

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AND WORKER  
PROTECTION

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February 11, 2025

Start: 1:03 p.m.

Recess: 1:59 p.m.

HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Julie Menin, Chairperson

COUNCIL MEMBERS:

Shaun Abreu  
Gale A. Brewer  
Shekar Krishnan  
Chi A. Ossé

OTHER COUNCIL MEMBERS ATTENDING:

Kevin C. Riley  
Christopher Marte

A P P E A R A N C E S

Carlos Ortiz, Assistant Commissioner for External Affairs at the Department of Consumer Worker Protection

Andrew Schwenk, Associate General Counsel at the Department of Consumer and Worker Protection

Andrew Winakor, President of ProHealth Connect

Ron Thomas, District Leader for the 65th Assembly District Part B

2 SERGEANT-AT-ARMS: This is a sound check  
3 for the Committee on Consumer Protections, recorded  
4 by Sergeant Benjamin Levy. The date is February 11,  
5 2025, in the Chambers.

6 SERGEANT-AT-ARMS: At this time, please  
7 silence all electronics and do not approach the dais.  
8 I repeat, please do not approach the dais.

9 If you want to testify, make sure you  
10 fill out a slip at the back of the room with the  
11 Sergeant-at-Arms.

12 If you wish to testify online, you may do  
13 so at [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). That is  
14 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov).

15 If you need any additional assistance,  
16 please contact the Sergeant.

17 Chair, you may begin.

18 CHAIRPERSON MENIN: [GAVEL] Good  
19 afternoon. I'm Julie Menin, Chair of the Committee on  
20 Consumer and Worker Protection, and I want to welcome  
21 everyone to today's hearing. First of all, I want to  
22 acknowledge my Colleagues who are present, Council  
23 Member Riley and Council Member Marte, and I'll  
24 acknowledge additional Colleagues as they join us.

2 So, thank you again for joining today's  
3 hearing on Consumer Financial Experiences in the  
4 Retail Industry as well as Bill Introductions 374,  
5 1049, and 1097.

6 Retail establishments in New York City  
7 are required to comply with a variety of local laws  
8 that seek to protect consumers from deceptive and  
9 unfair business practices. DCWP is responsible for,  
10 of course, enforcing those consumer protection laws  
11 and educating both consumers and businesses about  
12 their rights and obligations under them. The agency's  
13 work to inspect businesses can have real impacts on  
14 New Yorkers' pocketbooks. When I served as  
15 Commissioner of DCWP, we implemented a major  
16 investigation into grocery stores after finding that  
17 some major players, including Whole Foods in  
18 particular, routinely overstated the weights of its  
19 prepackaged products, such as meats, dairy, and baked  
20 goods, resulting in customers routinely being  
21 overcharged. Whole Foods ultimately agreed to pay  
22 500,000 dollars and agreed to adhere in our agreement  
23 with them to strict preventive and corrective  
24 standards to better protect consumers as part of a  
25 settlement agreement with DCWP.

2 At today's hearing, I look forward to  
3 hearing how DCWP is approaching enforcement of  
4 consumer protection laws in retail settings. We will  
5 learn about their inspection strategy and how the  
6 agency educates businesses about their obligations  
7 and consumers about their rights. We will also  
8 examine how the agency is addressing consumer  
9 complaints regarding retail establishments.

10 We are today hearing three pieces of  
11 legislation related to consumers' financial  
12 experiences in retail establishments. Intro. 374,  
13 sponsored by Council Member Keith Powers, would  
14 prohibit businesses from setting a minimum purchase  
15 requirement greater than 10 dollars for credit card  
16 transactions. Intro. 1049, sponsored by Council  
17 Member Brooks-Powers, would require sellers of  
18 petroleum products for use in motor vehicles or  
19 motorboats to disclose preauthorization holds prior  
20 to initiating a transaction that would require a  
21 preauthorization hold. And then finally, Introduction  
22 1097, sponsored by Council Member Riley, would  
23 require retail stores that primarily sell food for  
24 off-site consumption and retail stores that include a

2 pharmacy to accept flexible benefit cards distributed  
3 by health insurance providers.

4 The Committee looks forward to hearing a  
5 testimony from DCWP and other stakeholders about the  
6 City's enforcement of consumer protection laws in  
7 retail settings.

8 So, first I'm going to pass it over to my  
9 colleague, Council Member Riley, who is a sponsor of  
10 1097. I know he worked very closely in conjunction  
11 with Council Member Marte, who will also be making a  
12 statement on this bill, so Council Member Riley.

13 COUNCIL MEMBER RILEY: Thank you so much,  
14 Chair Menin. Good afternoon, Chair Menin and my  
15 Colleagues. Thank you for the opportunity to speak on  
16 this critical piece of legislation.

17 Our communities deserve easy and  
18 equitable access to essential food and pharmacy  
19 services. Yet too many New Yorkers, particularly  
20 seniors, people with disabilities, and low-income  
21 families, struggle to find stores that accept their  
22 flexible benefit cards. With big chain pharmacies  
23 closing in communities that need access the most,  
24 Intro. 1097 takes a necessary step in ensuring that  
25 retailers that already accept credit and debit cards

1 also accept flexible benefit cards, closing the major  
2 gap in accessibility. For many, these benefits are a  
3 lifeline, helping them afford nutritious food,  
4 medication, and wellness products. Yet barriers to  
5 use these cards force individuals to travel further,  
6 pay out of pocket or go without. That is unacceptable  
7 to the City Council. Intro. 1097 not only expands  
8 access but ensures accountability. The Department of  
9 Consumer and Workers Protection will conduct outreach  
10 and education to ensure compliance, while civil  
11 penalties for violation will reinforce this bill's  
12 impact. This legislation is about equity. It's about  
13 ensuring every New Yorker, regardless of income,  
14 mobility or zip code, can shop for the essentials  
15 they need close to home without unnecessary hurdles.  
16 I urge my Colleagues to support this bill that helps  
17 break down barriers to essential goods, ensuring that  
18 all New Yorkers, especially those in greatest needs,  
19 have seamless access to food, medicine and wellness  
20 products.  
21

22           And I would like to give a special thank  
23 you to my co-prime sponsor, Council Member Marte, for  
24 working really, really hard on making this bill  
25 accessible for New Yorkers. Thank you, Chair Menin.

2 CHAIRPERSON MENIN: Thank you so much. And  
3 now let me turn it over to Council Member Marte for  
4 his statement.

5 COUNCIL MEMBER MARTE: Good afternoon.  
6 First, I would like to thank Chair Menin for hearing  
7 this bill today and Council Member Riley for  
8 introducing and working with me to get it to this  
9 point.

10 We are here today to discuss Intro. 1097,  
11 which will require most businesses to accept OTC  
12 cards. OTC cards are benefit cards similar to EBT  
13 that seniors and people with disabilities can get  
14 from their health insurance that provides hundreds of  
15 dollars a month for them to spend on healthy  
16 groceries and medicine. These cards can be a literal  
17 lifeline for these people who need access to  
18 affordable, fresh products the most, yet many  
19 businesses in New York City do not accept them. What  
20 makes OTC cards different from SNAP and EBT is that  
21 these benefits do not roll over every month. If you  
22 don't use the benefit, you lose it. Again, if you  
23 don't use it, you lose it. We drafted this  
24 legislation after constituents in my district of  
25 Lower Manhattan told me that they had to go to a Fine



2 Fare in Brooklyn to find businesses that accepted  
3 their OTC card. That is unacceptable. Nobody should  
4 have to travel to another borough just to have  
5 affordable health groceries and to purchase their  
6 medicine or prescription needs. We also know that  
7 this legislation will work. In 2023, my office sent  
8 letters to over a hundred businesses in my District  
9 informing them about the OTC card and requesting them  
10 to start accepting them. Now businesses all over my  
11 district, from the mom and pop shops in Chinatown to  
12 the large supermarkets like Metro Acres, are  
13 advertising that they now accept OTC cards.  
14 Introduction 1097 will do this citywide, informing  
15 business owners about OTC cards and their benefits of  
16 accepting them. If we pass this bill, it will be a  
17 win-win solution. OTC cardholders will be able to buy  
18 healthy food locally, and business owners, especially  
19 small business owners, will see increased revenues  
20 from OTC cardholders having thousands of dollars to  
21 spend at their local store.

22 Finally, I'd like to thank local  
23 community activists like District Leader Ron Thomas  
24 and Cheryl Freeman, among others who have been  
25 advocating and organizing around this issue for

2 years. I look forward to our hearing today and for a  
3 quick passage of this legislation. Thank you.

4 CHAIRPERSON MENIN: Thank you very much.

5 Let me also acknowledge a couple other Colleagues who  
6 are on Zoom. Majority Whip Brooks-Powers, Council  
7 Member Abreu, Council Member Ossé.

8 Under our Council rules, Majority Whip  
9 Brooks-Powers has a bill but will make her opening  
10 statement once we have quorum for this Committee.

11 So, I'm going to move on and we will now  
12 call representatives of the Administration to  
13 testify. We'll be hearing today testimony from  
14 Assistant Commissioner of External Affairs Carlos  
15 Ortiz and Associate General Counsel Andrew Schwenk.  
16 I'll now turn it over to Committee Counsel to  
17 administer the affirmation.

18 COMMITTEE COUNSEL SWAINE: Good afternoon.  
19 Do you affirm to tell the truth, the whole truth, and  
20 nothing but the truth before this Committee and to  
21 respond honestly to Council Member questions?

22 ASSISTANT COMMISSIONER ORTIZ: I do.

23 GENERAL COUNSEL SCHWENK: I do.

24 COMMITTEE COUNSEL SWAINE: You may begin.

2 ASSISTANT COMMISSIONER ORTIZ: Good  
3 afternoon, Chair Menin and Members of the Committee  
4 on Consumer and Worker Protection. My name is Carlos  
5 Ortiz. I'm the Assistant Commissioner for External  
6 Affairs at the Department of Consumer Worker  
7 Protection, and I am joined by our Associate General  
8 Counsel Andrew Schwenk. Thank you for the opportunity  
9 to testify before the Committee today on these bills  
10 and our consumer protection work.

11 DCWP provides fundamental consumer and  
12 worker protections and financial empowerment  
13 programming to New Yorkers. We strive to ensure that  
14 consumers who have been deceived or exploited have  
15 recourse, that workers have a passion to defend their  
16 rights, and that all New Yorkers have the support  
17 they need to improve their financial health. We are  
18 immensely proud of the work our agency accomplishes  
19 day in and day out for our city, and in the last  
20 three years alone, under Commissioner Mayuga's  
21 leadership, we have helped deliver more than a  
22 billion dollars back to New Yorkers.

23 Since our landmark consumer protection  
24 law was enacted in 1969, we have been the nation's  
25 leading municipal consumer protection agency. For

2 nearly 60 years now, we have consistently leveraged  
3 our authority to protect New Yorkers from deceptive  
4 business practices, securing financial restitution  
5 for consumers whose rights have been violated by bad  
6 actors in the marketplace. In the last few years, our  
7 agency has conducted more than 140,000 inspections of  
8 businesses across the city and have issued nearly  
9 50,000 summonses for violations of the law. These  
10 efforts have played a role in the recovery of about  
11 25 million dollars in financial restitution and debt  
12 relief for consumers. We are dedicated to providing  
13 protections to New Yorkers while working to  
14 facilitate compliance amongst businesses with the  
15 laws that we enforce. Businesses across the five  
16 boroughs have access to our educational materials as  
17 well as direct outreach from our external affairs  
18 team. In the last several years, we have hosted  
19 nearly 400 business engagement and outreach events,  
20 reaching more than 30,000 business owners. Our  
21 Visiting Inspector Program, or VIP, provides new  
22 licensees the opportunity to receive an educational  
23 visit from one of our inspectors. In the last three  
24 years, we have been able to provide nearly 7,000 one-  
25 on-one VIP inspections to new businesses across the

2 city. And last year, we opened up our Visiting  
3 Inspector Program to all brick-and-mortar retail  
4 businesses that are required to be in compliance with  
5 our laws, regardless of whether they are our licensed  
6 business category. We look forward to working with  
7 the Council to continue our mission of protecting  
8 consumers across the city while uplifting and  
9 educating our city's small businesses.

10 Turning to today's legislation,  
11 Introduction 374 will prohibit businesses in New York  
12 City from setting a minimum dollar value greater than  
13 10 dollars for the acceptance of credit cards in  
14 selling, leasing, renting, or loaning consumer goods  
15 or services to the public. All businesses that accept  
16 credit cards would also be required to post a notice  
17 of such prohibition on or near any fixed-point sale  
18 terminal, and DCWP would be authorized to enforce  
19 civil penalties for violations. DCWP currently  
20 requires businesses to post signage disclosing any  
21 limitations on a consumer's use of a credit card. We  
22 support prohibiting a minimum dollar value that is  
23 greater than 10 dollars. However, we have concerns  
24 that requiring businesses to post an additional sign  
25 describing that minimum value prohibition, as well as

2 the current penalties outlined in the bill, could be  
3 overly burdensome. Additionally, it is important for  
4 our operations that complainants continue to use the  
5 3-1-1 system and DCWP's online portal, including with  
6 assistance from our staff, in submitting complaints  
7 to the agency, rather than a new web mail complaint  
8 form. We look forward to working with the Council on  
9 this legislation.

10 Introduction 1049 would require  
11 businesses to disclose a preauthorization hold in  
12 connection with the sale or offer for sale of any  
13 petroleum product for use in motor vehicles or  
14 motorboats. We support the intent of this legislation  
15 and its efforts to ensure New Yorkers have access and  
16 can utilize their money. We are interested to hear  
17 more from Council on all impacted stakeholders today.

18 Introduction 1097 will require retail  
19 stores that currently accept debit or credit cards to  
20 accept flexible benefits cards distributed by health  
21 insurance providers. DCWP would also be required to  
22 conduct outreach and education on this requirement.  
23 This bill tackles a new issue for the agency, and we  
24 are looking forward to hearing from affected  
25 consumers, businesses, and the Council on the impacts

2 of this legislation, not only to ensure that  
3 consumers can continue to shop at their local stores,  
4 but also to make sure that we do not impose any undue  
5 costs on businesses.

6 Thank you for the opportunity to testify  
7 before your Committee on our essential work uplifting  
8 New Yorkers and today's legislation. We look forward  
9 to working with you all to further our efforts to  
10 protect New Yorkers in the marketplace, and I welcome  
11 any questions you may have for further discussion.

12 Thank you.

13 CHAIRPERSON MENIN: Great. Thank you so  
14 much. So, I do have a number of questions. First of  
15 all, I want to talk broadly about the efforts of the  
16 agency to enforce the consumer protection laws,  
17 specific, obviously, to retail establishments that  
18 we're talking about today. What is the agency's  
19 overall strategy for inspections?

20 ASSISTANT COMMISSIONER ORTIZ: So,  
21 typically our inspection posture in terms of  
22 enforcement is to either conduct patrol inspections  
23 or inspections upon complaint. I think with respect  
24 to patrol inspections or inspections upon complaints,  
25 if there's a violation that we observe at a

2 particular business, we work also to prioritize that  
3 for a repeat visit as well to ensure that we're  
4 tamping down any recidivist behavior. Whether it's  
5 patrol or whether it's a response to complaint, when  
6 an inspector goes into a business, what we do is they  
7 have a checklist that they're required to use  
8 depending on the category of activity that they've  
9 observed. They'll review this checklist and ensure  
10 whether or not there's compliance. If they observe a  
11 violation, they'll issue a violation for that. In  
12 fact, it is the same checklist that we work to  
13 distribute to businesses as an educational material  
14 so that they know exactly what it is our inspectors  
15 look for when we're in the field. I think generally,  
16 if we start seeing a pattern of complaints at a  
17 particular business, that could escalate at that  
18 point to more attorney-focused work where we will  
19 look deeper into the business, launch an  
20 investigation as necessary, perhaps bring petitions  
21 to oath along those lines as well.

22 CHAIRPERSON MENIN: So, one thing is, you  
23 know, when I became Commissioner in 2014, previously  
24 DCWP, well, previously it was DCA, but previously DCA  
25 had taken the posture in earlier years of assessing a



2 lot of onerous fines on small businesses so that if,  
3 for example, a bodega was selling a can of peas and  
4 it was priced incorrectly, these businesses were  
5 getting socked with really insane amounts of fines,  
6 and we changed that through our Small Business Relief  
7 Package to give businesses the opportunity to cure  
8 violations where there was no significant consumer  
9 harm, so what is the agency's posture in that regard?

10 ASSISTANT COMMISSIONER ORTIZ: I think you  
11 hit the nail right on the head in terms of right-  
12 sizing penalties for the type of violation that's  
13 occurring. So, I know the EO2 legislation that you  
14 champion, Chair, was a key component of that. Then  
15 also on the flip side, making sure that any type of  
16 deceptive activity that is really egregious, that the  
17 penalty matches that violation as well. For example,  
18 I know Andy and I, we worked on an update to the  
19 Consumer Protection Law in 2021 that updated fines  
20 for the first time in 50 years for the 21st century,  
21 also made sure to capture certain online activity by  
22 retail businesses, and also made sure to take into  
23 account language access as well so I think both of  
24 those components are critical. One is making sure  
25 that right-size penalties match the violation, and

2 particularly for our small businesses. We're not  
3 trying to put small businesses out of business. We  
4 want to make sure that they're in our communities. We  
5 want to make sure that they're serving consumers and  
6 employing workers. But on the flip side, when there  
7 are businesses that are engaging in knowing  
8 violations and unconscionable trade practices, that  
9 there is a penalty for that that will stop that  
10 behavior.

11 CHAIRPERSON MENIN: So, you mentioned the  
12 VIP, the Visiting Inspector Program. Are these  
13 inspectors... I have two questions regarding them. One,  
14 can you talk about the language access in terms of  
15 making sure that those inspectors are always  
16 sensitive to the fact that we always need to go above  
17 and beyond on the issue of language access? And then  
18 secondly, are those inspectors telling businesses  
19 that they do have an opportunity to cure certain  
20 violations so that small businesses are aware of  
21 that?

22 ASSISTANT COMMISSIONER ORTIZ: Thank you  
23 for that question, Council Member. I think actually  
24 our agency is somewhat diverse in terms of its  
25 language capacity. I know in past budget hearings we

2 discussed of the staff of over 400, about half of  
3 those folks speak a second language, which we're very  
4 proud of. Language access.. the team of VIP inspectors  
5 is a team of... is it three or two? I believe it's  
6 three, but I can make sure I get the correct  
7 information for you. I think each of them have  
8 additional language capacity, but in general they all  
9 use Language Line, which I know is not always the  
10 ideal, but we want to make sure that if we do have a  
11 situation where a business does not meet our language  
12 capacity, that we meet them where they are.

13 CHAIRPERSON MENIN: Curing the violation.

14 ASSISTANT COMMISSIONER ORTIZ: Yes, so  
15 that's part of the materials that we distribute as  
16 well, letting folks know about... I guess what would be  
17 the right word... their abilities to settle, their  
18 ability to cure, ways that they can reduce their  
19 fine, particularly in the first instance.

20 GENERAL COUNSEL SCHWENK: Yeah, and  
21 Council Member, I would also just add there that in  
22 the event that we do issue a summons to a business,  
23 we do notify the business of any of their abilities  
24 either to cure or to settle those violations, and  
25 that's through a letter we send out laying out their

2 options to do so and how they would go about doing  
3 it, and that goes out for every summons if cure or  
4 the ability to settle is available.

5 CHAIRPERSON MENIN: Okay. And now I want  
6 to switch to the consumer perspective. So how is the  
7 agency currently notifying consumers of their rights?

8 ASSISTANT COMMISSIONER ORTIZ: So that  
9 would, I think, fall perhaps more into my bailiwick  
10 on the External Affairs side. We conduct a  
11 significant outreach, I think close to 1,700 events  
12 over the course of the past three years, about 700 of  
13 those focused on consumer protection specifically.  
14 Realistically, for the team our size, I know our last  
15 hearing I mentioned, when fully staffed, it's five  
16 people. For a team our size, it's important to make  
17 sure that we leverage community-based organizations,  
18 and I like to tap into regular meetings that they're  
19 holding. I think that helps expand our footprint and  
20 meet consumers in their neighborhoods, and then on  
21 top of that, we have regular webinars as well. We do  
22 frequent canvassings, particularly at high-traffic  
23 subway locations, and then we have our social media  
24 team as well that does a lot of great work to try to  
25 be engaging there. So, it is really about engaging

2 outreach in a way that is both broad and deep as well  
3 in reaching our communities.

4 CHAIRPERSON MENIN: And how many  
5 complaints did you get last year for consumers about  
6 violations of consumer protection laws in retail  
7 establishments, and can you also talk about recent  
8 years, so we're not just looking at it isolation of  
9 one year?

10 ASSISTANT COMMISSIONER ORTIZ: So, I would  
11 say overall complaints in the past year, I would say,  
12 were to 26,000 in 2024. In 2023, it was about 23,000,  
13 and then in 2022, again, 26,000. And generally, those  
14 complaints really do relate to consumers and their  
15 retail experience and whatnot, but let me throw it  
16 over to Andy, who could add some more color on  
17 specific violations related to retail.

18 GENERAL COUNSEL SCHWENK: Yeah. I would  
19 just add, Council Member, that it's tough to sort of  
20 narrow down the focus to just, quote-unquote, retail  
21 establishments. Most of the conduct that we receive  
22 complaints about under our consumer protection work  
23 does apply to retail businesses. As I'm sure you  
24 remember, we don't regulate the business-to-business  
25 transactions, and our Consumer Protection Law does

2 not apply to those transactions in most instances,  
3 and so we think that total complaints is kind of a  
4 better reflection of the retail experience.

5 CHAIRPERSON MENIN: And how many  
6 violations have been issued in recent years, and are  
7 you seeing any trends in these violations?

8 ASSISTANT COMMISSIONER ORTIZ: Violations  
9 in 2024, a little over 19,000; 2023, close to 16,000;  
10 and in 2022, 14,000. So, there's been a slight  
11 increase in violations there. I would say, in recent  
12 years, we've had to tackle a lot of focusing our  
13 efforts in the tobacco space, for example, or in e-  
14 cigarette retail dealer space. I think that's  
15 something that we've certainly worked on in  
16 coordination with our sister agencies at PD and the  
17 Sheriff's Office.

18 CHAIRPERSON MENIN: Okay. I have a number  
19 of additional questions, but I want to, at this  
20 point, turn it over to my Colleagues to see what  
21 questions they have. Okay. Council Member Riley.

22 COUNCIL MEMBER RILEY: Thank you,  
23 Chairman. So good afternoon. Thank you so much for  
24 being here today. I just want to talk briefly about  
25 Intro. 1097. Have you guys been receiving influx of

2 complaints for businesses that can't accept OTC  
3 cards?

4 ASSISTANT COMMISSIONER ORTIZ: I would say  
5 that we have not received a large influx of  
6 complaints. I think, for me, certainly, in my  
7 exposure to consumers and New Yorkers, this is a new  
8 issue. Although, I would echo the sentiment that you  
9 and Council Member Marte shared about ensuring that  
10 our consumers have the ability to shop at our local  
11 stores. I mean, I think that's critical to New York  
12 City. So, just to put a finer point on my testimony  
13 as well, we certainly want to work with you all in  
14 making that a reality and hearing from businesses,  
15 especially today, on how we can help them meet that  
16 goal, too.

17 COUNCIL MEMBER RILEY: Thank you. And I  
18 appreciate your willingness to hear that out, because  
19 just across the street from my office on 940 East  
20 Gunner Road, we just lost a big Rite-Aid pharmacy  
21 that closed down last year. Around the corner is  
22 three Mitchell-Lamas over there that's full with tons  
23 of seniors who were going to that Rite-Aid to get  
24 their medicine, to get a lot of the necessities that  
25 they need so that's why we really wanted to think

2 about this bill and kind of be more comprehensive on  
3 how we're setting up the economic opportunities for  
4 our consumers to actually be able to support their  
5 needs so I'm really looking forward to more  
6 conversations and seeing if we can turn this into  
7 fruition.

8 ASSISTANT COMMISSIONER ORTIZ: Thank you,  
9 Council Member. I think the same from us. We're  
10 looking forward to working with you on this.

11 COUNCIL MEMBER RILEY: Thank you. I  
12 appreciate that.

13 CHAIRPERSON MENIN: Great. Thank you.  
14 Council Member Marte.

15 COUNCIL MEMBER MARTE: Yeah. I want to  
16 just plus one on what Council Member Riley said. You  
17 know, nationwide we see big box pharmacies closing,  
18 whether it's a Rite-Aid, whether it's a CVS, and  
19 recently we started seeing Amazon take OTC cards  
20 online for some of their produce. However, we want to  
21 support our mom and pop shops and our local  
22 businesses, and so we do think there's a real need  
23 for 1097 to pass.

24

25



2 One question I have is, do you believe  
3 that there will be any unreasonable cost for business  
4 owners to start accepting OTC cards?

5 ASSISTANT COMMISSIONER ORTIZ: I'm not  
6 particularly sure, to be honest. I think OTC cards in  
7 this space is something that's new for me. But that  
8 being said, I think that's what we want to learn  
9 today. I think it's also important to note that the  
10 bill builds in an educational period. I think we also  
11 could have some recommendations, too, on how to have  
12 some small business supports, like zero-dollar  
13 penalties, for example, on the first violation that  
14 ensures that we're moving businesses in the right  
15 direction but not being overly punitive in the first  
16 instance, and that might actually work in the long  
17 term better than a year education period. But again,  
18 I think we've been working in this space a long time.  
19 I think we have lots of ideas we'd love to share.

20 COUNCIL MEMBER MARTE: Great. And based on  
21 your experience when we were rolling out, whether  
22 it's SNAP or EBT cards citywide, what were some of  
23 the obstacles did you guys encounter for small  
24 businesses or big businesses to adopting those type  
25 of payment softwares?

2 ASSISTANT COMMISSIONER ORTIZ: Yeah, I  
3 think on the EBT side, I think that's typically... I  
4 know I've seen kind of when a consumer has been  
5 scammed in an EBT instance, that that's usually  
6 something more handled by HRA, so I'm not really as  
7 familiar with the software that we use, but I think  
8 if anything, it's something that we can make sure we  
9 speak with our colleagues about to gain that better  
10 understanding if we have to roll this out.

11 COUNCIL MEMBER MARTE: Okay. And does DCWP  
12 have the ability and resources to send educational  
13 materials to all the businesses that will be affected  
14 under this bill?

15 ASSISTANT COMMISSIONER ORTIZ: Well, I  
16 think we try to focus on... in terms of our outreach,  
17 we try to focus most immediately with our current  
18 licensees as a ready list that we can leverage. We  
19 work very closely with the Health Department as well  
20 as another mechanism for us to be able to reach folks  
21 too. I think on the outreach team, I certainly can  
22 try and be very creative in making sure we reach  
23 businesses. I should also mention too that, you know,  
24 VIP is now open to non-licensed businesses and that's  
25 going to be something we would fold into that

2 education as well so there's lots of different ways  
3 we can do it. I think in the FIS we put in as well,  
4 we did request an additional inspector. That's more  
5 on the enforcement side, but I didn't want to leave  
6 that unsaid either but, yeah, I think we have  
7 certainly the ideas and experience for implementation  
8 here.

9 COUNCIL MEMBER MARTE: Awesome. I  
10 appreciate your testimony, and I want to work with  
11 you to seeing this a reality. Thank you.

12 ASSISTANT COMMISSIONER ORTIZ: Thank you,  
13 Council Member.

14 CHAIRPERSON MENIN: Great. Thank you. I'm  
15 now going to read an opening statement from Majority  
16 Whip Brooks-Powers, who has joined us on Zoom, and  
17 then I'm going to ask a couple questions that she has  
18 submitted.

19 Thank you for holding this important  
20 hearing and for the opportunity to discuss my  
21 legislation, Intro. 1049. This bill addresses an  
22 unfair and often costly practice that too many  
23 consumers experience when purchasing gas. When a  
24 driver pays at the pump with a credit, debit, or a  
25 benefit card, gas stations frequently place a pre-

1 authorization hold, sometimes exceeding 100 dollars  
2 on their account. While this practice may protect  
3 merchants, it can have serious unintended  
4 consequences for consumers. For those using benefit  
5 cards, these holds can result in the permanent loss  
6 of funds if they are not released before the benefits  
7 expire. Last year, we heard from a constituent who  
8 used their benefit card to purchase just 20 dollars  
9 of gas, only to have 150 dollars held for three days.  
10 By the time the hold was lifted, the month had ended,  
11 and their benefits expired. That money was gone. No  
12 one should lose access to essential resources due to  
13 lack of transparency in payment processing. Intro.  
14 1049 would require gas stations to clearly disclose  
15 these pre-authorization holds before a transaction  
16 occurs. Consumers deserve to know when their funds  
17 might be temporarily inaccessible, and this bill  
18 ensures that transparency. I look forward to hearing  
19 from our panelists today and working with my  
20 Colleagues to advance this critical consumer  
21 protection.

22  
23 And now I'm going to go on to read the  
24 questions that Majority Whip Brooks-Powers has. The  
25 first one is, as my bill, Intro. 1049, is currently

2 drafted, DCWP would be able to determine what  
3 language is included in the notice posted in gas  
4 stations. One important element of this notice is to  
5 ensure consumers know that they can speak to a gas  
6 station attendant to avoid paying a pre-authorization  
7 hold. Would DCWP be willing to include this specific  
8 language through the rulemaking process if Intro.  
9 1049 is passed?

10 GENERAL COUNSEL SCHWENK: Yeah, thank you  
11 for that question, Council Member. I think we're more  
12 than happy to work with your team on both amendments  
13 to the bill during the redlining process, and as a  
14 part of that, very happy to talk about our rulemaking  
15 authority there. I think if we wanted some concept  
16 specific about the ability to avoid a pre-  
17 authorization hold, that may be something we want to  
18 put in the bill language itself and not leave to the  
19 chance of rulemaking, and then we could develop the  
20 specifics through the rulemaking process, but more  
21 than happy to incorporate that into it.

22 CHAIRPERSON MENIN: Okay, great. So just  
23 to be clear, so you'll follow up with the Majority  
24 Whip's team on that to discuss it directly with them?

2 GENERAL COUNSEL SCHWENK: Yeah,  
3 absolutely.

4 CHAIRPERSON MENIN: Great. Okay, terrific.  
5 Second question that she has is, while this bill  
6 focuses on gas stations, pre-authorization holds are  
7 also common at hotels, rental car companies, and  
8 other businesses. Does the Administration see value  
9 in expanding this bill to require disclosure across  
10 all industries where pre-authorization holds are  
11 used?

12 ASSISTANT COMMISSIONER ORTIZ: I think,  
13 you know, I think admittedly, we came prepared to  
14 talk about the category of businesses defined here. I  
15 think, you know, this is something we'd certainly be  
16 open to in supporting the intent behind. I'm not as  
17 familiar, actually, with that happening in other  
18 industries, so I think if folks did testify to that,  
19 that's something we definitely have to look at. And  
20 let me say again from the top as well, that we are in  
21 agreement with the Majority Leader that folks who  
22 have money, they should be able to use that money and  
23 shouldn't be held back from them so I think we want  
24 to work with the Majority Leader on this bill. In  
25 terms of more categories, I don't know. I think if

2 they have more information for us to look into, I  
3 think that'd be very helpful to understand.

4 CHAIRPERSON MENIN: Okay. Great. Just to  
5 clarify the Majority Whip, but thank you so much.  
6 That's wonderful. We will make sure that she knows  
7 that.

8 The last one is, given the significant  
9 impact on individuals using government benefits, what  
10 additional measures can be taken to protect low-  
11 income New Yorkers from losing access to their funds  
12 due to delayed hold releases?

13 ASSISTANT COMMISSIONER ORTIZ: Yeah. I  
14 think for us, one thing to note is I know we always  
15 work very closely with the Law Department on these  
16 sort of bills. I think in terms of regulating any of  
17 these spaces, we want to make sure that we bring them  
18 in the conversation as well. They have a lot of  
19 expertise for us here that we can use to make sure  
20 we're tightening up any language for these bills.

21 GENERAL COUNSEL SCHWENK: I would also  
22 just add to that. I think we've already had some  
23 ideas on how we'd like to, I think, improve some of  
24 the language in the bill to broaden both the  
25 disclosure aspect here to make sure all consumers who

2 are using gas stations can see and access this  
3 language prior to making the transaction. That could  
4 be a piece that would assist in furthering the goals  
5 of this bill to make sure consumers know before  
6 swiping their card what's going to happen on the back  
7 end.

8 CHAIRPERSON MENIN: Okay. Great. Thank you  
9 so much.

10 All right. So, I'm going to continue now  
11 with my questions, which go back to consumer  
12 complaints, so when does a consumer complaint about a  
13 violation of the consumer protection law escalate to  
14 an investigation or to a broader-based enforcement  
15 action?

16 ASSISTANT COMMISSIONER ORTIZ: I think in  
17 general, when we have individual complaints coming in  
18 from a complainant, I think our first step is to kind  
19 of triage that, understand the intake process that it  
20 requires. Should that be referred directly out for an  
21 inspection? Should that be referred to a mediator?  
22 And do we have the appropriate information to do  
23 either one? And then I think in any point, if we  
24 start seeing patterns of complaints, multiple  
25 complainants coming in about a particular business,



1 that's when we, I think, would trigger an  
2 investigator and attorney action at that point.

3  
4 CHAIRPERSON MENIN: And what types of  
5 proactive investigations has the agency done in this  
6 sphere?

7 ASSISTANT COMMISSIONER ORTIZ: Yeah. So, I  
8 think, you know, last year, we did have a number of  
9 major cases that we were able to resolve. There were  
10 certainly proactive instances of us engaging with  
11 violations that we were observing. Last year, we did  
12 announce a major settlement with 26 Motors, which is  
13 a secondhand auto dealer that secured about 1.8  
14 million in restitution and penalties. We also  
15 received the default judgment of 3.7 million with  
16 respect to Dorm to Dorm, which is a moving company.  
17 And then the last piece, we announced about 700,000  
18 in restitution penalties related to RGRTs for really  
19 deceptive and terrible business activity, too.

20 CHAIRPERSON MENIN: Okay.

21 GENERAL COUNSEL SCHWENK: Yeah. I would  
22 just add, Council Member, on the Dorm to Dorm case,  
23 you know, I think that's a good example of what  
24 Carlos just explained about our complaints process.  
25 Our Consumer Services and Mediation Team noticed a

2 pattern, a kind of big jump in complaints about this  
3 specific business, and that was referred to attorneys  
4 within my division, our agency, who took a closer  
5 look and found a real problem occurring there,  
6 contacted the consumers, and was able to bring this  
7 case and receive, you know, a large money judgment  
8 there, and so I think it's a pretty good example of  
9 kind of how that process works from complaint  
10 submission to a lawsuit.

11 CHAIRPERSON MENIN: Okay. And can you talk  
12 a little bit about the fact that there has been a  
13 very significant increase in tobacco and e-cigarette  
14 retail inspections, particularly related to  
15 enforcement against unlicensed cannabis stores?

16 GENERAL COUNSEL SCHWENK: Yeah. Thank you  
17 for the question, Council Member. Yeah, I think, you  
18 know, over the last couple of years, I think all of  
19 us in our communities have seen a proliferation of  
20 smoke shops and businesses selling tobacco, and I  
21 think the City and Administration as a whole has  
22 responded to that with enforcement. DCWP has been a  
23 part of that. As I'm sure you know, we're a part of  
24 the task force that's focused on this issue, and so I  
25 think that has resulted in at least a focus of

2 enforcement efforts in that space. Of course, we  
3 license tobacco retail dealers and electronic  
4 cigarette retail dealers, and so we always have an  
5 eye on compliance with those laws and rules in any  
6 year but, in response to recent trends, we have taken  
7 a closer look.

8 ASSISTANT COMMISSIONER ORTIZ: And I would  
9 say, too, prior to the Mayor being able to secure  
10 greater enforcement authority on these unlicensed  
11 cannabis stores, I think it was really kind of a  
12 creative mechanism we were able to utilize to  
13 recognize that these stores were also selling  
14 products that were governed by our laws and rules.  
15 They were also selling cigarettes, also selling  
16 vapes, and we were able to leverage our enforcement  
17 authority when there was sort of a gap happening at  
18 the State. And even prior to the task force taking a  
19 bigger role in this space and being able to, I think  
20 it was opening or beginning their Operation Padlock  
21 to Protect, we also ourselves independently were able  
22 to seal, I think, over 160 of these illegal stores  
23 using our own authority so I think we figured out a  
24 way to make sure that we can contribute, and

1 particularly on the route to the greater authority  
2 the City secured.

3  
4 CHAIRPERSON MENIN: What about the  
5 cashless establishments? How is the agency enforcing  
6 the prohibition on cashless establishments?

7 ASSISTANT COMMISSIONER ORTIZ: So, when  
8 the cashless ban took effect in 2020, I think our  
9 first approach there was education first,  
10 particularly, you know, just leaving the pandemic,  
11 and I think whenever we noticed through complainants  
12 or our own observations that business was violating  
13 the cashless ban, we would begin first with cease and  
14 desist letters, and then if we continued receiving  
15 complaints, we would send out inspectors as well. And  
16 in certain cases, there were some pretty egregious  
17 recidivist violators of the law. I think Van Leeuwen  
18 Ice Cream was one of them that we were able to have a  
19 good judgment against, and that was certainly our  
20 initial posture there. Over the past eight months, I  
21 think, while we have seen complaints overall  
22 decrease, we have, I think, also begun incorporating  
23 the cashless prohibition more and more into each of  
24 our inspections so it's something that just an  
25 inspector will look for right away when they're going

2 through the inspection checklist and will issue a  
3 summons right away if they observe a violation.

4 CHAIRPERSON MENIN: Did you have something  
5 else to add? No. Okay.

6 So, our analysis of agency data indicates  
7 that DCWP has been mediating fewer consumer  
8 complaints each year since 2016 so I wanted to dig in  
9 and understand why that is so. What do you attribute  
10 that to?

11 ASSISTANT COMMISSIONER ORTIZ: On the one  
12 hand, I think there are certain data differences that  
13 make it difficult to compare apples to apples between  
14 now and 2016. Certainly, I think when you're, at the  
15 time, intaking and triaging and what complaint gets  
16 assigned to mediator versus now perhaps an invalid  
17 complaint or a complaint with insufficient  
18 information would not be assigned to mediator and  
19 hence would not fall under the captured data. That  
20 said, I don't want to discount that we probably have  
21 had a decrease in mediated complaints and we have  
22 ourselves been working and thinking of how we can be  
23 more accessible to taking in complaints, and I think,  
24 for example, our new DCWP portal is a great example  
25 of that and has led to an increase of mediated

2 complaints since last year, and I think Andy can add  
3 more about what the portal has done to be a better  
4 tool for New Yorkers.

5           GENERAL COUNSEL SCHWENK: Yeah. On the  
6 portal specifically, to start with, I want to  
7 encourage anybody who does have a consumer complaint  
8 to please go to our website and use the portal. It  
9 was developed with this very issue in mind. The  
10 portal allows individual modules for different types  
11 of categories of complaint to make sure that the  
12 consumer is able to submit information that needs to  
13 be submitted for DCWP to take action, and that's  
14 always a problem we face is ensuring that the  
15 complaints we receive actually have information that  
16 allow us to take action on them, whether it be  
17 through mediation or ultimately an inspection, and  
18 the portal is a great tool for that, and we are  
19 watching the numbers and are open to making tweaks to  
20 that to improve it even further in the future, and I  
21 would add that launched in July of 2023 so it's  
22 something that we're regularly monitoring right now.

23           And I guess sort of on the larger  
24 question about data, I would just add we were able to  
25 review the Committee report this morning, and I think

2 at least some of the data presented there on consumer  
3 mediations may be dated because of our database  
4 rollover that occurred in 2023 so the data cuts off,  
5 I think, mid-2023. We do have updated data, of  
6 course, happy to share that any time. And I think for  
7 2023 and '24, the number of mediated consumer  
8 complaints is up a little bit above 2,000, back to  
9 kind of the levels it was at closer to pre-COVID so I  
10 think to Carlos' earlier points, it's always tough to  
11 do an apples-to-apples comparison with this data, but  
12 we are always proud of what we have mediated in this  
13 space.

14 CHAIRPERSON MENIN: Okay. And look, the  
15 portal is great. I still remain concerned, though,  
16 about the mediation numbers, and I guess the question  
17 which I always go back to is resources, is would you  
18 attribute that to the agency needing more staff,  
19 because you're being asked, as I've said again and  
20 again, to do all the time more with less.

21 ASSISTANT COMMISSIONER ORTIZ: Yeah, I  
22 think, no, I know you are a passionate advocate for  
23 this agency, and I appreciate the resources question  
24 in this aspect. I think it would be premature for us  
25 to say right now if this is a resource question. I

2 think we are tackling ourselves to make sure we  
3 understand these complaint trends and how we can get  
4 mediated complaints up to previous levels. I think a  
5 number I saw was around, there were 3,000-plus  
6 mediated complaints in 2016. I think right now we're  
7 at 2,200 about. To me, I think I really want to  
8 understand what brought us down there before saying  
9 if we needed more resources or not.

10 CHAIRPERSON MENIN: Okay. The last  
11 question I have is in regard to Intro. Number 374.  
12 You had mentioned in your testimony that you were  
13 concerned that if the businesses were required to put  
14 a sign up about the minimum purchase, that that could  
15 be onerous for small businesses so does the agency  
16 have alternatives that they recommend because if this  
17 law is going to be enacted, obviously you want to  
18 make sure consumers know about this. So how could  
19 consumers know about it if there's no sign present  
20 when they pay?

21 ASSISTANT COMMISSIONER ORTIZ: So, I think  
22 for us, we would certainly think about how we could  
23 incorporate the prohibitions in Introduction 374 into  
24 our existing disclosure requirements on credit card  
25 limitations. I think just adding a second sign, I



2 know it's a frequent feedback loop that we receive  
3 from businesses that there's just a lot of  
4 disclosures they have to put up, and it at times can  
5 even be a little bit disorienting on the consumer  
6 side of things. That's why we're thinking we're kind  
7 of like integrating some of this stuff into one sign.  
8 But then I think Andy also has something he'd like to  
9 add to about credit card uses in general in the city.

10 GENERAL COUNSEL SCHWENK: Yeah. I think  
11 some of our concern just stems from the fact that  
12 there is already a requirement to post credit card  
13 limitations in businesses, and that's something that  
14 we're always on the lookout for. We enforce it in all  
15 of our retail inspections. And that does let the  
16 consumer know that any type of limitation, whether it  
17 be a dollar amount or certain types of credit cards,  
18 you know, we only take Visa, MasterCard, whatever the  
19 case is, those policies do need to be posted so the  
20 consumer knows about them, and so an additional broad  
21 signage mandate here could be burdensome. And I think  
22 I'd also add we'd be interested in, you know, of  
23 course, working with Council during the redlining  
24 process. I think some of the language in the current  
25 draft of the bill may be overly broad in that it

2 applies to every business that is doing retail in the  
3 city, whether or not it has a credit card minimum  
4 requirement at all so I think some of these issues  
5 that I think we can work through. And then finally, I  
6 would add that there's a new State law, a newish  
7 State law, that was passed last year that requires  
8 businesses to post the total price for using a credit  
9 card so that both kind of hits on credit card  
10 limitations and also price transparency issues where  
11 we want to ensure that consumers are not caught off  
12 guard and charge a higher price for using that card.  
13 That State law, as I said, was passed in 2024, and  
14 we're in the process of implementing it right now,  
15 and DCWP will be enforcing it soon so I think there's  
16 a lot going on in this space and a lot of good  
17 protections for consumers that we're sort of already  
18 focused on.

19 ASSISTANT COMMISSIONER ORTIZ: I think our  
20 goal would definitely be for our existing  
21 regulations, 374, the credit card surcharge, to work  
22 together in tandem holistically and, yes, I think  
23 there will soon be rulemaking that we welcome your  
24 offices all being able to participate in as well.

2 CHAIRPERSON MENIN: Great. Thank you. I  
3 just want to mention we've been joined by additional  
4 Colleagues, Council Member Krishnan, Council Member  
5 Brewer.

6 I once again want to open it up to my  
7 Colleagues for any questions that they might have.

8 Council Member Brewer.

9 COUNCIL MEMBER BREWER: I'm obviously  
10 going to say thank you for your amazing work with the  
11 newsstand on 79th Street. I can't tell you how much  
12 joy people have on seeing Sammy return, much thanks  
13 to you.

14 My question is just generally on  
15 newsstands, because you do supervise them or oversee  
16 them. There are some now that are literally selling  
17 only telephones, and, you know, nothing to do with  
18 newsstands, you can't do anything else. My question  
19 is how much force staff is focused on that. I love  
20 newsstands. They're part of New York, and they  
21 obviously can't make money on the news business, and  
22 so how are we sort of thinking about newsstands today  
23 in 2025? Is that something that has come up? Is that  
24 something you're thinking about, etc.? We don't want  
25 them to break the law, but if the law doesn't make

2 any sense, then should we be doing something  
3 different? I don't know, but this one newsstand I'll  
4 bring to your attention has more telephones, an  
5 illegal product, than exists in many places.

6 ASSISTANT COMMISSIONER ORTIZ: Thank you  
7 for the question, Council Member. I think in terms of  
8 your... one of the first parts of the question of our  
9 staff capacity, we generally in our enforcement team  
10 have about... I'm sorry, I'm going to do quick math  
11 here, it looks to me a little bit close to over 40  
12 inspectors. Twenty-three of those are really focused  
13 on the borough enforcement, which is some of the  
14 patrol work that we do and in response to complaints.  
15 I think if we're seeing any newsstands engaging in  
16 illegal activity, we'd be happy to take a look at  
17 them and route an inspector in that direction. I  
18 think your underlying point is a good one, that there  
19 are limitations in terms of what can be sold that are  
20 in local law. I think at any point we're happy to  
21 engage in that conversation with the Council in  
22 seeing what makes sense, particularly for the 21st  
23 century.

24

25

2 COUNCIL MEMBER BREWER: I assume that  
3 there are fewer newsstands than there have been in  
4 the past. Is that a correct statement? Do you know?

5 ASSISTANT COMMISSIONER ORTIZ: I think  
6 that is correct. Just based on my experience in some  
7 of the space, I think we're somewhere around 200 or  
8 300 newsstands. I think historically that was way  
9 higher. It's an interesting industry. I think it  
10 certainly has different aspects that could be  
11 addressed.

12 COUNCIL MEMBER BREWER: I think the eyes  
13 and ears are often on the street, and they're very  
14 supportive of pedestrians and pedestrian traffic. Go  
15 ahead. What can we do to keep the pedestrian eyes on  
16 the street, make them able to make a living, etc.?  
17 It's not a big issue, but for those of us in  
18 Manhattan, it has a lot of support.

19 ASSISTANT COMMISSIONER ORTIZ: I think for  
20 your point about the particular newsstand we're able  
21 to assist with, I'm glad we were able to cut through  
22 some of the red tape and really get to the bottom of  
23 what was a complicated case. I think many newsstands  
24 do end up being in Manhattan, so perhaps maybe why  
25 they're more beloved in this particular borough. For

2 us, sorry, 333 newsstand licenses. We're happy to  
3 talk through this more.

4 COUNCIL MEMBER BREWER: Okay. Thank you  
5 very much.

6 CHAIRPERSON MENIN: Thank you. That  
7 concludes our questions for the Administration. Thank  
8 you so much. We really appreciate it.

9 Now I'm going to open up the public  
10 comment period. I first of all want to remind members  
11 of the public this is a formal government proceeding  
12 and that decorum shall be observed at all times. As  
13 such, members of the public shall remain silent at  
14 all times.

15 The witness table is reserved for people  
16 who wish to testify. No video recording or  
17 photography is allowed from the witness table.  
18 Further, members of the public may not present audio  
19 or video recordings as testimony, but they may submit  
20 transcripts of such recordings to the Sergeant-at-  
21 Arms for inclusion in the hearing record.

22 If you wish to speak at today's hearing,  
23 please fill out an appearance card with the Sergeant-  
24 at-Arms and wait to be recognized. When recognized,  
25 you will have two minutes to speak on today's hearing

2 topic, which is Consumer Financial Experiences in the  
3 Retail Industry and Introductions 374, 1049, and  
4 1097.

5 If you have a written statement or  
6 additional written testimony that you wish to submit  
7 for the record, please provide a copy of that  
8 testimony to the Sergeant-at-Arms. You may also email  
9 written testimony to testimony@council.nyc.gov within  
10 72 hours of this hearing. Audio and video recordings  
11 will not be accepted.

12 I am now going to call the first panel.  
13 Stephen Rivera, Andrew Winakor, and Ben Thomas, if  
14 you could please come up.

15 Thank you. Just identify yourself,  
16 please. You can begin. Thank you.

17 ANDREW WINAKOR: Sure. Andrew Winakor.

18 CHAIRPERSON MENIN: Let me just ask, so  
19 Stephen Rivera and Ben Thomas, Ron Thomas are not  
20 here?

21 RON THOMAS: Ron Thomas. You said Ben.  
22 Ron.

23 CHAIRPERSON MENIN: Ah, sorry. I'm sorry.  
24 I couldn't read it. Ron Thomas. Sorry about that.  
25 Please come forward. Thank you so much. And Stephen

2 Rivera is not here. Okay. Thank you. Please begin.

3 Thanks so much.

4 ANDREW WINAKOR: My name is Andrew  
5 Winakor. I'm the President of ProHealth Connect.  
6 We're a healthcare fintech platform that supports  
7 independent retailers in their acceptance of OTC and  
8 grocery benefits.

9 Implementing legislation that mandates  
10 retailers to accept over-the-counter and grocery  
11 benefit cards, also known as flexible benefit cards,  
12 can significantly address issues related to food  
13 insecurity, enhance access to culturally appropriate  
14 foods, and improve health outcomes through culturally  
15 connected diets. Food insecurity affects millions,  
16 limiting consistent access to nutrition food. By  
17 requiring retailers to accept OTC and grocery benefit  
18 cards, beneficiaries can utilize their health plan  
19 allowances to purchase essential groceries, thereby  
20 reducing hunger and promoting better nutrition. For  
21 58 percent of multicultural Americans, food plays a  
22 crucial role in connecting them with their cultural  
23 heritage. This sentiment is particularly pronounced  
24 among Asians and Hispanics. Consequently, these  
25 consumers actively seek food products and brands that



2 facilitate this connection for the preservation of  
3 their heritage. Access to culturally relevant foods  
4 is vital for diverse communities. Initiatives such as  
5 GrowNYC's OTC Network have partnered with health  
6 insurance companies to allow individuals to use their  
7 OTC benefits at local markets, enabling the purchase  
8 of fresh, locally sourced produce that aligns with  
9 cultural dietary preferences. This approach not only  
10 supports nutritional needs, but also respects  
11 cultural food practices. Access such as this needs to  
12 be expanded. Consuming culturally familiar foods can  
13 lead to improved health outcomes. The Food is  
14 Medicine movement emphasizes the inclusion of  
15 nutritious food as part of healthcare coverage,  
16 equating its importance to that of prescription  
17 drugs. Access to healthy food is critical for  
18 preventing and managing diet-related chronic  
19 diseases, which affect a significant portion of the  
20 population and result in substantial healthcare  
21 costs. Access to culturally connected foods has been  
22 shown to improve health outcomes through various  
23 clinical studies. (TIMER CHIME)

24 CHAIRPERSON MENIN: If you could please  
25 just wrap up.

2                   ANDREW WINAKOR: Sure. Integrating  
3 culturally relevant dietary practices into health  
4 interventions can enhance acceptance and  
5 effectiveness, particularly in managing chronic  
6 diseases.

7                   In summary, requiring retailers to accept  
8 flexible cards can play a crucial role in reducing  
9 food insecurity, providing access to culturally  
10 appropriate foods, and enhancing outcomes through  
11 diets that honor cultural traditions. Thank you.

12                  RON THOMAS: Good afternoon, everyone. My  
13 name is Ron Thomas. I'm the District Leader for the  
14 65th Assembly District Part B, and I'm here to speak  
15 on behalf of the many of my aging members of my  
16 district in regards to having the over-the-counter  
17 bill passed. I had a kidney and pancreas transplant  
18 in 2018 because I had a failing kidney due to my  
19 diabetes being out of control. That being said, since  
20 then, I've been in the best health of my life, thank  
21 God for the over-the-counter program. I tried the  
22 vegan diet, but I love a good fish, so that didn't  
23 work out. I'm here because a lot of my constituents  
24 have either issues with getting around in their  
25 wheelchairs, so they would have been here today, but

1 they're older. We're all getting older. So on behalf  
2 of that, I have to travel all the way to Stop-and-  
3 Shop by Broccoli Center to get groceries, which we  
4 can have Whole Foods or Trader Joe's or our nearby,  
5 what they call them, the bodegas to accept the over-  
6 the-counter card. It's been imperative for me to  
7 change my diet, which I have, but as we know, eggs  
8 are like 9 dollars now for a dozen. I've actually  
9 paid \$9.74 for a box of strawberry banana Cheerios,  
10 which was incredible so we ask that the bill be  
11 passed as an initiative, or this is a wellness  
12 program that a lot of insurance companies want to see  
13 people that have preventable diseases or diseases  
14 that can be controlled. Being in the healthcare  
15 industry with my doctors and dealing with them, their  
16 greatest challenge is saying that dealing with people  
17 that have diseases that can be treated or that can be  
18 controlled, such as diabetes and high blood pressure,  
19 so I'm asking the board if we can please consider  
20 passing the Use It or Lose It bill. You have one  
21 chance to use it. You get the money per month. Some  
22 agencies like Humana or Health First, they get it  
23 every quarter, every three months, but it's a huge  
24 benefit for the community and for people like myself  
25

2 that have preexisting conditions or that are trying  
3 to deal with leading a healthier lifestyle. (TIMER  
4 CHIME) Thank you.

5 CHAIRPERSON MENIN: Thank you very much.  
6 Any questions for this panel?

7 Council Member Marte.

8 COUNCIL MEMBER MARTE: Yeah, one question.  
9 What is the cost for a business to accept this form  
10 of payment?

11 ANDREW WINAKOR: In most instances, it  
12 doesn't cost the business anything. The only time  
13 they generally would pay is the equivalent to like  
14 credit card processing fee when there's actual  
15 purchases made at the store.

16 COUNCIL MEMBER MARTE: Great. Thank you.  
17 And thank you, Ron.

18 CHAIRPERSON MENIN: (INAUDIBLE) today.  
19 Thank you.

20 So, if we've inadvertently missed anyone  
21 who's registered to testify today and is yet to be  
22 called, please speak with a Sergeant or if you are  
23 remote, use the Zoom hand function and you'll be  
24 called in the order that your hand has been raised.

2 Okay. Seeing no additional hands raised,  
3 I'm going to close the hearing. Thank you all so much  
4 for being here. [GAVEL]

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C E R T I F I C A T E

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



Date February 14, 2025