March 10, 1986

Legislative Memo

Subject: Legislative Proposals -- Long Term Care Client Access Program and the Expanded Community Services Program

From: William C. Koester (Legal Unit)

To: Area Agency on Aging Directors, Advisory Committee Members, Ad Hoc Coalition Members, and other Advocates for the Aging

PURPOSE

The purpose of this Legislative Memorandum is to transmit to Area Agencies on Aging copies of two Governor's Program Bills. One bill proposes the establishment of a Long Term Care Client Access Program, and the other proposes the expansion of the Community Services for the Elderly Program.

CONTENT OF PROPOSED LEGISLATION

Long Term Care Client Access Program

This legislative proposal would amend both the Social Services and Public Health Laws by establishing the right of all applicants and potential applicants to a residential health care facility to an evaluation of his/her needs and information regarding non-institutional services to meet these needs.

The local chief-elected official in each county and in the City of New York would be required to submit a plan to and receive approval from the State Department of Social Services. This plan would describe program implementation and operations, including how individuals would be informed of the program; how pre-admission evaluations, determinations of appropriate level of care and service alternatives, referrals to providers, and coordination with community health and social service providers would be conducted; which agency or agencies would be responsible for completing the pre-admission evaluations; and which agency would be responsible for program administration.

Consultation with social services districts, Area Agencies on Aging, the local health agency and the appropriate Health Service Agency would be required for local decisions and activities. Similarly, consultation between the State Departments of Social Services and Health and the Office for the Aging would be required for State level activities.
The legislative proposal would permit the charging of fees for the pre-admission evaluations conducted for non-Medicaid clients within parameters established by the State.

**Community Services for the Elderly Program-II**

This legislative proposal would amend the executive law by establishing a program of expanded in-home, case management and ancillary services for functionally impaired elderly. State level program implementation activities would include the development of procedures for grants management, program monitoring, program assessment and evaluation, the provision of technical assistance and training, public information and education. Further, the State Office for the Aging would be responsible for the development of standards, regulations, and criteria prescribing various program elements including the county home care plan, case management, in-home and ancillary services, client cost-sharing, and programmatic and fiscal reporting.

Each Area Agency which submits a letter of intent would be required to prepare, after consultation with the local social services district, public health agency and appropriate HSA, a county home care plan which would be approved by the appropriate county official or body (or in New York City the chief executive of the City of New York). Such County Home Care Plan must include, among other things, descriptions of all aspects of home care, case management and ancillary services currently available, and how these will be coordinated with the proposed new program and a proposal for the expanded community services program.

Based on and in accordance with approved plans, counties would be authorized to provide expanded in-home, case management and ancillary services. Service provision would be based on a standardized evaluation of functional impairment, available resources and limited to services to meet unmet needs that endanger the individuals continued residence in their homes. Furthermore, case management services would be provided to all individuals in receipt of in-home or ancillary services.

State reimbursement would be available for both the implementation of the county home care plan and the provision of approved services.

**SUMMARY**

While the successful implementation and operation of each of these program proposals is not dependent on the other, the Community Services for the Elderly Program-II and the Long Term Care Client Access Program do complement each other. Each would help support the other in various programmatic and administrative activities, as well as influence program design, implementation and operation.
Governor Mario M. Cuomo has proposed legislation to require that New York State residents in need of long-term health care receive an evaluation of their needs and information about alternative services available in their communities that might be better suited for their care.

"The chronically ill, especially the elderly, often believe a nursing home is the only option they have for long-term care because they are unaware of the availability of a variety of other alternatives to institutional services," Governor Cuomo said.

"Applicants for long-term health care should be provided with the necessary information on alternative services so that they can make an informed decision about their future," the Governor said.

"This legislation will help more people to receive care in their own homes," Governor Cuomo noted.

The bill would require residential health care facilities to notify applicants of their right to an evaluation of their health care needs and to refer those applicants to the agencies that will provide that evaluation and information about available alternative services in the community. Penalties would be imposed against institutions that admit persons without informing them of their right to an evaluation.

Under current law, all residential health care facilities are required to evaluate applicants before admission to determine their need for service. But the facility is not required to share the results of the evaluation with the applicant or to inform applicants of alternatives to institutional care, Governor Cuomo said.

There are a variety of in-home health care programs and other supportive services available at the community level which could enable a chronically ill person to continue living at home for a longer period of time than they might have thought, the Governor said.

