*** § 461-k. Services for non-residents in certain adult care facilities.** 1. (a) "Services for non-residents in adult homes, residences for adults and enriched housing programs" shall mean an organized program of services which the facility is authorized to provide to residents of such facility but which are provided to non-residents for the purpose of restoring, maintaining or developing the capacity of aged or disabled persons to remain in or return to the community. Such services may include but shall not be limited to day programs and temporary residential care as defined herein. A person participating in a program of services for non-residents in an adult care facility shall be considered a resident of the facility and shall be afforded all the rights and protections afforded residents of the facility under this chapter except that the provisions of sections four hundred sixty-one-g and four hundred sixty-one-h of this title relating to termination of admission agreements shall not apply and that persons receiving services pursuant to this section shall not be considered to be receiving residential care as defined in section two hundred nine of this chapter for purposes of determining eligibility for and the amount of supplemental security income benefits and additional state payments.

(b) "Day programs" shall mean an organized program for non-residents which shall include personal care, supervision and other adult services which the facility is authorized to provide to residents of such facility which may include but are not limited to, activities, meals, information and referral, and transportation services, provided in an adult home, residence for adults or enriched housing program.

(c) "Temporary residential care" shall mean the provision of temporary residential care of frail or disabled adults on behalf of or in the absence of the caregiver for up to one hundred twenty days in any twelve month period, provided in an adult home, residence for adults or enriched housing program.

2. A program to provide services for non-residents in an adult care facility may be established and operated in an adult home, residence for adults or enriched housing program provided that such facility has a current operating certificate issued in accordance with section four hundred sixty-one-b of this title. No operator may establish and operate a day program to provide services for non-residents, as defined in

subparagraph (b) of subdivision one of this section, unless the operator has received the prior written approval of the department. The department shall grant such approval to operate a day program only to those operators that are operating in compliance with applicable law and regulations. No operator may provide temporary residential care as defined in subparagraph (c) of subdivision one of this section, unless the operator has notified the department of its intent to do so.

3. Every program of services for non-residents must be established and operated in a manner designed to ensure that such program neither impairs the effective operation of the facility nor lessens the quality of care provided to the facility residents.

4. The department shall promulgate regulations to carry out the purposes of this section, including, but not limited to, provisions regarding certification, inspection, supervision, enforcement, penalties, records and reports, public need, fiscal, administrative, architectural, safety, nutrition, duration of service, program standards, information and referral, admission and discharge standards, written service agreements for day services programs and modified admission agreements for temporary residential care programs and operator responsibility for services and supervision. The department shall have authority to enforce such regulations in the same manner and to the extent it has authority to enforce regulations promulgated pursuant to sections four hundred sixty-a through four hundred sixty-f and sections four hundred sixty-one through four hundred sixty-one-e of this article.

5. The department may waive the determination of public need when an adult care facility is requesting approval to utilize no more than five beds or five percent of its certified capacity, whichever is less, for temporary residential care.

* NB Expires July 1, 2029