§ 461-e. Records and reports. 1. Every adult care facility shall maintain, as public information available for public inspection under such conditions as the department shall prescribe, records containing copies of the most recent inspection report pertaining to the facility that has been issued by the department or social services district or to the facility.

2. Pursuant to the provisions of article six of the public officers law, the department shall make available for public inspection copies of all inspection reports of adult care facilities issued by the department.

3. Every adult care facility shall:

(a) Post in a prominent position in the facility so as to be accessible to all residents and to the general public, a summary of the most recent inspection of such facility performed by the department or a social services district.

(b) Provide to any resident and each applicant for admission an opportunity to review the most recent inspection report pertaining to and issued by the department or social services district to such facility.

4. (a) Each adult home and residence for adults except those operated by a social services district shall file an annual financial statement with the department on or before the fifteenth day of the sixth calendar month after the close of the facility's fiscal year for which such report is due, upon forms prescribed by the department and in compliance with the regulations of the department. Such statement shall clearly set forth all financial information pertaining to the operation of such facility in accordance with generally accepted accounting principles, including but not limited to the following:

(i) revenues and expenses by categories during such fiscal year.

(ii) a balance sheet of the facility as of the end of such fiscal year, setting forth assets and liabilities at such date, including all capital, surplus, reserve, depreciation and similar accounts.

(iii) a statement of operations of the facility for such fiscal year, setting forth all revenues, expenses, taxes, extraordinary items and

other credits or charges.

(iv) the name and address of each of the following persons:

(1) the operator of the facility;

(2) any person who, directly or indirectly, beneficially owns any interest in the land on which the facility is located;

(3) any person who, directly or indirectly, beneficially owns any interest in the building in which the facility is located;

(4) any person who, directly or indirectly, beneficially owns any interest in any mortgage, note, deed of trust or other obligation secured in whole or in part by the land on which or building in which the facility is located; and

(5) any person who, directly or indirectly, has any interest as lessor or lessee in any lease or sub-lease of the land on which or the building in which the facility is located.

(v) if the facility or any person named in response to subparagraph (iv) of this paragraph is a partnership, then the name and home address of each partner.

(vi) if the facility or any person named in response to subparagraph (iv) of this paragraph is a corporation, other than a corporation whose shares are traded on a national securities exchange or are regularly quoted in an over-the-counter market or which is a commercial bank, savings bank or savings and loan association, then the name and address of each officer, director, and each principal stockholder and controlling person of such corporation.

(vii) if any corporation named in response to subparagraph (iv) of this paragraph is a corporation whose shares are traded on a national securities exchange or are regularly quoted in an over-the-counter market or which is a commercial bank, savings bank or savings and loan association, then the name and address of the principal executive officers and each director and, if known, each principal stockholder of such corporation.

(viii) if the facility paid or received an aggregate of five hundred dollars or more during the fiscal year in connection with transactions with any person named in response to subparagraph (iv), (v), (vi) or (vii) of this paragraph or any affiliate of said person, a description of the transactions, naming the parties thereto and describing the relationships which require the transactions to be described and the

goods, services, payments or other consideration received by each party to the transactions. Such facility must make available to the department, when requested, adequate documentation to support the costs involved including access to books and records related to such transactions.

(ix) if known, the nature and amount of any interest in, or relationship with, any other adult care facility, held by any person named in response to subparagraph (iv) of this paragraph, or by any affiliate of such person.

(x) the following definitions shall be applicable to this paragraph and to any reports filed pursuant to this paragraph:

(1) "affiliate" means:

(A) with respect to a partnership, each partner thereof;

(B) with respect to a corporation, each officer, director, principal stockholder and controlling person thereof;

(C) with respect to a natural person (a) each member of said person's immediate family, (b) each partnership and each partner thereof of which said person or any affiliate of said person is a partner, and (c) each corporation in which said person or any affiliate of said person is an officer, director, principal stockholder or controlling person;

(2) "controlling person" of any corporation, partnership or other entity means any person who has the power, directly or indirectly, to significantly influence or direct the actions or policies of such facility. Neither the department nor any employee of the department shall, by reason of his or her official position, be deemed a controlling person of any corporation, partnership or other entity;

(3) "immediate family" of any person includes each parent, child, spouse, brother, sister, first cousin, aunt and uncle of such person whether such relationship arises by reason of birth, marriage or adoption;

(4) "principal stockholder" of a corporation means any person who beneficially owns, holds or has the power to vote, ten percent or more of any class of securities issued by said corporation.

(xi) together with such other information as may be required by the department.

Such statement shall be accompanied by an opinion signed by an

independent licensed accountant that such financial statement represents the financial operations and position of the facility, except such opinion shall not be required for facilities with a capacity of nine or less.

(b) The department shall accept in full satisfaction of the provisions of this subdivision from operators of adult homes and residences for adults who are required to submit an annual report as a charitable organization to the secretary of state of the state of New York or are required to submit to the commissioner of the New York state department of health an annual report of residential health care facilities, a certified copy of such report and upon request from the department an uncertified copy of the financial statement required to be filed with the department pursuant to the provisions of this subdivision.

(c) The department may examine the books and records of any adult home or residence for adults to determine the accuracy of the annual financial statement or for any other reason deemed appropriate by the department to effectuate the purposes of this section.

(d) The department shall perform on a selected sample of adult homes and residences for adults, a financial audit as part of the inspection procedure.

(e) Each enriched housing program shall file financial statements with the department on at least an annual basis, in accordance with regulations.

5. The department may promulgate regulations which require each adult care facility to maintain the following written records and any other such records, under such conditions and for such time, as may be prescribed pursuant to such regulations: (i) a chronological admission and discharge register consisting of a listing of residents registered in and discharged from such facility by name, age, race or ethnicity, sex of resident, and place from or to which the resident is registered or discharged, (ii) a daily census record, (iii) a personal non-medical record for each resident, including but not limited to, identification of his or her next-of-kin, family and sponsor, the name and address of the person or persons to be contacted in the event of an emergency, and all details of the referral and registration and non-medical correspondence and papers concerning the resident, (iv) a financial

record for each resident, including but not limited to, copies of all agreements, resident account records and a current inventory of personal property being held by the operator.

6. No facts and information retained as part of individual resident records by an operator of an adult care facility may be released to anyone other than the resident, the resident's next-of-kin or authorized representative of the resident, the operator, his employees or agents, or an employee or designee of the department without the written permission of the resident.

7. Nothing contained in this section shall be construed or deemed to require the public disclosure of confidential medical, social, personal or financial records of any resident. The department shall adopt such regulations as may be necessary to give effect to the provisions of this section and to preserve the confidentiality of medical, social, personal or financial records of residents.

8. Nothing contained in this section shall be construed or deemed to require the disclosure of the names and addresses or other information that would identify or tend to identify persons who file complaints with the department concerning the operation of adult care facilities. This shall apply to all complaints, regardless of whether the department is able to substantiate the complaint. Such information shall be deemed to be confidential and shall only be made available to a district attorney or police officer conducting a criminal investigation or prosecution relating to an adult care facility and only upon the written request of the investigating officer or district attorney; or to a court or to the presiding officer of an administrative proceeding and the parties to such proceeding if, with the consent of the persons providing such information, it is to be utilized by the department or any other state or local agency or subdivision in such proceeding. If a party is not provided with the identity of a person providing information in accordance with the provisions of this section, the fact that such confidential report was made shall in no way be relied upon by any court or presiding officer of an administrative proceeding in the course of reaching a determination in such proceeding. The department shall,

consistent with the provisions of this section, adopt such regulations as may be necessary to preserve the confidentiality of persons making such complaints.