- more -
This bill would amend current law to require local governments to establish a long-term care access program. Under the program, the local governments would have to designate the agency or agencies to which applicants for admission to a residential health care facility would be referred for an evaluation of their medical and social needs and for information concerning non-institutional services available to meet those needs. The local authorities also must develop a plan outlining how they intend to provide evaluations, information and referral services to persons requiring long-term health care.

Fees could be charged for the evaluation, subject to the approval of the State Health Commissioner, for those persons who are not Medicaid recipients.

Applicants for admission to a long-term health care facility would have the option to waive their right to the evaluation.

"Residential health care facility beds are scarce and costly," Governor Cuomo said. "It would be in the best interest of our chronically ill residents, the State and taxpayers to ensure that New Yorkers know all the options available for long-term health care before committing themselves to a future of institutional care."
GOVERNOR'S PROGRAM BILL
1986

MEMORANDUM

AN ACT to amend the social services law and the public health law, in relation to long term care client access programs and rights of applicants or potential applicants to residential health care facilities

Purpose:

To provide to persons in need of long term care the opportunity to receive an evaluation of their long term care needs and information concerning alternative community-based services that may appropriately meet those needs.

Summary of Provisions:

Section one of the bill sets forth the legislative intent.

Section two would add a new section sixty-three to the Social Services Law to require local governments to establish a long term care access program, which would ensure that applicants and potential applicants for residential health care services can exercise a right to an evaluation of their long term care needs and obtain information concerning alternative community based services that may be available to meet their needs. Counties and the City of New York would be responsible for the development of a plan to provide evaluations, information and referral. Fees, subject to the approval of the Commissioner of Health, could be charged for the evaluation to persons who are not Medicaid recipients.

Section three would amend Section 2803-c of the Public Health Law to add the right to a pre-admission evaluation of one's long term care needs to the list of rights and responsibilities of residential health care facility patients.

Section four would add a new section 2803-i to the Public Health Law to require that applicants for admission to residential health care facilities be informed of their right to a pre-admission evaluation by the admitting facility and by a discharging hospital or home health care program. After being informed of the opportunity to obtain the evaluation, the right to the evaluation could be waived by the applicant. Penalties would be imposed on residential
health care facilities that admit persons in violation of this provision.

Section five provides for a January 1, 1987 effective date.

Statement in Support:

Chronically ill citizens, especially the elderly, often apply for admission to residential health care facilities without sufficient knowledge of alternatives to institutional care. The reliance upon scarce residential health care facility beds by individuals who could be cared for in less restrictive community settings does not necessarily reflect a preference for nursing home residence. Rather, it may often reflect a lack of information about and access to alternative community-based services.

Because many patients initially admitted to residential health care facilities as "private pay" later convert to Medicaid, the State and its taxpayers have a fiscal interest in ensuring that individuals know as much as possible about alternatives to nursing home care. It is critical that persons who do not need nursing home care avoid entering a facility solely because of a lack of knowledge of available alternatives.

At present, all residential health care facility applicants are required to have an evaluation of their need for service prior to admission. The evaluation is primarily used to "screen out" publicly sponsored patients who are determined not to require such services. However, the facility is not required to refer applicants (whatever their level of need) to alternative sources of noninstitutional assistance, nor even to share the results of the evaluation with the applicant.

The bill would require residential health care facilities to notify applicants of their right to an evaluation and to refer such applicants to the designated agency or agencies that could provide an evaluation and information about community-based care. Applicants who do not wish to receive such evaluations would not be required to do so. The concept of providing individuals assessments and offering information and access to alternate care has proven successful in managing the appropriate use of long term care in the current pilot programs entitled Community Alternative Systems Agency (CASA). The bill is intended to make certain that individuals throughout the State are given the opportunity to make informed choices about long term care by providing them with essential information about their needs and available services in the community.
Budget Implication:

Costs associated with the provision of evaluation and information to recipients of Medical Assistance would be subject to reimbursement by the Medicaid program. Non-recipients who elect to undergo the evaluation could be charged fees, subject to Health Department approval, to cover its cost. It is expected that some savings would result by encouraging consideration of community alternatives to nursing home care.
Governor Mario M. Cuomo has proposed legislation to expand and improve community services for the frail elderly to enable them to continue to live in their own homes.

The Governor has recommended $2 million in his proposed Executive Budget for planning and implementation of the program.

"Throughout my administration we have worked at providing a variety of health and social services to the elderly to reduce their reliance on institutional care, making it possible for them to remain in their own homes," Governor Cuomo said.

