§ 461-g. Termination of admission agreements. 1. No adult home, residence for adults or enriched housing program which is subject to certification and supervision of the department shall terminate the admission agreement of any resident of such facility and involuntarily discharge him therefrom except for the following reasons:

(a) the need of the resident for continual medical or nursing care which the adult home, residence for adults or enriched housing program cannot provide;

(b) behavior of the resident which poses imminent risk of death or imminent risk of serious physical harm to such resident or any other person;

(c) failure of the resident to make timely payment for all authorized charges, expenses and other assessments, if any, for services including use and occupancy of the premises, materials, equipment and food which the resident has agreed to pay pursuant to the resident's admission and services agreement;

(d) repeated behavior of the resident which directly impairs the well-being, care or safety of the resident or any other resident or which substantially interferes with the orderly operation of the facility;

(e) the facility has had its operating certificate limited, revoked or temporarily suspended pursuant to subdivision four of section four hundred sixty-d of this article, or the operator has voluntarily surrendered the operating certificate for the facility to the department; or

(f) a receiver has been appointed pursuant to the provisions of section four hundred sixty-one-f of this article and, as required by such section, is providing for the orderly transfer of all residents in the facility to other facilities or is making other provisions for the residents' continued safety and care.

2. (a) No admission agreement shall be terminated and no resident of an adult home, residence for adults or enriched housing program involuntarily discharged for the reasons stated in paragraphs (a), (b), (c), (d) or (e) of subdivision one of this section unless: (i) the operator gives at least thirty days written notice, on a form prescribed by the department, to the resident, the resident's next of kin and the

person designated in the admission agreement as the responsible party, if any, that the resident's admission agreement will be terminated and the resident discharged; (ii) such notice contains the reason for the termination of the admission agreement, the date that the discharge will occur, a statement that the resident has a right to object to the termination of the resident's admission agreement and subsequent discharge, and a statement that if the resident does not leave the facility voluntarily, the operator, in order to terminate the admission agreement and discharge the resident, will be required to originate a proceeding pursuant to the provisions of section four hundred sixty-one-h of this article; (iii) the operator furnishes to the resident a list of free legal services agencies within the facility's geographical area and a list of other available community resources which provide resident advocacy services, including the social services district, which lists shall be provided to the operator by the department; and (iv) the operator institutes a special proceeding in accordance with the provisions of section four hundred sixty-one-h of this article.

(b) No admission agreement shall be terminated and the resident of an adult home, residence for adults or enriched housing program involuntarily discharged for the reason stated in paragraph (c) of subdivision one of this section, if the reason that the resident failed to pay the authorized charges was an interruption in the receipt by such resident of any public benefits to which such resident is entitled, unless the operator of the facility, during the thirty day notice period provided for in subparagraph (i) of paragraph (a) of this subdivision, as part of the provision of case management services, assists the resident, who shall cooperate with the operator, in attempting to obtain such public benefits or any supplemental public benefits which are available to persons who have not received their regular public benefits.

(c) The admission agreement of a resident in an enriched housing program may be terminated and the resident discharged pursuant to the provisions of this section and section four hundred sixty-one-h of this article; provided, however, where such resident has an existing lease with the landlord of the premises in which the program is housed, the resident may not be involuntarily removed from the premises pursuant to

this section and section four hundred sixty-one-h of this article, except in accordance with the provisions of such lease and applicable law and regulation.

3. (a) Nothing in this section shall prohibit: (i) the removal of a resident from a facility, for medical treatment or care, to a hospital, nursing home or residential health care facility, as defined in section twenty-eight hundred one of the public health law, or to a hospital as defined in section 1.03 of the mental hygiene law; or (ii) the removal from the facility of a resident whose behavior poses an imminent risk of death or imminent risk of serious physical harm to such resident or any other person, by a peace officer, acting pursuant to his special duties, or a police officer, who is a member of an authorized police department or force or a sheriff's department; or (iii) the removal from the facility of a resident, whose behavior poses an imminent risk of death or imminent risk of serious physical harm, to a location which ensures the resident's safety, pursuant to regulations of the department.

(b) Such removal shall not be deemed to be a termination of the admission agreement. Such removal shall not relieve the operator of the facility from the requirement of proceeding, subsequent to the removal of the resident, in accordance with this section and section four hundred sixty-one-h of this article in order to terminate the admission agreement to prevent the resident from returning to the facility. When an operator proceeds subsequent to the removal of the resident from the facility, to terminate the admission agreement, the written notice required to be given to the resident by subparagraph (i) of paragraph (a) of subdivision two of this section shall be personally delivered to the resident at the location to which he has been removed. If personal delivery is not possible, then such notice shall be served upon the resident by any of the methods permitted by section three hundred eight of the civil practice law and rules.