH's responsibility if it's only complaint  
16 driven.

17 KAREN RESNECK: I mean I'm going to turn  
18 it over to Elliot. But on the Department of Health  
19 side it's, there's the levying of fines which would  
20 be much more complicated process and the collecting  
21 of those fines so it, it's not just complaint  
22 driven.

23 ASSOCIATE COMMISSIONER MARCUS: Our  
24 concern is that as the bill is written the, there's  
25 not enough adequate measures to, to ensure

2 enforcement of regulations. So that certainly in  
3 our experience with other regulatory areas the  
4 absent, absent permits or licenses there's nothing  
5 to compel an organization to comply with the, with  
6 the rules and regulations. Now we could refer of  
7 course to appropriate, other appropriate agencies  
8 but that still leaves the matter open.

9 CHAIRPERSON JOHNSON: How many  
10 inspectors do you believe it would take to  
11 potentially inspect 200 programs that are operating  
12 in the city from a DOHMH perspective?

13 ASSOCIATE COMMISSIONER MARCUS: I, I  
14 believe eight is what the... Oh no I'm sorry, yeah  
15 eight is the number that, eight inspectors is the  
16 number we came up with.

17 CHAIRPERSON JOHNSON: And how long do  
18 you think it would take to train eight people to be  
19 able to have the knowledge and capability to do  
20 that?

21 ASSOCIATE COMMISSIONER MARCUS: It, it  
22 depends on what the program would look like,  
23 certainly we would have to create the regulations  
24 that would mirror the state's bill, state  
25 requirements. So that alone does not take a long

2 time. But if we're also going to do food safety  
3 they would have to be trained in food safety as  
4 well. Or we'd have to figure out some other way of,  
5 of handling the food safety portion of that  
6 enforcement. But you would also need a medical  
7 director to ensure that if we, if we were doing  
8 reviews of treatment plans and assessment plans,  
9 assessments of the individual, individual  
10 assessments would take a different set of skills  
11 than we currently have.

12 CHAIRPERSON JOHNSON: So I'm, I want to  
13 turn it over to other council members that, that  
14 have questions and, and I'm happy to come back as  
15 I'm sure Council Member Chin wants to come back and  
16 ask some more specific questions. But I, I really  
17 feel like the buck stops with us ultimately as a  
18 city to protect our residents, especially an  
19 incredibly vulnerable population of folks. And I  
20 think that waiting for the state to finally take  
21 full comprehensive action is not good enough. And  
22 we are seeing the ramifications of it in individual  
23 districts across the city. So I fully support this  
24 bill. I know that there are incredibly talented  
25 smart people at DFTA and at DOHMH who would be able

2 to collaborate and work together and figure out a  
3 way to put forward a regulatory system and  
4 promulgate rules and regulations that would work to  
5 protect our most vulnerable seniors in the city.

6 And I'm fully committed to moving this forward in,  
7 in a consultative way with Council Member Chin and  
8 with the respective city agencies. I don't think  
9 that given what we know about how quickly Albany  
10 sometimes changes or doesn't change and the  
11 machinations of the state legislature, specifically  
12 the state senate. Waiting for potential legislative  
13 action in January and then hoping that something  
14 passes in the Spring in the next uh, in the next  
15 session I'm not sure is good enough. And I don't  
16 that's a good enough answer for this council. So I  
17 hope that today some of the questions are helpful  
18 for both departments. And I know that Council  
19 Member Chin and myself are deeply committed to  
20 working with the administration and the specific  
21 agencies that this would affect to ensure that this  
22 doesn't continue to proliferate in the city and  
23 that we actually have a system that is going to  
24 bring these out of control centers into compliance  
25 and hopefully scare away some of these bad

2 operators where they know that someone is watching.

3 And with that I'm going to turn it over to Council

4 Member Vallone.

5 COUNCIL MEMBER VALLONE: Thank you to  
6 both co-chairs. And we all stand in agreement as to  
7 what's been said this morning. I think we're faced  
8 with a large paradox here. We, we are faced with a  
9 scenario where the city has 10 and the state has  
10 over 200. And we as a city now are trying to  
11 promulgate new regulations faced on these concerns.  
12 However the growth of the Medicaid influx of these  
13 facilities and the changed in the regulations on  
14 the state side has put us in a position of what can  
15 we do. And we don't want to take away Medicaid  
16 resources by saying these popups or whatever we  
17 want to call them are creating a system that's  
18 unhealthy and unfair for our seniors with the ones  
19 that are regulated. So we don't want to reduce the  
20 Medicaid spending that the state is always looking  
21 to do on an annual basis so let's cut our Medicaid,  
22 we don't want to do that. We have to work in  
23 coordination. So what I'm asking is I appreciate  
24 the outline that you provided here on what the  
25 state regulations are. But how closely are you

2 working with the state Department of Health with  
3 these regulations? Are they just giving... you... to  
4 what they're doing and are you happy with what  
5 they're doing?

6 KAREN RESNECK: Up until... we just  
7 recently learned of the potential for putting a  
8 certification process in place which has been  
9 conversations between the New York State Office for  
10 the Aging and Mark Kissinger's long term care shop.  
11 So we have not been involved in those discussions.

12 COUNCIL MEMBER VALLONE: Well with that  
13 certification would that be something... I, I would  
14 certainly appreciate seeing a certification  
15 standard go up. Would that be something we would  
16 stand with? And also I think we're going to have to  
17 do a dual approach to this. We had passed... pushy on  
18 the city level we're going to have to ask our  
19 brothers and sisters on the state level to go along  
20 with us especially since it's, it's their centers  
21 that are causing the problem here but yet they're  
22 serving all our seniors. So again we don't want to  
23 jeopardize what's happening, we want to make it  
24 better and safer. So this accreditation how far

2 along is that? Or is that a possibility? Is that  
3 something that may happen?

4 KAREN RESNECK: I honestly don't know. I  
5 think it's in the beginning conversation process. I  
6 think you're going to hear testimony on another  
7 panel that can speak to this from the New York  
8 State Adult Daycare Association.

9 COUNCIL MEMBER VALLONE: Well I mean  
10 it's, the things that you have written and  
11 testified today that the State Department of Health  
12 issued a set of policy requirements for oversight  
13 of the SADC programs in New York State that  
14 contract, do we have the full list of those  
15 requirements? I see your three bullet points but  
16 here we are trying to regulate and legislate and I  
17 would think there's a lot of information here  
18 that's not provided or is not at least with a new  
19 council... [cross-talk]

20 KAREN RESNECK: No essentially what the  
21 state instructed all of the manage long term care  
22 companies to do and what IPRO is going and  
23 investigating is that all of the social day  
24 programs must use the NYSOFA, the New York State  
25 Office for Aging Regulations which are in fact the



2 very same regulations that we use or that we may  
3 have...

4 COUNCIL MEMBER VALLONE: But that...  
5 [cross-talk]

6 KAREN RESNECK: ...added.

7 COUNCIL MEMBER VALLONE: ...been  
8 completed?

9 KAREN RESNECK: Excuse me?

10 COUNCIL MEMBER VALLONE: The audit has  
11 yet to be completed correct.

12 KAREN RESNECK: I think the audit  
13 actually is completed and they are looking at it  
14 and about to release the report. So yes IPRO has  
15 gone in and, and evaluated all of the day care  
16 programs in the, in the state not just the city.

17 COUNCIL MEMBER VALLONE: Based on that  
18 audit is that something that you would use as a  
19 tool?

20 KAREN RESNECK: We are very anxious to  
21 see the audit.

22 COUNCIL MEMBER VALLONE: What is the  
23 latest... You think that's coming this, this month,  
24 this quarter, this year? I think that would be

25

2 information... critical as these joint committees  
3 would want to know.

4 KAREN RESNECK: ...a month? At the end of  
5 the month.

6 COUNCIL MEMBER VALLONE: Well.

7 KAREN RESNECK: Is what we were told.

8 COUNCIL MEMBER VALLONE: I would think  
9 that would have been information that would have  
10 been critical for this hearing. I think that would  
11 be information... use to work together... that would... a  
12 proper time for subsequent hearing and I also  
13 think... [cross-talk]

14 KAREN RESNECK: Yes.

15 COUNCIL MEMBER VALLONE: ...we may have to  
16 hold based on some of our information we obtained  
17 today those results have a quick follow-up and not  
18 go through seven months of trying to get this on  
19 the table. You stated that DFTA believes there is a  
20 noticeable downturn and a number of reported  
21 abuses. What is that based on?

22 KAREN RESNECK: At the present time we  
23 get complaints that come directly to the agency. It  
24 could be three, through 3-1-1 or directly to the  
25 commissioner's office. They come in a variety of

2 ways. And unlike what the legislation calls for we  
3 do not investigate those complaints but we log them  
4 in, we track them, and we forward them to a  
5 designated person at the State Department of  
6 Health.

7 COUNCIL MEMBER VALLONE: And then what  
8 happens?

9 KAREN RESNECK: Then in theory they  
10 investigate those claims and my assumption is that  
11 those were all reported to IPRO. So... [cross-talk]

12 COUNCIL MEMBER VALLONE: Is there no...  
13 [cross-talk]

14 KAREN RESNECK: ...we have noticed a, a  
15 definite downturn you know when we began our  
16 discussions over the last two years we had really a  
17 flurry of activity and you know in the past six  
18 months we've had one written complaint. That  
19 doesn't mean others aren't complaining. And I know  
20 that Council Member Chin says people come directly  
21 to her officer. But there is definitely a down tick  
22 in complaints that are coming to our agency.

23 COUNCIL MEMBER VALLONE: And that's  
24 through the 3-1-1 system?

2 KAREN RESNECK: Well it's 3-1-1 or the  
3 Mayor's Office or directly to the commissioner.  
4 It's all the correspondence we get from a variety  
5 of places.

6 COUNCIL MEMBER VALLONE: So in affect  
7 we're already providing a watchdog scenario for the  
8 state groups already because we're the ones taking  
9 the data on abuse but yet we're not getting any  
10 feedback as to what happened. So once again we're  
11 stuck in a scenario whereas the City Council are  
12 being kept out of the loop of what happens to our  
13 seniors and to our citizens and we're not getting  
14 the information. So we're being put into a position  
15 we have to act. So not acting is not a, not a  
16 course at all. It's how we act and what are the  
17 proper ways to act. To sit back and wait for more  
18 data is maybe temporarily for that oversight  
19 hearing coming up that Corey was talking about  
20 Margaret. But going about that. To, to just pass on  
21 3-1 information to the state d be subject to 200  
22 facilities out there I, I know it's an under, huge  
23 undertaking. Or maybe it's going to have to take  
24 coordination. But I like the accreditation that  
25 works with other establishments. I like the

2 inspectors to go out. I think they, in order, and  
3 you also mentioned contractual guidelines. Do we  
4 know what those are because I think that would be a  
5 huge help as to what the contractual guidelines for  
6 opening up the centers are and if what the results  
7 would be if you did not follow those guidelines?

8 KAREN RESNECK: I mean right now a  
9 manage long term care company is the one that's on  
10 the hook for whatever happens in the social daycare  
11 program. They have a contractual relationship with  
12 the SADs program and they're getting paid the  
13 Medicaid dollars for placing people in those  
14 programs so they are obligated to ensure that  
15 they're meeting the standards, the New York State  
16 Office for the Aging Standards. And my  
17 understanding is that it's a financial penalty you  
18 know if they're not following the standards they  
19 can't get reimbursed for those.. [cross-talk]

20 COUNCIL MEMBER VALLONE: Well does the  
21 state have any auditors or inspectors to make sure  
22 that those contractual obligations are being met.

23 KAREN RESNECK: Well that's, that was  
24 what the contract with the Island Peer Review  
25 Organization was about. Because initially this was

2 supposed to be self-patrolled and I think the state  
3 realized that was not an effective... [cross-talk]

4 COUNCIL MEMBER VALLONE: Well we ought  
5 to... [cross-talk]

6 KAREN RESNECK: ...course of action.

7 COUNCIL MEMBER VALLONE: But do they  
8 actually have state inspectors that go out and..

9 KAREN RESNECK: They did not have state  
10 inspectors.

11 COUNCIL MEMBER VALLONE: Well I mean you  
12 can audit all you want if you don't have a state  
13 inspector to enforce it it's not going to, we could  
14 have hearings all day long but if we don't do  
15 anything in the end it's going to be useless. I  
16 think that's a critical point we have to, to make.  
17 So what do the city inspectors by taking the role  
18 of a nonexistent state inspector. That's a huge  
19 issue we're going to have to face. Is there  
20 anything to the existing legislation that you would  
21 like to amend or add? Well... that's not going to not  
22 get passed so we have to make it the best it can  
23 be. So I mean your data and your help on that is  
24 there any additional, at this point... [cross-talk]

25 KAREN RESNECK: I mean we... [cross-talk]

2 COUNCIL MEMBER VALLONE: ...point?

3 KAREN RESNECK: We have been playing  
4 somewhat of an ombuds [phonetic] role. And we are  
5 comfortable and feel it's appropriate for the  
6 department to play that role so the issues come  
7 around really if we had to do any sort of  
8 investigatory work and having no contractual  
9 relationship with these other 197 programs I don't  
10 know why they would even open the doors to allow us  
11 in. We have no authority to actually step through  
12 the door and start monitoring.

13 COUNCIL MEMBER VALLONE: Well... [cross-  
14 talk]

15 KAREN RESNECK: So that's...

16 COUNCIL MEMBER VALLONE: ...within the  
17 five...

18 KAREN RESNECK: ...one of the issues on  
19 our side.

20 COUNCIL MEMBER VALLONE: If they're  
21 opening up a business within our five boroughs  
22 though they're going to let us in. We'll make sure  
23 that happens. There's no one that's going to treat  
24 and give facilities to our seniors and our  
25 citizens... someone's going to say we don't have the

2 authority to get in that's not going to happen.

3 Right, I'll turn it over to fellow Council Members,  
4 thank you.

5 CHAIRPERSON JOHNSON: Thank you Council  
6 Member Vallone. We have also been joined by Council  
7 Member Arroyo, Council Member Deutsch, and Council  
8 Member Eugene. I want to turn it over to Council  
9 Member Peter Koo who has some questions.

10 COUNCIL MEMBER KOO: Thank you Chairman  
11 Johnson and co-chair Margaret Chin and Paul  
12 Vallone. Thank you Commissioner for coming. My  
13 question is to all of you all of these adult  
14 daycare, social adult daycare center they don't  
15 come into existence just from nothing. There must  
16 some big incentive for them to open these senior  
17 centers. They don't open these centers for, to care  
18 the, the aging population. They are there for to  
19 make money. So do you know of the how much money  
20 each member when they go to those centers how much  
21 the money the state will pay them?

22 KAREN RESNECK: No I don't. I mean my  
23 understanding is that the way the financing works  
24 is that the, the state reimburses the manage long  
25 term care company, a capitulated rate per person. I



2 don't know what that rate is. It's in the hundreds  
3 of dollars per person. And then that company  
4 develops a care plan so that could be personal care  
5 in the home. It can be going to a social day  
6 program. So I'm not sure what the exact dollar  
7 amount... I mean I know estimates on our side are  
8 what like 75 dollars about on average an hour for  
9 our services. So that's what we reimburse.

10 COUNCIL MEMBER KOO: Yeah.

11 KAREN RESNECK: I would imagine it's  
12 higher than that per person per day through...

13 COUNCIL MEMBER KOO: So...

14 KAREN RESNECK: ...Medicaid.

15 COUNCIL MEMBER KOO: ...so so the state  
16 has to spend at least 100 dollars a day for each  
17 enroll, enrollee right? So if a center has like say  
18 100, 100 members then every day they will make 10  
19 thousand dollars. That's a lot of money. And then,  
20 then the only provide service for only four hours.  
21 Is that true right? This is only four hours...  
22 Monday, three days a week they come in...

23 KAREN RESNECK: The hours and the times  
24 of day are up to each provider.

25 COUNCIL MEMBER KOO: Mm.

2 KAREN RESNECK: I mean I can only speak  
3 to what you know the services are in our system.

4 COUNCIL MEMBER KOO: And...

5 KAREN RESNECK: ...more than four hours  
6 yeah. Our, in our system it's a five hour day and  
7 it does... [cross-talk]

8 COUNCIL MEMBER KOO: Mm.

9 KAREN RESNECK: ...it does include door to  
10 door transportation.

11 COUNCIL MEMBER KOO: And in additional  
12 to this serve, this money we spend on them the, the  
13 state also providing transportation cost. I believe  
14 it's almost like a hundred dollars a day too so  
15 they, these centers make a lot of money by just  
16 providing transportation and give them a meal and  
17 providing some little service. They make like  
18 thousand dollars a day you know... just so many  
19 opening and well it's okay know if you spend the  
20 money to get the service. But a lot of these  
21 centers they don't provide good service. And all... a  
22 lot of them they use rebates to attract these  
23 seniors to go there. They give them a five dollars  
24 or six dollars, 10 dollars a day. And this is all  
25 illegal. They're using rebates to attract people

2 getting medical care. My complaint from most of the  
3 seniors in my district is not that because these  
4 adult daycare centers only provide services to  
5 people have Medicaid right? If you have regular  
6 Medicare they don't take you, is that true?

7 KAREN RESNECK: You must have Medicaid.

8 COUNCIL MEMBER KOO: Yeah yeah only for  
9 Medicaid. So a lot of people they came here long  
10 time ago. They work and they retire they have  
11 Medicare but they, they say how come we pay tax  
12 over so many years and when we get old we cannot  
13 join these senior centers but a lot of these adult  
14 daycares they cater only for immigrants. They came  
15 here... for a... couple years they have... tax... they  
16 didn't work that much, they didn't provide... but at  
17 the end they put, they get more services then the  
18 regular senior citizens who live for 20 30 40  
19 years. To them this is not fair. [cross-talk]

20 KAREN RESNECK: ...our programs... [cross-  
21 talk] I mean our DFTA funded programs, and that's  
22 the beauty of our program is we accept people of  
23 any income, not Medicaid only and some offer on a  
24 sliding scale so even for people with a little more  
25 means they can pay something and be able to go. So

2 our services are open to all seniors as long as  
3 they meet the regulatory needs of having some  
4 issues with activities of daily living.

5 COUNCIL MEMBER KOO: So is it, how come  
6 these MLTCs only take care of Medicaid patients,  
7 not Medicare patients?

8 KAREN RESNECK: Because it's a Medicaid  
9 driven program. It's a service that this, in, in  
10 part of the Medicaid redesign instead of only  
11 providing personal care and it, I mean I think the  
12 advocates would agree we were happy to see you know  
13 there was the positive side of the equation is  
14 we've been saying for how many years that social  
15 daycare is a fabulous service and it should be  
16 expanded. And it's a wonderful alternative. In fact  
17 my mom who suffers from dementia and a stroke goes  
18 to a DFTA funded program several days a week and it  
19 gets her out of the house otherwise she'd be  
20 absolutely homebound you know only a caretaker and,  
21 and being trapped in the house. So there's a  
22 tremendous value and we very excited to see the  
23 potential expansion. It's when somebody is you know  
24 taking advantage of the system and not providing  
25 appropriate services and not serving the right

2 clients that we have a concern. But it was through  
3 Medicaid redesign and so it's Medicaid dollars that  
4 are paying for those manage long term care plans.  
5 And the... [cross-talk] senior has to be a member of  
6 the manage long term care program.

7 COUNCIL MEMBER KOO: But... Medicaid  
8 dollars are our... [cross-talk]

9 KAREN RESNECK: Yes.

10 COUNCIL MEMBER KOO: ...dollars too. We  
11 and you, everyone that pay for it. Know we... there  
12 should have been a, a, a bills of Medicaid dollars.

13 KAREN RESNECK: We're in agreement.

14 COUNCIL MEMBER KOO: And one more thing.  
15 A, a lot of senior citizen complain to me is that,  
16 is that when you join these adult daycare centers  
17 you're almost forced to have home attendants.  
18 Because even though you don't need one they say oh  
19 you have to have one, no. So this is a waste of  
20 money. I mean a lot of the people they don't need  
21 home attendants they can do everything themselves.  
22 Now the the the, the the, they have, when they go  
23 and see them they have somebody that accompany  
24 them. I mean why waste... that's so much money to  
25 hire so many techs I mean home attendants. I mean

2 if they don't leave but the MLTC companies almost  
3 force them. If you don't have a home attendants you  
4 cannot get this a benefits. So this is really over  
5 a tax, a waste of tax dollars money, tax payers'  
6 money I mean. And and one more thing is... so we  
7 cannot regulate that at these MLTCs.

8 KAREN RESNECK: Well we believe it's the  
9 state's responsibility to regulate them.

10 COUNCIL MEMBER KOO: But the city  
11 regulate every business in the city for cigarettes  
12 for alcohols no... and for hospitals why cannot we  
13 regulate MLTCs? We should find a way to regulate  
14 that and make sure... do oversight so that we, they  
15 don't use so much of taxpayers' money... already. I  
16 finish my questions, thank you.

17 COUNCIL MEMBER CHIN: Thank you Council  
18 Member Koo. Council Member Treyger.

19 COUNCIL MEMBER TREYGER: Thank you  
20 Chair... I thank you for both Chair Chin and Chair  
21 Johnson for holding this very important hearing.  
22 And I, what, what I'm hearing is that this is a  
23 state issue and I, and I, I understand that. But to  
24 my knowledge of the Medicaid system you know New  
25 York is, city is very unique for a number of

2 reasons. But we're also unique because in many  
3 states across the country Medicaid is split between  
4 the federal government and the state. And in New  
5 York City we have to cover cost of Medicaid as well  
6 am I correct?

7 KAREN RESNECK: That was the case but I  
8 believe that part of this redesign is that the  
9 state is taking over the whole Medicaid system.

10 COUNCIL MEMBER TREYGER: Well for, for  
11 now I, I do think there are still costs.. and we'll  
12 see the full effects of this redesign and we're  
13 still learning the impacts of all these redesigns.  
14 So this impacts locally. This has a, a major  
15 impact. And I, I believe that you know you, you had  
16 mentioned in your testimony that there'll be a  
17 report issued by IPRO at some, IPRO is that, that  
18 correct? I believe that there's going to be reports  
19 issued by our IG's office, I think there'll be  
20 reports issued by the Department of Investigations  
21 of the reports issued by probably the controller if  
22 not already. And they're all probably going to say  
23 the same thing. We need stronger, better  
24 regulations so I, I understand that the state has a  
25 significant role here to play and, on many issues,

2 not just on this one. But we have to do what, you  
3 know we have to, we have an obligation here in the  
4 council to act and to see what can be done at and  
5 to see what can be done at the local level to  
6 number one, to protect the healthy, quality of life  
7 for our seniors but also to protect taxpayer  
8 resources because as mentioned by a number of my  
9 colleagues there is a lot of ways, there's a lot of  
10 fraud. And that hurts, particularly working class  
11 middle class families who see their health care  
12 costs rise. So we have an obligation to act. So I,  
13 I think that while the state still has, has to act  
14 and, and will still be pushing them to act let's  
15 put our minds together to see what we can do here  
16 at a local level. Now the bill calls for an  
17 ombudsman of some sort but has there been any  
18 collection of anecdotal information currently by  
19 DFTA to collect, inquire, someone keeping, is  
20 someone keeping, is someone documenting cases if  
21 someone complains to 3-1-1, if someone complains,  
22 writes a letter to the commissioner, someone  
23 happens to send an email, is there someone who's  
24 collecting information now about any cases of



2 waste, fraud, abuse, or lack of quality at these  
3 centers?

4 KAREN RESNECK: Yes. We're currently  
5 playing that role. And we do track and document all  
6 of the... [cross-talk]

7 COUNCIL MEMBER TREYGER: And what, and  
8 what happens with that information?

9 KAREN RESNECK: We had been asked by the  
10 state and given a person in the State Department of  
11 Health to whom we, who's I guess their ombudsperson  
12 person to whom we forward all of those complaints.

13 COUNCIL MEMBER TREYGER: So which, we  
14 give it to the State Department of, of... [cross-  
15 talk]

16 KAREN RESNECK: Health.

17 COUNCIL MEMBER TREYGER: ...health, of  
18 Health. Do we give it to any investigative body as  
19 well?

20 KAREN RESNECK: No we don't.

21 COUNCIL MEMBER TREYGER: Is that  
22 something that we can consider doing if, if there  
23 are serious allegations of, of waste, fraud, or  
24 abuse? I mean we have Department of Investigations,  
25 we have law enforcement, we have an attorney

2 general. I mean I, I do think that there are other  
3 entities that I think should be privy to this such  
4 information when we discuss the welfare of our  
5 seniors and discuss significant waste in taxpayer  
6 money.

7 KAREN RESNECK: We can talk about that.

8 COUNCIL MEMBER TREYGER: Okay. I, I  
9 will, I will reserve further questions or comments...  
10 second round. Thank you. Thank you chairs.

11 COUNCIL MEMBER CHIN: Thank you. We also  
12 been joined by Council Member Mendez, Council  
13 Member Barron, and I guess we're also joined by  
14 Council Member Espinal. Council Member Arroyo.

15 COUNCIL MEMBER ARROYO: ...Thank you.  
16 Thank you Madam Chair. Thank you for the co-chairs.  
17 And here we are again talking about social adult  
18 daycare. Commissioner nice to see you always.

19 KAREN RESNECK: You too.

20 COUNCIL MEMBER ARROYO: The, my position  
21 on this issue is that we should license these  
22 providers. I don't care what anybody has to say  
23 about it. We put the health and wellbeing of really  
24 vulnerable individuals in the hands of these  
25 providers. And over and over and, and I've spent a

2 lot of time visiting the ones that have popped up  
3 in my district. Nice people, there's a lot of  
4 noise, a lot of music, not individuals that I  
5 believe meet the definition of what eligible  
6 patient or, or senior or individual for these  
7 services. They're very capable of walking about,  
8 feeding and dressing themselves so I, I'm, those  
9 are all issues that I think from a government  
10 perspective we should be very concerned about.  
11 Commissioner Resnick you said the manage care  
12 companies are on the hook for what?

13 KAREN RESNECK: Because they receive the  
14 Medicaid dollars directly and then they subcontract  
15 with the social day provider. They're on the hook  
16 financially for both, both monitoring that the  
17 MLTC, the social day program is using the,  
18 following the NYSOFA standards and then they would  
19 be on the hook financially for not getting  
20 reimbursement if they're found to not be...

21 COUNCIL MEMBER ARROYO: And if I recall  
22 our conversation at previous hearings the manage  
23 care company is the entity responsible for the  
24 oversight of these popups?

2 KAREN RESNECK: Yes and subsequent to  
3 our initial hearings what the state put in place  
4 was a contractual relationship with the Island Peer  
5 Review Organization to come in and do an overall  
6 audit and assessment of all of the... [cross-talk]

7 COUNCIL MEMBER ARROYO: ...local agency  
8 responsible for making sure that services to our  
9 seniors in the city are adequate are you  
10 comfortable with what review has happened? Do you  
11 know how much review has happened, whether or not  
12 providers are experiencing significant violations  
13 because of this peer review process?

14 KAREN RESNECK: No we, we don't know  
15 that. Report has not been issued yet so we do not  
16 know what the... [cross-talk]

17 COUNCIL MEMBER ARROYO: Where would we  
18 get it from?

19 KAREN RESNECK: The State Department of  
20 Health.

21 COUNCIL MEMBER ARROYO: Okay. So should  
22 we be calling our friends in the Assembly and the  
23 Senat3e to ask them to push for stricter  
24 regulations as it relates to how these centers are  
25 operated whether or not they get state money.

2 KAREN RESNECK: What we learned last  
3 evening and, and I mentioned that the New York  
4 State Adult Daycare Association is going to testify  
5 later today as there are now compensations about a,  
6 I don't think it's licensure but a certification  
7 process for all SADCs operating in the state of New  
8 York and that would be legislated.

9 COUNCIL MEMBER ARROYO: You know I, we  
10 license our childcare centers, Department of Health  
11 and Mental Hygiene and the city is very involved in  
12 that process. Several universal pre-k sites  
13 couldn't open because they have major, major issues  
14 with our comfort level about whether or not they  
15 were going to provide a safe environment for our  
16 children. And we should have that same level of  
17 scrutiny for social adult daycare in our city. The  
18 population involved is no less vulnerable than our  
19 pre-k population. When you visit these sites over  
20 and over again they get their food catered from the  
21 local restaurant. There is no oversight about the  
22 quality of the food that our seniors were  
23 consuming. The sodium sugar fat content of the  
24 meals that I have seen served to these really sick  
25 individuals is going to kill them. We need to be

2 very concerned about the long term impact that  
3 these providers and these programs are going to  
4 have on, on our already very sick seniors because  
5 if they were healthy they would probably not be  
6 there in the first place. Despite the fact that  
7 most don't meet the, the baseline criteria for  
8 being enrolled into these programs. So you know I,  
9 I appreciate that our hands are somewhat tied but  
10 we need to be a great deal more aggressive on the  
11 state level to advocate and ensure that there is  
12 appropriate amendments to whatever laws... policies  
13 that the state either agency level or legislatively  
14 to ensure that these individuals are licensed, that  
15 the people that work there are vetted for their  
16 qualifications to provide the services that our  
17 seniors are supposed to receive. I see this no  
18 different than our universal pre-k programs. And us  
19 sitting here saying it's going to, it's going to be  
20 costly commissioner really is unacceptable. 2.6  
21 million dollars doesn't even register a percentage  
22 point in this city's budget and you're going to sit  
23 here and say it's too costly. I take... Thank you  
24 Madam Chair.

2 CHAIRPERSON JOHNSON: Thank you  
3 Councilmember Arroyo. We are going to go to Council  
4 Member Koslowitz.

5 COUNCIL MEMBER KOSLOWITZ: I just want  
6 to say that I agree with my colleagues of what  
7 Council Member Koo had said before is that we spend  
8 money on services that are not needed. And they  
9 should be separated and, and they should be treated  
10 as individuals not collectively, not by any law.  
11 Because maybe if we were saving that money we can  
12 put more inspectors on to monitor what is going on.  
13 So I think just to have a blanket situation and  
14 someone goes somewhere for help and they only need  
15 a certain amount of help they shouldn't be given  
16 the full package if they don't want it or need it.  
17 And this has to be looked at. And as my colleague  
18 Council Member Arroyo says there's so much money  
19 around that our seniors have to be treated in a  
20 proper way. And when they go to adult daycare I  
21 have visited adult daycare and these people are  
22 very vulnerable. These people contributed to the  
23 city of New York to the taxpayers of the city of  
24 New York. And they should be treated and properly  
25 taken care of including what they eat on the daily

2 basis because some of them, it's their only meal of  
3 the day. So I think we have to take responsibility  
4 for what we are not doing for our seniors and try  
5 really very hard to do it. And I just wanted to  
6 give my voice on that.

7 CHAIRPERSON JOHNSON: Thank you Council  
8 Member Koslowitz. We're going to go to Council  
9 Member Barron.

10 COUNCIL MEMBER BARRON: Thank you to the  
11 chairs for having this very important hearing. I  
12 apologize for being late and you may have answered  
13 the question already but my question is it says  
14 that the social adult daycare programs off of  
15 functionally impaired individuals suffering from  
16 Alzheimer's, dementia, and other chronic health  
17 conditions. So which chronic health conditions are  
18 a part of this program requirements? Because I can  
19 see that this is... being very broad where someone  
20 can register a person and say well they have a  
21 chronic health condition and they may not need the  
22 intensity and the level of services that this  
23 program gives. So I'd like to know which chronic  
24 health conditions are included.



2 KAREN RESNECK: It, it's not that  
3 there's specific chronic conditions that are  
4 included. The actual definition is that you have to  
5 have some kind of functional impairment. So with  
6 two activities of daily living. So either  
7 difficulty ambulating or eating or toileting,  
8 bathing... the same kind of criteria that would  
9 require one to need home care. So it's, it's an  
10 alternative to home care services. So it is not  
11 meant, and this is one of the alleged abuses that  
12 we're seeing for the totally well person just  
13 because they may be 60 or 65 the population that  
14 comes to our senior center is not meant by the SOFA  
15 regulations to go into a daycare setting. So it's  
16 that... [cross-talk]

17 COUNCIL MEMBER BARRON: So...

18 KAREN RESNECK: ...we're really seeing  
19 people that are healthier using that service when  
20 it's really intended for people that have either  
21 mental or physical frailty.

22 COUNCIL MEMBER BARRON: So who certifies  
23 that the persons who are in this program are the  
24 ones that need the program. Because I've been told  
25 that many of our senior centers are losing

2 clientele because they can go there to the social  
3 day program, not have to pay the, a minimal amount  
4 that's being paid at the senior center for a meal  
5 but getting free, and some of them may of course  
6 need those kinds of services but who's monitoring  
7 those, the population that goes to these centers.  
8 What is that oversight. [cross-talk]

9 KAREN RESNECK: ...well that's... [cross-  
10 talk]

11 COUNCIL MEMBER BARRON: Because I  
12 thought I heard you say... [cross-talk]

13 KAREN RESNECK: ...the very core of what  
14 we're debating here... [cross-talk]

15 COUNCIL MEMBER BARRON: ...that you had  
16 some reservations about licensure. And I would  
17 think that licensure would be one way that we could  
18 guarantee or have some way of checking as to who  
19 the clientele is in these programs.

20 KAREN RESNECK: So that's, that's the  
21 crux of, of our conversation today is who's  
22 monitoring. And we're saying it's a state  
23 responsibility because it's their money and it's  
24 their oversight and they came up with this whole  
25 redesign program. We do oversee our DFTA funded

2 programs and we provide that kind of oversight.  
3 They too however are not licensed or certified,  
4 neither are our senior centers. So that's just  
5 something to note. But we would very much like to  
6 be part of the conversation about this discussion  
7 about certifying or licensing the, the social day  
8 programs.

9 COUNCIL MEMBER BARRON: Thank you. And  
10 just, I did hear you say, I thought I heard you say  
11 that you had some reservations because of the  
12 responsibility not being directly held at the local  
13 subcontractor... could you explain on it, explain  
14 that a little further?

15 KAREN RESNECK: Well part of what... You  
16 know I, we've been playing this ombuds [phonetic]  
17 role because...

18 COUNCIL MEMBER BARRON: Mm-hmm.

19 KAREN RESNECK: ...clearly as the  
20 Department for the Aging people send complaints to  
21 us. But because we have no contractual licensure  
22 permitting, we have no formal established  
23 relationship with these private entities that have  
24 popped up we have not done any kind of oversight.  
25 We don't feel that it's, we're, have it in our

2 jurisdiction to provide that kind of oversight. So  
3 our oversight role has stayed limited to the 10  
4 programs that we directly provide funds to through  
5 the City Council.

6 COUNCIL MEMBER BARRON: Thank you.

7 CHAIRPERSON JOHNSON: Thank you very  
8 much Council Member Barron. So because the money is  
9 not being provided by DFTA but is money that is  
10 being provided by either a federal program or a  
11 state program it is the administration's position,  
12 the agency's position that we should not be  
13 providing oversight because it's not our money even  
14 though it's our people, even though it's our  
15 residents that could potentially be harmed. That's  
16 the position?

17 KAREN RESNEK: Position is that we don't  
18 have any direct authority to go in and monitor  
19 these.

20 CHAIRPERSON JOHNSON: But we could, we  
21 could create a regulatory scheme where that could  
22 exist?

23 KAREN RESNECK: I believe so.

24 CHAIRPERSON JOHNSON: And the concern  
25 has to do with the cost associated?

2 KAREN RESNECK: Yeah, then it would be,  
3 have, you know what it would take for us to go  
4 from... and I'm pointing to Ilene because this fits  
5 in her bureau from the current staffing pattern and  
6 oversight that we do now to being able to cover the  
7 200 other programs.

8 CHAIRPERSON JOHNSON: Even if it's only  
9 complaint driven? If there's no annual inspection  
10 required?

11 KAREN RESNECK: No, not if it's  
12 complaint driven. Complaint driven is a role that  
13 we're comfortable playing.

14 CHAIRPERSON JOHNSON: That's what this  
15 bill does. This bill is only complaint driven.  
16 There are no requirements for annual inspections in  
17 this proposed... [cross-talk]

18 KAREN RESNECK: Well there are... [cross-  
19 talk]

20 CHAIRPERSON JOHNSON: ...legislation.

21 KAREN RESNECK: ...from the Department of  
22 Health in terms of the levying of fines.

23 CHAIRPERSON JOHNSON: So in June of  
24 2013, June 19<sup>th</sup>, 2013 you both were here at a  
25 similar hearing on a similar bill that has been

2 tweaked a little bit but we were having this same  
3 conversation then. And at that point it was stated  
4 in that hearing by the previous administration that  
5 things of this state are very much in Flux. But  
6 the, the administration is willing to consult with  
7 the council if they fail to act. Now I know we have  
8 a new administration but what is being said is  
9 almost entirely similar is that we're working with  
10 them, they're trying to do something, let's wait,  
11 let's figure it out, let's give them time to act,  
12 things are in flux, it's their responsibility, and  
13 if they don't take action then we're willing to  
14 consult with the council. So it has been 16 months  
15 or 15 months approximately since that hearing, the  
16 state has taken I think as you would describe some  
17 action. But as I think you've heard today not an  
18 appropriate level of action and I think that we  
19 would classify as a, as a failure to act in a  
20 meaningful way to regulate this field. So you know  
21 I am a little you know frustrated that we're sort  
22 of pretending that government operates in silos you  
23 know that we deal with things all the time that  
24 affect our citizens, that affect New Yorkers, that  
25 affect our residents. And that's what we do even if

2 the money is being sent from somewhere else. I mean  
3 it's not a perfect example but the money that's  
4 coming in for pre-k is state money that's being  
5 passed through the department of education and  
6 we're regulating that and we're inspecting that and  
7 as we should, that's appropriate and I, and I think  
8 as you've heard today it's, it's this, these  
9 committees' position that, that I think we should  
10 do something similarly. So I don't think just to be  
11 blunt I don't want to speak for Council Member Chin  
12 or Council Member Vallone but I think that action  
13 is going to be taken by this, by these committees  
14 and by this council before the next legislative  
15 session in Albany next year. And so I, I, I know  
16 that we have a good working relationship with both  
17 agencies and with the administration and having  
18 conversations on this. And I would assume that  
19 those conversations are going to become more  
20 serious as we start to negotiate this bill moving  
21 forward. So I appreciate... Oh Council Member Deutsch  
22 has a question.

23 COUNCIL MEMBER DEUTSCH: I actually had  
24 a question but I just asked all of them.

25 CHAIRPERSON JOHNSON: Oh, I'm sorry.

2 COUNCIL MEMBER DEUTSCH: I should have  
3 looked at your notes before I signed my name in. I  
4 just want to ask you Commissioner do, does, does  
5 the city, do we have a list of all the adult home  
6 cares that are state funded?

7 KAREN RESNECK: We don't.

8 COUNCIL MEMBER DEUTSCH: We don't even  
9 have that, okay. Alright, thank you.

10 CHAIRPERSON JOHNSON: You've mentioned  
11 numerous times that you currently play an  
12 ombudsman's role but that it's limited oversight  
13 that you can do because you have no contractual  
14 relationship with the providers. Is that correct?  
15 Wouldn't this bill give you the authority to  
16 perform that role fully... what we're proposing  
17 today... I mean it would actually create a more  
18 appropriate relationship.

19 KAREN RESNECK: I don't know, it doesn't  
20 resolve I think the, the core issue of some kind of  
21 licensure or certification or credentialing of the,  
22 of its social day programs.

23 CHAIRPERSON JOHNSON: Okay. But you'd be  
24 able to issue violations if they didn't fire, if  
25 they didn't...



2 KAREN RESNECK: Well that's the Health  
3 Department piece.

4 CHAIRPERSON JOHNSON: Yeah. And that  
5 would be the case.

6 ASSOCIATE COMMISSIONER MARCUS: We could  
7 issue violations but we have nothing as the bill is  
8 currently written to assure that the respondents  
9 would comply with the violation, the correction of  
10 violations.

11 CHAIRPERSON JOHNSON: We'd, we'd set up  
12 rules and regulations in the administrative code  
13 for the city of New York to ensure that they do. If  
14 they didn't they could lose their potential  
15 license.

16 ASSOCIATE COMMISSIONER MARCUS: If we're  
17 talking about a license yes but the bill doesn't  
18 have a license.

19 KAREN RESNECK: And they're not licensed  
20 currently.

21 CHAIRPERSON JOHNSON: But we know all,  
22 we know that when people receive a, a violation, a  
23 summons, a ticket, a fine. It incentivizes the to  
24 act and come into compliance, not all the time, but  
25 most of the time. And we don't, I mean I would hope

2 that we're not issuing violations simply for  
3 revenue's sake we're issuing violations to try to  
4 incentivize people to come in compliance with the  
5 administrative code of the city of New York.

6 ASSOCIATE COMMISSIONER MARCUS: Trying  
7 not to be too cynical about it unregulated... for  
8 example unregulated mobile food vendors don't pay  
9 their violations. If their, if they don't have a  
10 license or there's nothing to lose and even then  
11 sometimes we have to go to the extent of revoking  
12 licenses because people don't comply which would  
13 prohibit them from doing what they, what they do to  
14 earn a living. So we would need some teeth to, to  
15 make sure that places that are already abusing the  
16 system don't continue to abuse the system.

17 CHAIRPERSON JOHNSON: Thank you. Council  
18 Member Arroyo has some follow-up questions.

19 COUNCIL MEMBER ARROYO: Thank you Mr.  
20 Chair. We in the last session presented a bill that  
21 was structured and had an additional element. It  
22 was taken out because there was a commitment to  
23 provide to us a list of providers and some other  
24 information and that hasn't happened. And it sounds  
25 to me like you're advocating for a license system

2 because you can't do anything, neither one of you  
3 can unless we have a hook. So I think we need to  
4 put a hook in there. And Mr. Chair I'd like to  
5 recommend that we revisit this legislation and  
6 incorporate the component that was removed from it  
7 which would require these programs to register with  
8 the city so that at least we know where they're at  
9 and that at a minimum they, there is some oversight  
10 that the city can have. Today if my mother was a  
11 participant of one these programs I can walk into  
12 that center and there is no indication to me as a  
13 consumer of that service what recourse I have if I  
14 have a problem with that program. That is also  
15 unacceptable and at a minimum this registration  
16 requirement would at least provide for the  
17 providers to post information where individuals can  
18 hall for complaints. And let it be for a DFTA  
19 funded centers as well because I think that one of  
20 the things that we are confident about in our DFTA  
21 centers is that the meals are monitored, that there  
22 is a nutritional component and oversight provided  
23 to ensure that what our seniors are consuming is  
24 not going to hinder or affect their, their health  
25 and then they... So I, I urge my co-chairs here to

2 rethink the registration requirement that was  
3 removed from the previous bill because we were  
4 anticipating some level of cooperation that the,  
5 has not happened. Thank you Mr. Chair.

6 CHAIRPERSON JOHNSON: Thank you Council  
7 Member. I think you know how the, these committees  
8 feel. We don't need to keep driving it home. I  
9 appreciate you being here to testify today and  
10 answering our questions. We look forward to working  
11 with you to provide greater protection and  
12 oversight to this unregulated industry that exists.  
13 And I'm sure that there will be follow-up questions  
14 that we may have for you and we look forward to  
15 working together. And I'm sure there'll be a sixth  
16 hearing on social adult daycare centers in New York  
17 City and at that one hopefully there'll be a vote.  
18 So thank you very much and we're happy to call the  
19 next panel up.

20 COUNCIL MEMBER ARROYO: Thank you.

21 CHAIRPERSON JOHNSON: Council Member  
22 Chin just wants to make a statement.

23 COUNCIL MEMBER CHIN: I just want to  
24 thank you for testifying. I know that we're still  
25 trying to work it out but I think it's so critical

2 that the city needs to act because we've been  
3 waiting for the state. I don't know what's going on  
4 up there, what their concerns are. But the  
5 Department of Aging, Department of Health you have  
6 the experience, already we have the good social  
7 adult daycare program that you are already  
8 monitoring. Meanwhile these are the good guys. I  
9 mean these are the one that's really providing  
10 services to the senior that really need the car,  
11 seniors with Alzheimer, with dementia, you know  
12 with disability. At the same time you will see all  
13 these pop up that nobody is regulating and they're  
14 not serving the population that really are needed,  
15 you go in there, they really don't have the seniors  
16 who have dementia or Alzheimer. If they do they're  
17 not really taking care of them. I mean there was  
18 one instant that was reported in the Chinese  
19 Newspaper, a senior with dementia left the center  
20 and got lost. That's not safe. I mean like... And  
21 also the family members do not even know like which  
22 is the good one and which is the not good on. Right  
23 Commissioner? You were saying you send your mother  
24 to one of the social adult daycare program but  
25 these are the good program right, you trust them?

2 But that family that lost the mother when she got  
3 lost they didn't know it was advertised as a social  
4 adult daycare program they thought was going to  
5 take care of their mom. So It's really critical  
6 that the city, we need to step up and really take  
7 charge. When the state is ready then they can take  
8 it over? Right? They can take back the  
9 responsibility. But when they're no ready we need  
10 to be ready. So I really urge you to share with us  
11 your experience, you know what you're able to do  
12 with Department of Health and you already providing  
13 you know the anonymous person services already.  
14 Let's work out whatever the issues are right? So  
15 that we can start monitoring this, these program  
16 and making sure that our seniors are safe and that  
17 we are getting the services that these Medicaid  
18 dollar supposed to be used for. So please bring  
19 that back to the Commissioner, to the Deputy Mayor  
20 and I will personally speak to the mayor myself. I  
21 mean we cannot let this keep on going. The next  
22 meeting you know we should have some good news that  
23 we're finally monitoring you know all of these  
24 programs because we have some really great social  
25 adult daycare program out there and we need to be

2 supporting them. And the taxpayers' dollar needs to  
3 go to these program, not the one that's popping up  
4 all over our community. Thank you.

5 COUNCIL MEMBER VALLONE: And as a last  
6 note Corey and as soon as that IPRO audit comes in  
7 we need that ASAP. Thank you very much.

8 CHAIRPERSON JOHNSON: Thank you. Thank  
9 you Council Members Vallone and Chin. Council  
10 Member Deutsch is here as well and we're going to  
11 go to our next panel which is Doctor Joan Pastore,  
12 Joseph Sang [sp?], and Mathieu Lesore [sp?]. Is the  
13 Sargent here? We're going to swear you in. And then  
14 after we do that you can go in whatever order  
15 you've, you'd like. Please just identify yourself  
16 for the record each time you speak so that if  
17 someone reads this transcript they will know who is  
18 speaking. And Kelly Taylor, our Committee Council,  
19 will swear you in.

20 COUNCIL TAYLOR: Okay. Can you please  
21 raise your right hands? Do you affirm to tell the  
22 truth, the whole truth and nothing but the truth in  
23 your testimony today and respond honestly to  
24 Council Member questions. Okay thank you.

2 DOCTOR PASTORE: Oh ladies first, thank  
3 you. Alright good morning everyone. I'm very  
4 pleased to be here and we appreciate the  
5 opportunity to speak with the two chairs Margaret  
6 Chin and and Corey Johnson and of course all the  
7 committee members and Mr. Vallone as well as chair  
8 on the subcommittee for senior centers. I am Doctor  
9 Joan Pastore and I am the Director of Amiko [sp?]  
10 Senior Center located on the boarder of Borough  
11 Park and Dyker Heights Community in Southern  
12 Brooklyn. By way of full disclosure I also served  
13 as a clinical assistant professor at Stony Brook  
14 Graduate school of Social Welfare in Manhattan. And  
15 I am a field instructor for New York University  
16 school of social work. To my right is Colonel U.S.  
17 Army Retired Joe Sang who is the president of the  
18 Amiko Advisory Board and who will also be providing  
19 a testimony for today's hearing. Do you want to  
20 just introduce.

21 MATHIEU LESORE: I'll do it at the right  
22 time but Mathieu Lesore with Village Care.

23 DOCTOR PASTORE: Okay. Alright in the  
24 community where Amiko Senior Center is located at  
25 least 25 to 35 pop up social a daycare centers have



2 opened since July of 2013 when the new manage long  
3 term care policies went into effect. We do  
4 acknowledge that these policies were very well  
5 intentioned to help the frail elderly stay in their  
6 homes and communities and we applaud the governor  
7 for addressing the long term needs of the elderly.  
8 Unfortunately today we are seeing the result and  
9 the damage that has taken place because of a new  
10 system that was set up with good intentions but  
11 left unregulated. These SADs or social adult day  
12 programs, that was supposed to provide services to  
13 the functionally impaired older adults have  
14 instead.. excuse me, have instead chosen to  
15 aggressively recruit the well elderly primarily out  
16 of the New York City Department for the Aging,  
17 Senior Centers no doubt for higher reimbursement  
18 through Medicaid. These programs are not providing  
19 support services to a frail elderly population but  
20 rather providing a non-supervised recreational  
21 facility for the well elderly. Typical activities  
22 include ping pong, dancing, computer instruction,  
23 and Tai Chi. As a result we now have many frail  
24 older adults still being ignored and possibly  
25 neglected while the well elderly who could easily

2 go to a DFTA center are going to social adult  
3 daycare centers at 38 hundred dollars per month in  
4 Medicaid costs. Uh, these popup social adult  
5 daycare centers are commonly and openly referred to  
6 as cash cows or gold mines by local business  
7 owners. This practice of unregulated social adult  
8 daycare centers has also caused much damage to the  
9 DFTA senior center community. At Amiko there had  
10 been almost the 20 percent reduction in over,  
11 overall daily attendance of older adults. Other  
12 senior centers in southern Brooklyn report even  
13 larger percentage of older members lost due to the  
14 introduction of social adult daycare centers in  
15 this community. This phenomenon of lower, of a  
16 lower participation rate as well as the elderly can  
17 be seen in all New York City Department for the  
18 Aging senior centers where there has been an influx  
19 of popup social adult daycare centers. New or poor  
20 immigrant groups who have Medicaid which include  
21 Chinese, Latino, and Russian seem to be especially  
22 targeted through aggressive and exploitive  
23 marketing techniques that include cash incentives  
24 for joining, money for bringing in new members and  
25 attending the center on a regular basis. This

2 practice of recruiting knew what immigrant groups  
3 with Medicaid has also set up a... of resentment  
4 between new immigrant groups and more, long time  
5 citizens who feel new immigrant groups are taking  
6 precious resources away from them and wasting tax  
7 dollars.

8 CHAIRPERSON JOHNSON: You may continue.

9 DOCTOR PASTORE: Thank you. I, I don't  
10 have a lot more. Because of the countless and  
11 endless number of complaints which Amiko received  
12 about the social adult daycare centers we started  
13 collecting information to report these popup  
14 centers to local and state agencies which we  
15 initially thought had oversight responsibility. We  
16 soon learned that no state or city agency had  
17 responsibilities for these centers nor are any  
18 regulations in place to oversee the operating of  
19 these facilities. Many times these facilities seem  
20 to have left no paper trail even to locate except  
21 for the numerous advertisement in Ethnic newspapers  
22 and flyers which most times were written in  
23 languages other than English. Having exhausted all  
24 options we turned to New York State Attorney  
25 General's Medicaid Fraud Division who initially ran

2 into similar obstacles. Do to the corrupt actions  
3 of then Assemblyman Eric Stevenson attention was  
4 now beginning to be given to the SADs in the news.  
5 Last April Nina Bernstein [sp?] the New York Times  
6 reporter broke the story of the corrupt and  
7 fraudulent practices of these social adult daycare  
8 centers on the front page of the New York Times.  
9 Amiko and all senior center providers breathe a  
10 sigh of relief, New York State was finally  
11 listening. As you probably are aware as a result of  
12 the investigation of the visiting nurse service of  
13 New York, one of the biggest monsters of these  
14 popup centers the visiting nurse agreed to pay back  
15 33.6 million of New York's, to New York State due  
16 to improper billing or fraudulent practices. In  
17 addition some other SADs are under review. Still  
18 many others operate seemingly under the same  
19 practices, business as usual. Many SADs are now  
20 mandating clients to have at least two days of home  
21 health aide service regardless of whether or not  
22 the client needs it. To date there are still many  
23 SADs opening up. Much work needs to, still remains  
24 to be done if this concept of legitimate managed  
25 long term care is to succeed and to serve those

2 frail elderly adults what was meant to serve. Today  
3 we are grateful to the New York City and applaud  
4 your efforts to introduce and pass legislation that  
5 will begin the regulation process of these pop,  
6 popup SAD centers. It is our hope that with the  
7 passage and implementation of this legislation that  
8 these fraudulent centers will be forced to either  
9 provide the right services to the right population  
10 or cease to exist. After reviewing the proposed  
11 legislation I would like to make the following  
12 recommendations. First the Department for the Aging  
13 work hand in hand with all state regulatory  
14 agencies and be given adequate resources to perform  
15 all necessary functions to monitor all aspects of  
16 SADs as prescribed by New York State Department of  
17 Health. Second all screenings, all screening of  
18 potential SAD candidates be checked by qualified  
19 independent monitors to ensure reported, excuse me  
20 honesty in reporting necessity of need of the older  
21 adult and accurate level of functioning. Third,  
22 clear definitions and distinctions should be  
23 assigned to adult daycare participants by age.  
24 State regulation say adult but how is adult  
25 defined? Age 21 plus or 65 and over. Level of

2 impairment which would be complete assistance with  
3 ADLs or IADLs, type of impairment, physical mental  
4 health issues, and/or dementia. Older adults should  
5 be matched with the proper level of service needed  
6 and not grouped together with adults from other age  
7 groups or adults that are significantly different.  
8 Four, appropriate staffing should be determined by  
9 level of need of individuals and the number of  
10 participants, not just assigned a random number of  
11 two staff person per center. Fifth, the term  
12 qualified person as director should be specified;  
13 for example registered nurse or licensed master  
14 social work. Six, the amount of SADs that are  
15 allowed to operate within a given community should  
16 be determined by the demographic needs of the  
17 community and not the desire of business men or  
18 business women to make a profit. Finally there  
19 should be a central registry and database so that  
20 all SADs are easily identifiable and located. Thank  
21 you very much for the opportunity. Joe.

22 CHAIRPERSON JOHNSON: Thank you very  
23 much. If you would please introduce yourself.

24 JOSEPH SANG: Alright, I'm Joseph Sang  
25 as Doctor Pastore introduced previously. I want to

2 testify basically some of my comments from  
3 experience of members that have either... or hearsay  
4 from our members that get feedback. So I'd like to  
5 start basically, we're in a same, Amiko and that  
6 yeah Dyker Heights and Borough Park area of  
7 Brooklyn where these unregulated pop, pop, popups  
8 come up. We obviously was significantly affected by  
9 our attendance. But the members that returned to  
10 Amiko have explained that they were enticed by the  
11 offering of free meals, gift shopping coupons, free  
12 transportation. Further they have revealed that  
13 membership at these popups was limited only to  
14 participants that were holders of Medicaid cards.  
15 Also there appears to a limited qualified medical  
16 staffing or Caregiver Service, services if any were  
17 available at these... social adult daycare centers.  
18 Some of these returning members have emotionally  
19 expressed concerns that their Medicaid accounts may  
20 have been compromised, misused, and misused without  
21 their knowledge. They have requested our help to  
22 close their accounts and hope, hopefully open new  
23 accounts. They also reported some phone calls from  
24 the SDAs. Subsequently we questioned, they filled  
25 out blank form stating that they are need of

2 caregiver services even though they are well and  
3 have no need for these services. There were also  
4 reports that SAD centers were ordering wheelchairs  
5 for members that don't need them and then shipping  
6 these chairs to china where they are sold in the  
7 proper share by that, SAD centers. Our members who  
8 have gotten to SADs thought that they were  
9 exploited because of the lack of English as new  
10 immigrants and therefore chose to return to our  
11 center, Amiko for more, for the more structural,  
12 structured organization that is dedicated looking  
13 out for their general welfare. Now having  
14 personally worked over 30 years in private industry  
15 and having served over 30 years in the military and  
16 paying my share to the federal treasury I find...  
17 practices of the SADs wrongfully and misusing my  
18 tax dollars as well as everybody's. In light of  
19 this information we fully support the proposed  
20 amendment to the Administrative Code of the City of  
21 New York as pertains to chapter 15 Social Adult  
22 Daycare programs. Chapter 15 defines and prescribes  
23 the operation requirements as well as necessary  
24 surveillance of these social adult daycare centers.  
25 It's also recommended that in the staffing



2 requirement chapter 15 there must be a qualified  
3 staff personnel available within the, with the  
4 cultural knowledge and language skills to  
5 communicate with each participant's unique culture  
6 and language to ensure the participant fully  
7 understands the program conditions. It should also  
8 be a requirement that these social daycare centers  
9 be open to everyone and anyone that need this help  
10 regardless if they have a Medicaid car or not.  
11 Alright thank you for this opportunity.

12 CHAIRPERSON JOHNSON: Thank you for your  
13 testimony today.

14 MATHIEU LESORE: Still good morning.  
15 Good morning, my name is Mathieu Lesore, Director  
16 of Government Relations with Village Care. I want  
17 to thank the council for this opportunity to  
18 present and I want to thank Councilwoman Margaret  
19 Chin for inviting me to testify. So Village Care is  
20 a highly regarded not for provider of high quality  
21 care for people with chronic diseases as well as  
22 for older adults and individuals in need of  
23 continuing care, rehabilitation, and medical  
24 serves. What started as one nursing home in the  
25 west village in 1977 has grown into a network of

2 services addressing the city's frail and vulnerable  
3 populations. With Village Care serving over 14  
4 thousand individuals last year. Among the network  
5 of services that Village Care provides includes A  
6 stay treatment, adult day treatment, and we have a  
7 manage long term care plan called Village Care Max.  
8 It's with the perspective of these programs that  
9 village care is very supportive of Intro number  
10 358. Social adult daycare services really are an  
11 important component of community based care that  
12 can really help to prevent nursing home placement,  
13 the need for other costly services, all while  
14 providing vital assistance to older persons and  
15 supporting the informal care givers. At the same  
16 time there exists very little in the way of  
17 oversight or regulation over these programs unless  
18 they are receiving DFTA funding or, or funding from  
19 the officer of, State Office of the Aging. As a  
20 result we have seen a very wide variance in the  
21 level of quality that was provided between  
22 different social day programs. Among village care  
23 services we operate and, have long operated a  
24 Medicaid funded and very heavily regulated adult  
25 day treatment program and an aides day treatment

2 program. While the level of social, the level of  
3 services provided at these programs is far more  
4 medically intensive than social daycare. We are  
5 essentially in competition for clients as well as  
6 contracts with manage care plans with social day  
7 programs. Our programs are heavily regulated on  
8 staffing levels including requirements for clinical  
9 staff, the type of medical equipment that must be  
10 provided, the services that must be provided, how  
11 many clients can we accept, hours of operation,  
12 that our food is nutritious, and many other minimum  
13 standards. In contrast social day programs have  
14 virtually zero regulatory obligations. For many  
15 frail elderly individuals some social day programs  
16 may be wholly unequipped to handle the multiple and  
17 complex health needs of these individuals. Social  
18 day program is alternatively less funded by DFTA or  
19 the Office of the Aging or receive Medicaid funding  
20 through MLTCs really do operate in a wild western  
21 environment with little or no government oversight.  
22 We believe this is essentially unfair to both day  
23 treatment programs and those social day programs  
24 are doing the right thing and marry well, very well  
25 pose a hazard to some of our client, some of their

2 clients. It is both in the interest of good public  
3 health and ensuring a fair and level playing field  
4 absent state action the city really does have an  
5 obligation to assure that all social day programs  
6 regardless of where they are receiving funding to  
7 meet minimum standards. In addition to our day  
8 treatment programs Village Care also has a manage  
9 long term care program called Village Care Max. We  
10 currently have enrolled over 32 hundred individuals  
11 in our program. Social day programs really are an  
12 important intricate part of the services that we are  
13 required to provide through our MLTC. Now while the  
14 MLTC is... to use state regulations determining which  
15 programs are eligible for contracts. The challenge  
16 comes because they're currently are no licensing or  
17 certification requirements for these programs. With  
18 every manage care plan engaged in this process the  
19 result is a very duplicative and fragmented hodge  
20 podge of oversights. If this legislation were  
21 enacted we would still put social day programs  
22 through a credentialing process but it would  
23 significant reduce the level of duplicate  
24 administrative effort to collect documentation. Now  
25 my reading of this bill was the assumption that

2 because they're going to have to be, meet state  
3 standards for, for funding that somebody would have  
4 to certify that they're doing that. So we're  
5 assuming that was some sort of level playing field  
6 around regardless of who your funding source is  
7 you'd have to receive, be meeting DFTA standards or  
8 state standards. Somebody would have to certify  
9 that or they'd have to self-certify that. That from  
10 an MLTC perspective would make things a lot easier  
11 for us because we know that when we enter into  
12 contact negotiation with these providers that  
13 they've at least met minimum standards and that  
14 really does and would help all the manage care  
15 plans to make their life a lot easier. These are  
16 seniors with very complex health care needs and we  
17 really have an obligation to ensure the services  
18 meet the needs of this vulnerable population. This  
19 legislation will in many ways help to bring a  
20 little order to what is now currently a very  
21 chaotic environment. And for these reasons we  
22 support passage.

23 CHAIRPERSON JOHNSON: Thank you very  
24 much all three of you for your testimony today. We  
25 appreciate you being here, patiently waiting after

2 the agencies testified. Council Member Chin do you  
3 have any questions for the panel?

4 COUNCIL MEMBER CHIN: I just want to  
5 thank you for coming in. I know that Mr. Sang  
6 you've been here in the last hearing last year and  
7 I know that all the seniors have been complaining  
8 and we're waiting to get something done. So  
9 hopefully we'll get the administration to really  
10 move forward on this. Thank you for coming.

11 CHAIRPERSON JOHNSON: Thank you very  
12 much and I also want to acknowledge we've been  
13 joined by..

14 COUNCIL MEMBER VALLONE: Just may I just  
15 say thank you to, to all of you for your testimony,  
16 especially the recommendations that you've given to  
17 us. The lawyer side of me is exactly what I'm  
18 looking for so that we can make all our statutes  
19 and regulations better. Thank you very much.

20 CHAIRPERSON JOHNSON: Thank you Council  
21 Member Vallone. And I want to acknowledge we.. Oh,  
22 Council Member Barron had a question. I apologize  
23 if you could just go back.

24 COUNCIL MEMBER BARRON: It's, it's not a  
25 question. They don't need to go back. I just wanted

2 to comment on recommendation number three which  
3 they offered which is what I was trying get at with  
4 the previous panel. Recommendation three says clear  
5 definition and distinctions should be a sign as to  
6 level of impairment and type of impairment and  
7 match with the proper level of services needed and  
8 that's the point that I was trying to make with the  
9 agency. We need a clear distinction as to who's  
10 eligible and what their, what their conditions are,  
11 thank you.

12 CHAIRPERSON JOHNSON: Thank you Council  
13 Member. And we have been joined by Council Member  
14 Andrew Cohen is chair of the Mental Health  
15 Committee in the Council. Appreciate you being  
16 here. Our next panel may come up. That is going to  
17 be Erin Brenan, Martha Wolf, and apologize if I  
18 mispronounce your name Barb Disum Zimmons  
19 [phonetic], I said it right. Our Committee Council  
20 is going to swear you in if you would please raise  
21 your right hand.

22 COUNCIL TAYLOR: Do you affirm to tell  
23 the truth, the whole truth, and nothing but the  
24 truth in your testimony today and to respond  
25 honestly to Council Member Questions?

2 UNIDENTIFIED FEMALE: Yes.

3 COUNCIL TAYLOR: Thank you.

4 CHAIRPERSON JOHNSON: Thank you. You may  
5 do it in whatever order you would like. Just please  
6 introduce yourself and identify yourself for the  
7 transcript today.

8 MARTHA WOLF: I'm Martha Wolf. I'm the  
9 director of Community Dementia Care at Parker  
10 Jewish Institute for Health Care and  
11 Rehabilitation. I'm also president of the New York  
12 State Adult Day Services Association. So I have a  
13 quick testimony from Parker but the brunt of my  
14 testimony is going to be from NYSADSA. I also have  
15 with me Barb Disum Zimmons whose the executive  
16 director of NYSADSA and is joining us from Albany.  
17 And hopefully we can answer and clarify some of the  
18 questions and concerns already voiced this morning.  
19 But for parker institute on behalf of more than  
20 7,000 older adults served by Parker each year as  
21 well as Parker's President and CEO Michael  
22 Rosenbloom [sp?] I want to thank you for the  
23 opportunity for this testimony. I'm not going to go  
24 through. I mean we support the bill. We urge the  
25 New York City Council to explore strategic plan to



2 address this great need and to make absolutely sure  
3 that profiteers who knowingly offer a bogus social  
4 adult day programs are identified and made to cease  
5 operation. We, we realize and support oversight. We  
6 know it's critical. We have testified at every  
7 council hearing I think you've had on this subject  
8 over the last at least two years. And we strongly  
9 support a, a registry. We have for years supported  
10 that and feel that all of the social adult programs  
11 in the city of New York should be registered so  
12 that we have a good number. So thank you very much.

13 And let me turn to my testimony now from the New  
14 York State Adult Day Services Association. Again I  
15 began with a word of thanks on behalf of the New  
16 York State Adult Day Services Association and the  
17 great majority of older New Yorkers who clearly  
18 indicate that their preference is to live in their  
19 own homes for as long as possible. We are grateful  
20 for the opportunity to focus on the ways that high  
21 quality social adult day services can achieve that  
22 goal. Social adult day services are community based  
23 services that enable frail adults and, with  
24 multiple and diverse disabilities and those with  
25 Alzheimer's or related dementia to be safe,

2 socially connected, and therapeutically supported  
3 in order to maintain functional capacities in all  
4 the mains; physical, cognitive, social, and  
5 emotional. SADs programs provide a dual benefit.  
6 Even as they focus on the person needing direct  
7 assistance, care, and supervision they also provide  
8 services to family caregivers with respite from the  
9 daily burden of assisting and supervising their  
10 frail loved one being a key benefit. Other services  
11 may include support groups, educational seminars,  
12 information, and referral. Since 1978 NYSADSA's  
13 mission has been to develop, promote, and enhance  
14 adult day services as an integral part of the  
15 services continuum through providing training,  
16 information, and public education for the adult day  
17 services industry. Beginning in December 2012 in  
18 collaboration with the Unit State Office for the  
19 Aging and the New York City Department for the  
20 Aging NYSADSA sponsored 12 full day trainings in  
21 the, in the city of New York in the Metropolitan  
22 area, nine of which were in New York City so that  
23 those who wanted to understand the New York State  
24 minimal standards and regulations for SADs programs  
25 would have access to learning and discussion with

2 experienced professionals in the field. In 2013  
3 NYSADSA received a grant from NYSOFA to conduct  
4 these trainings statewide. So far we have trained  
5 over 500 individuals including current providers,  
6 new providers, representatives from MMLTCs,  
7 representatives from home care agencies, providers  
8 of medical model daycare programs, social workers,  
9 nurses, etcetera. In addition workshops were  
10 offered on specific topics such as assessment,  
11 developing and writing care plans, and  
12 incorporating therapeutic recreational activities  
13 into a social adult day model. As a result of  
14 funding in the New York state budget NYSADSA plans  
15 to launch even broader training and technical  
16 assistant efforts in order to help ensure that  
17 existing SADS programs... SADS programs in  
18 development and other entities contracting with  
19 those programs including Medicaid manage care  
20 organizations have access to accurate information  
21 about the implementation standards and regulatory  
22 requirements for SADS programs operating in New  
23 York State. In addition NYSADSA has met with MMLT's  
24 associations and has had numerous meetings with  
25 NYSOFA and DOH as we collaboratively work towards a

2 plan for statewide oversight through our  
3 certification process which is something Karen  
4 alluded to and we can talk about a little bit more  
5 after I finish. NYSADSA's grateful to the chairs  
6 and the members of the New York City Council Aging  
7 and Health Committees for their focus on developing  
8 legislation that clarifies the expectations of  
9 those who market their programs a social... services  
10 and proposing a mechanism to ensure that these  
11 expectations are met. The importance of right  
12 sizing care and ensuring that public and private  
13 dollars are spent appropriately cannot be  
14 exaggerated. SADs is not intended to serve the  
15 generally healthy senior population. Senior centers  
16 are established for that purpose. According to New  
17 York state statistics historically more than one  
18 third of those who attend SADs programs need hands  
19 on assistance with toileting, mobility, or eating.  
20 And 67 percent need constant supervision and  
21 monitoring because of a cognitive deficit. That  
22 said in New York City many neighborhoods have been  
23 underserved. Culturally sensitive SADs programs  
24 will enable those to attend them to remain at home  
25 in the community while their family caregivers

2 continue to work and manage family concerns. In  
3 some ways the increased interest in developing SADs  
4 program is a testimony to community needs. For more  
5 than 35 years social adult programs have emerged in  
6 response to community needs. You've got Arch in  
7 Fort Washington open in the late 70s, my program at  
8 Parker is 25 years old. You have a program that,  
9 that specifically for HIV/AIDS. So social model  
10 programs are developed to meet specific and  
11 community needs. This is because the elder law  
12 title nine section 6654.20 minimal, these are the  
13 minimal standards and regulations for social adult  
14 day. Enable programs to have flexibility of design  
15 in order to meet specific needs therefore NYSADSA  
16 is especially supportive of the proposed Intro  
17 358's mandate that all says programs operate  
18 according these regulations. And, and the current  
19 environment and with the rapid expansion of SADs  
20 programs we also support the registry, that the  
21 legislation established. We believe it will not  
22 only be a necessary first step and a broader  
23 oversight plan but we'll also facilitate referrals  
24 to well-run programs throughout the city. The  
25 registry will ensure that no program will operate

2 beneath the radar and at the same time we'll  
3 support the flexibility of current regulations.  
4 NYSADSA also thinks that this will work well n  
5 tandem with the Sevenah Millman Mill [sp?] passed  
6 the State Senate, State Assembly rather, it did not  
7 pass the senate but maybe it reintroduced in, in  
8 January 2015. This bill provides use, prohibits the  
9 use of the term social adult day and social adult  
10 daycare if programs do not meet the definitions in  
11 statured. NYSADSA respectfully recommends to the  
12 city council that in the end oversight of all  
13 programs operating in New York state should be  
14 directed by the State Office for the Aging. Savenah  
15 Millman Mill will establish that requirement as we  
16 want to ensure that oversight follows and NYSOFA  
17 standards and does not medical-ize social adult  
18 programs by creating a layer burdensome  
19 requirements that are not consistent with the  
20 intentions of the social model. In 2012 when the  
21 Governor Sage Commission [sp?] issued their final  
22 report they noted that as a result of the  
23 overarching medical model of Department on Health  
24 and relay the federal law and guidance. Programs  
25 administered by the Department of Health are

2 generally far more expensive and in many cases less  
3 attractive to the New York, to older New Yorkers  
4 who need services than comparable programs offered  
5 under the Office for the Aging. It should be noted  
6 that during 2013 and 2014 New York state Department  
7 of Health contracted with IPRO which has been  
8 mentioned before to audit the social adult, they  
9 programs in New York City that have contract with  
10 MMLTCs. The results of those surveys have been sent  
11 to DOH where other data is being review. And it's  
12 our understanding that the report's going to be  
13 forthcoming. We support the core concept of  
14 penalties for noncompliance because we, we think  
15 that stiff penalties would eliminate programs that  
16 do not meet regulations. The caution levying of  
17 fees uh we did, we did support efforts directed at  
18 technical assistance and corrective action so that  
19 those programs that do not meet standards will have  
20 the opportunity to come into compliance. At the  
21 same time we caution that program audits must be  
22 consistent with the New York State regulations and  
23 not overstep those requirements and jeopardize long  
24 standing community based programs that may be  
25 unfamiliar with formalized program audits and may

2 or may not have Medicaid or government funding of  
3 an kind. It will be a disservice to everyone if, if  
4 the result is a very burdensome bureaucratic  
5 process. Finally in the same way we agree that the  
6 New York City Department for the Aging should be  
7 the appropriate place for the ombudsman who would  
8 be the point person for any complaints, concern  
9 associated with the social model program. In  
10 closing I want to stake NYSADSA's core principals  
11 related to the operation of social model adult  
12 services. And that is that all social model  
13 programs, regardless of funding, should operate  
14 according to Elder Law Title nine, section 6654  
15 Minimal Standards and Regulations. A mechanism for  
16 consistent state oversight must be established.  
17 Programs that inappropriately determine participant  
18 eligibility or do not deliver all core services or  
19 meet the administrative standards of the  
20 regulations should feel the effects of enforcement  
21 oversight and action up to and including forced  
22 closure. NYSADSA stands ready to assist the New  
23 York City Council and all other government bodies  
24 in their role of ensuring that both public and  
25 private funds are utilized to the best advantage of



2 our aging population. Thank you for seizing the  
3 moment and working to ensure that only high quality  
4 SADs programs operate in New York City and beyond.

5 CHAIRPERSON JOHNSON: Thank you very  
6 much.

7 MARTHA WOLF: I'll be glad later to,  
8 both of us to clarify any questions about the  
9 standards, the training... yeah and the  
10 certification. We, we just met with DOH a couple of  
11 weeks ago with regard to the certification process.  
12 Thank you.

13 CHAIRPERSON JOHNSON: Thank you. Ms.  
14 Brenan.

15 ERIN BRENAN: Good afternoon. My name is  
16 Erin Brenan and I am the Director of the Self Help  
17 Community Service's Alzheimer's Resource Program.  
18 This social adult day program which we call SHARP  
19 has been serving the community since 1989. Self  
20 Help was founded in 1936 to help those fleeing Nazi  
21 Germany maintain their independence and dignity as  
22 they struggled to forge new lives in America. Today  
23 self-help has grown into one of the largest and  
24 most respected not for profit human service  
25 organizations in the New York metropolitan area.

2 With 26 sites throughout Manhattan, Brooklyn,  
3 Queens, the Bronx, and Nassau County Self Help  
4 provides a broad set of important services to more  
5 than 20 thousand elderly, frail, and vulnerable New  
6 Yorkers each year while remaining the largest  
7 provider of comprehensive services to holocaust  
8 survivors in North America. Self Help offers a  
9 complete network of community based home care,  
10 social service, and senior housing programs with  
11 the overarching goal of helping clients to live  
12 with dignity and avoid institutionalization. Thank  
13 you for allowing me to, the opportunity to present  
14 this testimony regarding Intro 358. Self Help  
15 wholeheartedly supports the New York City Council's  
16 efforts to regulate social adult day program in our  
17 community. Social adult daycare programs provide  
18 individuals and their caregivers the opportunity to  
19 continue to remain living in the community and to  
20 receive the care and services they need. Our social  
21 adult day program serves a population that is  
22 recently diagnosed with Alzheimer's disease. The  
23 program has been receiving public funding for most  
24 of its history. We have also received highly rated  
25 programmatic assessments. As all of us know

2 Alzheimer's disease is devastating to the entire  
3 family. Programs that offer respite, socialization,  
4 and caregiver support are critical and will become  
5 even more so. Intro 358 will help us, will help  
6 bring much needed consistent regulation to all  
7 social adult day programs. This oversight is  
8 especially critical at a time when we have seen so  
9 many popup programs which have been randomly  
10 appearing throughout the city. These unlike... run,  
11 unregulated programs have been recruiting elders  
12 whose needs have been best met at the local senior  
13 centers. Marketing to recruit individuals takes  
14 precedence over the needs of those individuals.  
15 Well... facilities where these popups are located are  
16 not appropriate to care for frail individuals. The  
17 individuals who operate these programs are usually  
18 uncredentialed not known to anyone in the aging  
19 community and often completely inexperienced in  
20 working with elders. The individuals participating  
21 in these programs are cheated out of the  
22 opportunity to attend a qualified program that  
23 could appropriately assess and meet their needs.  
24 The opportunity for defrauding Medicaid is often  
25 highly, especially high in programs that are so

2 unregulated. Thank you for the opportunity to  
3 present this testimony. We would especially like to  
4 thank and acknowledge Council Members Chin,  
5 Vallone, Johnson, Arroyo, Vacca, Dickens, Koo,  
6 Levine, Rose, Wills, Rodriguez, Mendez, Koslowitz,  
7 and Rosenthal for their initiative in presenting  
8 this bill. We recommend and hope that you consider  
9 passing it to ensure the quality integrity of all  
10 social adult day programs.

11 CHAIRPERSON JOHNSON: Thank you. And all  
12 those council members thank you back... [cross-talk]

13 ERIN BRENAN: I hope I hit every one of  
14 them but...

15 CHAIRPERSON JOHNSON: ...for being here  
16 today and for your testimony. And I would like to  
17 say Ms. Brenan thank you for running a real social  
18 adult daycare program that takes care of  
19 individuals that need it and an appropriate  
20 meaningful therapeutic way we need to ensure that  
21 organizations like Self Help Community Services and  
22 others who are similarly well credentialed are the  
23 only ones taken care of older adults that need this  
24 type of care. So I appreciate the fact that you

2 were here today to lend your perspective. Thank you  
3 very much.

4 UNKNOWN MALE: I can personally attest  
5 to that. Since we meet on a daily basis at the Self  
6 Help in my district. So thank you Erin and all of  
7 you for coming and shedding light on this. I also  
8 think what speaks volumes is those not here today,  
9 whose not testifying. Exactly, any one of these  
10 organizations or groups that are going to claim to  
11 doing the right thing, nobody, so... I think these  
12 hearings... Thank you very much to our Co-Chairs for  
13 doing this today.

14 ERIN BRENAN: Could I... [cross-talk]  
15 Could I just make one comment? It was a comment by  
16 Councilman Koo about the homecare issue and the  
17 forced home care. About a year and half ago with  
18 all, when the expose hit one of the mandates that  
19 came out of Department of Health was that the  
20 MMLTCs could not contract just for social day. The  
21 social day services could not be a standalone  
22 service, that it had to be accompanied by homecare.  
23 And we as an association and also our providers  
24 having a lot of concerns about that because as  
25 Councilman Koo mentioned there are a lot of people

2 there who don't need home care. Particularly those  
3 with an earlier stage Alzheimer's or type of  
4 dementia who really need to be out of the house and  
5 being stimulated and not sitting home with, with a  
6 home care worker. And it also forces a service when  
7 it's supposed to be a person centered care as far  
8 as the Medicaid redesign. So you're forcing another  
9 service which adds costs and you're supposed to be  
10 reducing costs. We have as an association again met  
11 with Jason Helkerson [sp?] and Mark Kissinger as  
12 well as NYSOFA with regard to this mandate and  
13 brought a lot of case studies. We've had people who  
14 have been denied service actually disenrolled from  
15 MMLTCs because they refuse home care. And it, they  
16 don't lose their Medicaid but then they can't  
17 attend a social model program because we, social  
18 model programs we cannot bill Medicaid directly, we  
19 can only bill through contract with the Medicaid  
20 manage care programs. So this, this is denying  
21 services to those people who don't want homecare  
22 because they don't need it for cultural reasons,  
23 for privacy reasons, there are a lot of reasons. So  
24 in our last meeting a few weeks ago it is our hope  
25 now that this is going to be relooked at as far as

2 this mandate is concerned and reconsidered by  
3 Department of Health and we are hoping for  
4 retraction of that mandate. Again you know we, we  
5 were waiting. As far as the IPRO results we were  
6 told at the last meeting that NYSADSA would be  
7 privy to those results as well. I was one of the  
8 programs that was surveyed by IPRO, my program back  
9 in December. And it was a very very extensive, it  
10 was an all da review and it went by the NYSOFA regs  
11 but they looked at everything from safety and  
12 environment to nutrition because there is part of  
13 the regulation that deals with nutrition. I know  
14 that's been an issued discussed today but certainly  
15 nutrition and diet as well as all the personnel and  
16 credentialing of personnel and any contract  
17 credentialing and so it was a very very extensive  
18 review. Our understanding from Mark Kissinger is  
19 that through this review there will be some  
20 programs that will be offered an opportunity to  
21 present a plan of correction with regard to deficit  
22 if they, if they are able to correct deficits then  
23 they will be re, resurveyed. There will be some  
24 programs that will not be able to do that and those  
25 are the programs that the contracts, MMLTC

2 contracts will be pulled from all of those  
3 programs. And quite honestly it stands to reason  
4 that if these programs are only existing through  
5 their contracts with MMLTCs. If those contracts are  
6 pulled they won't be able to be in business. We  
7 know through our training and the city and bark and  
8 talk about the state but there are a lot of people  
9 who come to the training and they're looking to  
10 open programs for profit. These are for profit  
11 businesses. They're not, not for profit like Self  
12 Help or Parker and you know a lot of the other  
13 programs that have been around for decades. These  
14 are for profit businesses and we make it very very  
15 clear that social model is, you know there should  
16 be a broad pay base, you, you look at contracts,  
17 you look at private pay, you look at a variety of  
18 pay so that you can offer these services to  
19 everyone in the community not those, just those  
20 people who have Medicaid. And that stressed quite a  
21 bit and but we, we, we've had a lot of attendance.  
22 I know Barb told me that she had a, training up in  
23 Niagara and there were people from New York City at  
24 the training in Buffalo. Niagara, further north. So  
25 you know which is just astounding to me. But we are



2 planning more and more of these trainings as we go  
3 along through this grant through NYSOFA and to do  
4 more specific assessment which is a big key to all  
5 of this, not only from the social model program  
6 which is supposed to do their own assessment and  
7 care planning but from the MMLT perspective who  
8 were supposed to do their own assessment to make  
9 sure the person's eligible for their services to  
10 begin with. And that was one of the big problems  
11 with what happened back that January almost two  
12 years ago.

13 BARB DISUM ZIMMONS: I would like to add  
14 some clarifying... [cross-talk]

15 CHAIRPERSON JOHNSON: If you could  
16 identify yourself for the record.

17 BARB DISUM ZIMMONS: I'm Barb Disum  
18 Zimmons. I'm the Executive Director of NYSADSA. We  
19 do have membership throughout this state. I just  
20 want to make some clarifying statements, someone  
21 had recommended a single assessment and, and our  
22 conversation with Mark Kissinger and Jason  
23 Helkerson last month. We are told that there will  
24 be a single assessment so it will be separated from  
25 the MLTCs to keep it pure and clean. You shouldn't

2 have an age qualifier for social adult day because  
3 many of our providers will provide services to  
4 people with, from the TBI waiver. And you could  
5 have a traumatic brain injury at any age. It could  
6 be veterans. It could be dementia specific and  
7 people with down syndrome get dementia much earlier  
8 so I just implore that you don't put an age  
9 restriction onto this because many of, we, we  
10 encourage our members to have a varied revenue  
11 stream. And in order to do so they are looking into  
12 other contracts. We also have some that are  
13 behavioral health centered or focused and they also  
14 do treat people of many different ages. When it  
15 came to food, food is a big issue, it is highly  
16 regulated. You either have to follow CACFP which is  
17 through Department of Health or DOH's, or NYSOFA's  
18 regulations. If they're getting it from a  
19 restaurant they will be found out, there will be  
20 sanctions after the IPRO review. The only place  
21 where I know that there is an exception that is in  
22 Schenectady County where their standards are much  
23 higher than either of those standards. There have  
24 been sanctions. There have been uh, implications.  
25 It was mentioned that VNS was sanctioned. Center

2 Light was also written up. And let me tell you when  
3 we had a specific training on care plan and  
4 assessments they sent about 50 people because they  
5 did care about learning it, to do it the right way.  
6 We would be enter, would be willing to entertain  
7 conversations to how to better monitor. We have  
8 also in our trainings provided training to State  
9 Controller and uh, Attorney General's Office. And  
10 oversight is mandated to Department of Health by  
11 CMS centers with Medicare and Medicaid in the 1115  
12 waiver.

13 CHAIRPERSON JOHNSON: Thank you very  
14 much. Thank you for your testimony today. I believe  
15 Council Member Barron, do you have a question?

16 COUNCIL MEMBER BARRON: Thank you Mr.  
17 Chair. Just wanted to thank the panel for coming to  
18 present the testimony and to say that Self Help has  
19 an extensive website with lots of information, very  
20 clear, very easy to understand. Thank you for what  
21 you do and those of you who haven't visited their  
22 website you will be amazed at what they're  
23 offering.

24 UNKNOWN FEMALE: Thank you very much,  
25 thank you.

2 CHAIRPERSON JOHNSON: Thank you. I, I...  
3 Council Member Chin.

4 COUNCIL MEMBER CHIN: Yeah, thank you  
5 again for you know coming and, and for your  
6 expertise. Now you have been having conversation  
7 with the State Department of Health. So what do you  
8 think we should do? I mean it's been two years. I  
9 mean what is the role of the city? How do you think  
10 that we can at least get a handle on this to start  
11 doing some monitoring?

12 ERIN BRENAN: One of the things that we  
13 could certainly do Barb and I were discussing,  
14 chatting before. We can provide the council if, if  
15 you'd like with a list of all the NYSADSA members  
16 in the city of New York. That is a social model  
17 programs that are members of the New York State,  
18 you know association. We can certainly provide you  
19 with that. We can also if you don't already have  
20 the regulations you certainly, we, you know that's  
21 easy to get to you as far as looking at those  
22 standards. And with the certification we tried to  
23 press, at least I asked timeframes on it when I was  
24 there and I didn't get a specific but I did get a  
25 month or two we're looking at. And that's something

2 that we're, we're constant, we have a lobbyist up  
3 in Albany whose constantly on, on them with regard  
4 to when are we going to get this information I  
5 think is very very important because that, that is  
6 going to identify those programs in the city that  
7 we may, we may not even know about. I mean we don't  
8 know about all the programs in this city we  
9 couldn't possibly. But it's going to identify those  
10 programs in the city of New York that have  
11 contracts with MMLTCs. And those are the ones we're  
12 talking about. You know that may not be up to, up  
13 to snuff. So that report should identify those  
14 programs and we can go from there. I do think you  
15 know one of the things that we talked about  
16 certification and we did submit a proposal NASADSA  
17 is we did a, a national research, oversight,  
18 research on other states and how other states were  
19 handling social day as far as oversight. And  
20 believe it or not well Connecticut had, has a very  
21 very tight certification oversight of all their  
22 social models in, you know in that state. So we  
23 looked at their model and, and we're, we're  
24 tweaking it because obviously it would have to  
25 match New York State. But we are looking for a

2 statewide certification which would also obviously  
3 include the city. At, at this point you know I know  
4 that we, we get calls as well. I get calls from  
5 MMLTCs who've gone out to do site visits and the  
6 rep will call me and say I went to this particular  
7 program, here's the address, here's the name of it,  
8 it's, it's, it's a empty room with a table and five  
9 chairs and a pool table you know. And that  
10 information I will send directly on, actually to  
11 our lobbyist who sends it over to DOH. So this is  
12 how, we're getting information that way as well  
13 just as DFTA does, you know through, through calls.  
14 But the calls had become more prevalent in the  
15 last... I know you said they've diminished but by  
16 that I mean I think there are more and more, MMLTCs  
17 are more and more cognoscente now and know that  
18 they, they need to be reporting these things.  
19 Whether they contract with them or not they, if  
20 they see something you know they need to obviously  
21 say something just like the, for New York. But they  
22 should let someone know where these programs are.  
23 So we're getting information that way as well.

24 CHAIRPERSON JOHNSON: So, but is it your  
25 position, do you believe that absent of current uh,

2 movement and uh, full action by the state that the  
3 city should move in and the city council should  
4 seek to protect senior citizens and other adults  
5 that need this type of care?

6 ERIN BRENAN: I think the city council  
7 has responsibility to always protect our vulnerable  
8 citizens.

9 CHAIRPERSON JOHNSON: So you're  
10 supportive of us taking action on this bill?

11 ERIN BRENAN: I, I think, we support the  
12 action with the ombudsman. I would caution against  
13 licensure. I know that's been talked about a lot.  
14 NYSADSA... social model we've always been resistant  
15 and opposed to licensure. Medical model daycares  
16 licensed through the department of health. We, we  
17 strongly believe that certification is the way to  
18 go. Because that then will allow for the  
19 flexibility of social model. I mean my program's  
20 open seven days a week 12 hours a day. If, if I  
21 had, if I had, if I was over regulated I wouldn't  
22 be able to do that and provide the service. I think  
23 that we believe that certification is the way to go  
24 so that it can lend itself to the flexibility while

2 following the standard and regulations that, that  
3 are necessary.

4 CHAIRPERSON JOHNSON: Thank you for your  
5 support. We're going to, I know that we're going to  
6 call on you for your expertise and experience as  
7 this moves forward and ensuring that we continue to  
8 protect the most vulnerable in New York City. The  
9 testimony today has been I think incredibly helpful  
10 from you as providers and as experts in this field  
11 as well as other advocates it is an absolute  
12 outrage what is currently occurring. It is  
13 fraudulent. It is abusive. It is taking advantage  
14 of the most vulnerable just on, just to get as much  
15 money as possible. It's all about the Benjamins it  
16 seems and not about taking care of people in the  
17 most appropriate way. And we have to put a stop to  
18 it. And I look forward to working with Council  
19 Member Chin, Council Member Vallone and my other  
20 colleagues, the appropriate city agencies and with  
21 all of you in ensuring that as we move forward we  
22 do not allow this to persist in our city.

23 ERIN BRENAN: And to support Karen's  
24 testimony I would like to add that in surveying our  
25 members no one has had a new MLTC contract in the



2 metro area since late last fall and even referrals  
3 have dried up. So whether it's been IPRO's reviews  
4 have sharpened things. Are there bad eggs out  
5 there, are there potentially bad eggs out there,  
6 yes I get crazy phone calls every day. And I have a  
7 hard time being polite on the phone because when  
8 someone says they want to open up and have 100  
9 people in their day center by the end of the year I  
10 just say I wouldn't send my mom to you. And then,  
11 only a good one will then say why and try to figure  
12 out why. And then I come back with well a teacher  
13 says they can't take care of more than 30 35  
14 students. When I train with my board members  
15 they'll say 45 50 depending on your square footage  
16 is the maximum. And staffing ratios too. We really  
17 spend a lot of time on staffing ratios. Also to  
18 clarify another point every participant should get  
19 a bill of rights. We stress best practices is in  
20 your native language and according to regulations  
21 you do need to insert the phone number for your  
22 local area agency on aging which in the metro area  
23 is DFTA. So people do get that information and if  
24 they don't then the MLTCs and IPRO would have  
25 picked that up.

2 CHAIRPERSON JOHNSON: Thank you.

3 Anything else? Well thank you all for being here  
4 today. Thank you again to the committee staff for  
5 helping us prepare for today and we look forward to  
6 having a future hearing on this very important  
7 matter and meeting is adjourned.

8 [gavel]

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C E R T I F I C A T E

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



Date September 08, 2014