"While the State has succeeded in making community services more available and accessible to the elderly, there are still some critical services that should be improved," the Governor said. "This legislation will enable needy elderly people to get essential home care and other support services."

The bill would establish a program of expanded non-medical support services for the frail elderly.

The program's objectives are to:
- increase the availability of in-home support services to those elderly who are in need of assistance;
- improve access to and management of appropriate services;
- promote the use of non-medical support services that will enable an elderly person to continue to live at home;
- better target the available programs to those who are the neediest; and
- encourage the use of family and friends in caring for the elderly.

The State Office for the Aging's Community Services for the Elderly Program for several years has made alternative community services more available to the elderly, Governor Cuomo said. However, local agencies servicing the elderly have identified gaps in the services provided, he said.
The most critical gap in services is in the area of in-home care programs, such as homemaker, personal care and chore services.

Counties choosing to participate in this program would develop a county home care plan for the frail elderly. This plan would include a comprehensive description of all aspects of home care services available to elderly persons in the county and a plan for coordinating and expanding those services. The State would reimburse the counties for preparing the plan.

Once the plan has been approved by the State, the counties would be authorized to provide the expanded services to the elderly. The services would be paid for by the State and local governments. Recipients would be required to contribute to the cost based on their ability to pay.

A person would be eligible for the program if they are age 60 or older and in need of long-term care, but not eligible for Medicaid.

"By expanding our efforts to bring health and social services to the elderly in their homes, we will make it possible for more of the State's senior citizens to choose a life outside of institutions," Governor Cuomo said. "That will result ultimately in a savings to taxpayers and a better quality of life for elderly New Yorkers."
GOVERNOR'S PROGRAM BILL
1986
MEMORANDUM

AN ACT to amend the executive law, in relation to a program of expanded in-home, case management and ancillary services for the elderly

Purpose:
To expand in-home, case management, and ancillary services for functionally impaired elderly.

Summary of Provisions:

Section one of the bill would amend section 541 of the Executive Law to make its definitions applicable to section 545, added by the bill.

Section two would add a new Section 545 to establish a program of expanded in-home, case management and ancillary services for functionally impaired elderly. Counties wishing to participate in this program would commit to developing a county home care plan and, upon receipt of an acceptable letter of intent, the Director of the State Office for the Aging would authorize reimbursement of 100% of the cost of preparing the county home care plan, up to half the level of planning and implementation funds for which the county is eligible under the Community Services for the Elderly program.

The Director would authorize counties with approved home care plans to deliver expanded in-home, case management and ancillary services to functionally impaired elderly pursuant to such plans. A local share of 25% of the cost would be required and recipients would be required to contribute to the cost of the services according to their ability to pay. Authorized State aid would not exceed $50,000 or $3 per elderly person in the county, except that, beginning in State Fiscal Year 1988-89, higher levels of State aid could be authorized by reallocating funds if appropriations are sufficient. Expenditures under this section could not be used to replace services previously provided under the Community Services for the Elderly program.
Existing Law:

Section five hundred forty-one of the Executive Law authorizes a broad range of community services for the elderly. The Office for the Aging's Community Services for the Elderly (CSE) program was established in 1979 to reduce reliance on institutional care for the frail elderly and enable them to remain in their homes. Since 1980, CSE has assisted in the development of alternative community services, improved the targeting of existing services to the frail elderly, coordinated service delivery and supported family caregiving arrangements.

Statement in Support:

Over the past several years, the CSE program has made community services and entitlement programs more available and accessible to the elderly. Nevertheless, the county planning process has identified gaps in the availability of certain key services for the elderly. Most notably, Area Agencies on Aging have cited insufficient in-home care (homemaker/personal care and housekeeper/chore services) as the single most critical service gap. Additionally, case management has been identified in several demonstration projects as an essential component of a community-based care delivery system.

The Governor's Executive Budget proposes funding to help fill service gaps for in-home, case management and ancillary services through county-based planning, standardized evaluations of individual needs, and mandatory cost-sharing based on recipient ability to pay. Eligibility would be restricted to persons 60 years of age and older who are functionally impaired and in need of long term care but who are not eligible for Medicaid.

The Executive Budget includes $2 million for planning and implementation of a program of expanded in-home, case management and ancillary services for functionally impaired elderly. Because of the major service system changes included in the program initiative, advance planning and implementation funds are required. Initial program expansion is anticipated to be phased-in over a three year period.

This major expansion of much-needed in-home, case management and ancillary services, financed jointly by State, local, and recipient cost-sharing, will dramatically increase the aging network's ability to address those critical services gaps which endanger the ability of functionally impaired elderly to remain in their homes. Because the vast majority of these elderly, if admitted to residential health care facilities, would spend down to Medicaid levels within a year, the provision of these
essential community-based services will generate Medicaid savings at the same time that they enhance the recipients' ability to remain in their own homes.

The goal of this program is to improve access to and the availability of appropriate and cost-effective non-medical support services for the elderly who are functionally impaired. Specific objectives include:

--Increasing the availability of in-home support services to those elderly who are in need of assistance;

--Improving access to and management of appropriate levels and types of services through the use of a comprehensive client management mechanism;

--Fostering the use of non-medical supports and thereby avoiding the inappropriate use of more costly forms of care at home and in institutional settings;

--Improving the targeting of aging network resources to those most in need; and

--Making optimal use of informal caregivers.

Fiscal Implications:

For Fiscal Year 1986-87, the Executive Budget includes a million appropriation. The State share for this program is expected to annualize at $10 million for services by State Fiscal Year 1988-89, matched by 25% local funds and participant contributions for a third year services program of approximately $14 million.
AN ACT to amend the executive law, in relation to a program of expanded in-home, case management and ancillary services for the elderly

The People of the State of New York, represented in the Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of subdivision one of section five hundred forty-one of the executive law, as added by chapters one hundred and thirty-two of the laws of nineteen hundred seventy-nine, is amended to read as follows:

1. Definitions. As used in this section or section five hundred forty-five of this article, the following words shall have the following meanings:

§2. Such law is amended by adding a new section five hundred forty-five to read as follows:

§545. Expanded community services. 1. Establishment of program. The director shall establish a program of expanded in-home, case management and ancillary service; for functionally impaired elderly pursuant to this section. In establishing such program, the director shall develop procedures for grants management, program monitoring, program assessment, program evaluation, provision of technical assistance and training, and public information and education, and shall develop standards and promulgate regulations, with the approval of the director of the budget, prescribing criteria for county home care plans for functionally impaired elderly, case management, in-home services, ancillary services, cost-sharing, reporting of and contracts for services in accordance with this section.

2. County plans for expanding in-home, case management and ancillary services to the elderly. (a) Counties with a designated agency may submit to the director a letter of intent, in the form and by the date prescribed by the director with the approval of the director of the
budget, evidencing the commitment of the county to develop a
county home care plan for functionally impaired elderly.

(b) Within the amounts appropriated therefor, counties
submitting an approved letter of intent pursuant to
paragraph (a) of this subdivision shall be eligible for
reimbursement of one hundred per centum of the approved
expenditures for preparing a county home care plan for
functionally impaired elderly. Such a grant-in-aid shall be
available to a county only once and shall be limited to
one-half the amount available to such county pursuant to
paragraph one of paragraph (a) of subdivision four of
section five hundred forty-one of this article; provided
however that in either of the two years immediately
following its first submission of a home care plan for
functionally impaired elderly, a county which does not
receive state aid during such year for expanded in-home,
case management and ancillary services pursuant to
subdivision two of this section, may apply for reimbursement
of one hundred per centum of the approved expenditures for
revising such home care plan, limited to one-quarter the
amount available to such county pursuant to subparagraph one
of paragraph (a) of subdivision four of section five hundred
forty-one of this article.

(c) County home care plans for functionally impaired
elderly prepared pursuant to this subdivision shall include
a comprehensive description of all aspects of home care,
case management and ancillary services available to elderly
persons in the county; a description of intended actions to
coordinate such home care, case management and ancillary
services of the county provided under this section with services to elderly
persons who are eligible for or are receiving services to
meet their needs pursuant to title eighteen, nineteen or
twenty of the federal social security act or from any other
sources; a proposal for expanded home care, case management
and ancillary services for functionally impaired elderly
persons with unmet needs which endanger such elderly
persons' continued residence in their homes; and such other components as may be required pursuant to regulations promulgated by the director.

(d) Such county home care plan for functionally impaired elderly shall be prepared by the designated agency after consultation with the social services district, the local public health agency, and the appropriate health systems agency and shall be approved by the chief executive officer of the county, if there be one, or otherwise the governing board of the county, or the chief executive of the city of New York, and submitted to the director for approval by such date as may be specified by regulation. The director shall not approve such county home care plan for functionally impaired elderly unless it complies with the standards and regulations issued pursuant to subdivision one of this section.

3. In-home, case management and ancillary services.

(a) The director, within the amounts appropriated therefor and with the approval of the director of the budget, may authorize a county which has an approved home care plan for functionally impaired elderly to provide expanded in-home, case management and ancillary services pursuant to such plan. Such services shall be limited to those services necessary to meet otherwise unmet needs which endanger such elderly persons' continued residence in their homes as determined pursuant to a standardized evaluation of functional impairment, available resources and such other relevant factors specified pursuant to regulations promulgated by the director. No in-home or ancillary services shall be provided to an individual pursuant to this section unless such in-home or ancillary services are accompanied by ongoing case management services in accordance with regulations promulgated by the director. The director shall not approve any in-home, case management or ancillary services pursuant to this section which would replace similar services which were provided pursuant to section five hundred forty-one of this article during the
program year beginning on April first, nineteen hundred eighty-five.

(b) Within the amounts appropriated therefor, counties authorized to provide expanded in-home, case management and ancillary services pursuant to paragraph (a) of this subdivision shall be eligible for reimbursement by the state of up to seventy-five per centum of allowable expenditures for approved services pursuant to this section, after first subtracting from such allowable expenditures the full amount of cost-sharing by elderly persons required pursuant to paragraph (c) of this subdivision, up to the level authorized by the director. The director shall not authorize a level of state reimbursement pursuant to this paragraph which exceeds the sum of fifty thousand dollars or three dollars for each elderly person residing in the county, whichever is greater; provided however that in state fiscal years beginning on or after the first day of April, nineteen hundred eighty-eight, the director, with the approval of the director of the budget, may authorize state reimbursement in excess of these levels to the extent appropriations are available therefor.

(c) The director, with the approval of the director of the budget, shall provide by regulation the extent of cost-sharing to be required of elderly persons receiving expanded in-home, case management and ancillary services pursuant to this section, which shall reflect such recipients' means to pay for such services without endangering their ability to remain in their homes.

(d) Reimbursement pursuant to this section shall not otherwise provided without cost, or to replace base year expenditures made by the county or any other service provider irrespective of the source of funds, or to replace community services expenditures pursuant to section five hundred forty-one of this article.

(e) The payment of state aid to any county shall be withheld in the event that such county alters or
discontinues the operations approved by the director pursuant to this section or otherwise fails to comply with the regulations or requirements of the director.

(f) Counties shall submit claims for reimbursement as required by and in accordance with procedures prescribed by the director. Reimbursement shall be available for approved expenditures incurred in accordance with an approved county home care plan for functionally impaired elderly to the extent the director has authorized state aid for such services pursuant to this subdivision.

(g) Reimbursement shall not be available for services funded pursuant to this subdivision for services provided to elderly persons who are eligible for or are receiving services to meet their needs pursuant to title eighteen, nineteen or twenty of the federal social security act or any other governmental programs or for services provided to residents in adult residential care facilities which had previously been provided by the facility or which are required by law to be provided by such facility.

(h) Reimbursement pursuant to this subdivision shall not be available for expenditures for expanded in-home, case management and ancillary services to elderly persons in the city of New York unless expenditures for such services are apportioned for services in each of the counties contained within such city in a manner which the director has determined by regulation substantially reflects the proportion that the number of elderly persons in that county bears to the total number of elderly persons in the city as a whole.

certain non-county moneys and in-kind equivalents may be used in part to compose the county share of total allowable expenditures pursuant to paragraph (b) of this subdivision, provided that such county share shall not include moneys received from the federal government for services for the elderly allocated to the states or local governments according to population or other such non-competitive basis.
(4) For the purpose of determining the amount of state reimbursement for which a county is eligible pursuant to this subdivision, the last preceding federal census or other census data approved by the comptroller shall be used.

4. Implementation of home care plans. (a) Within the amounts appropriated therefor, counties authorized to provide expanded in-home, case management and ancillary services pursuant to paragraph (a) of subdivision two of this section shall be eligible for reimbursement by the state of one hundred per centum of allowable expenditures for implementing the approved county home care plan for functionally impaired elderly, limited to a sum equivalent to one-half the amount available to such county pursuant to subparagraph one of paragraph (a) of subdivision four of section five hundred forty-one of this article.

5. