

New York State Coalition for Adult Home Reform

Memorandum in Support (A8701 Gottfried / S5155 Golden) June 2007

An ACT to amend the social services law, the state finance law and the mental hygiene law, in relation to the appointment of a temporary operator or voluntary receiver of adult care facilities, death and felony crime reports, ban on admissions and approval of applications for establishment of adult care facilities.

Thirty years ago, Deputy Attorney General Charles J. Hynes published the first of many government reports that found serious deficiencies in the living conditions and services available to people living in adult homes. Since then, the adult home industry has struggled with problems and scandals. In response, the Legislature has passed laws improving oversight and increased funding for adult homes in order to improve quality of life and living conditions in adult homes.

The 2007 budget enacted by the Legislature and approved by the Governor sustains this tradition through continued funding for annual grant programs to improve quality of life in adult homes. The 2007 budget also includes provisions to improve the quality of food service in adult homes and provide air conditioning in resident rooms. Food and air conditioning are essential to the health of people living in adult homes and these are welcome additions.

A8701/S5155 is a good complement to the adult home initiatives that were part of the 2007 budget. This legislation contains many provisions that will improve oversight and strengthen the rights of residents in adult homes. Some of the key provisions include:

1. Certification of adult home administrators by the Department of Health (DOH). This is an important protection for people living in adult homes. The quality of life in adult homes is greatly affected by the administrator working in the home. Certification will enable the Department to take action against an adult home administrator that is incompetent or unscrupulous.
2. Prohibiting new admissions to an adult home found to be dangerous to the health, safety or welfare of residents. People moving into adult homes are usually very vulnerable. Many are discharged from hospitals after having become homeless. They should not be admitted to any place that would further endanger their health or welfare.

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3. Increased fines for repeat violations. An adult home operator can currently avoid fines for most violations by rectifying the violations within 30 days. Many homes receive repeated citations for the same recurring problems, sometimes over a period of months and even years. This provision would provide a strong incentive for operators to seek lasting solutions to chronic problems. This would also make DOH's authority over adult homes consistent with its authority over other long-term care models.
4. Authorizing residents to designate a resident representative and a legal representative. This extends the same right that people in assisted living residences have to people living in adult homes.
5. Requiring that people living in adult homes be fully informed about treatment and medication and giving them the right to choose their own health care providers and to refuse treatment or medication. There is no reason that people living in adult homes should be denied this basic right.

While we support this bill, we had hoped that the following resident protections would be included:

1. Require a more thorough and public review of character and competence of operators of adult homes. This legislation does not require character and competence review through the Public Health Council. All other providers of publicly funded health and mental health services and/or housing undergo character and competence review through a public council.
2. Prohibit illegal lockouts. Some adult home operators continue to use hospitalizations, rather than legal proceedings, as a way to remove residents. As a result, people remain in hospitals longer than they need to. This is a violation of resident rights and results in increased Medicaid costs. Legislation is needed to clarify that homes must take residents back from the hospital once the hospital determines they are ready for discharge.
3. Ban on Trafficking in residents. Some adult homes pay head hunters to recruit residents from psychiatric units of hospitals in order to fill beds. This practice provides a monetary incentive to steer residents with psychiatric disabilities toward specific adult homes, rather than to provide them with alternatives. Legislation is needed to prohibit adult homes engaging in this practice.

We ask that you add these provisions to A8701/S5155.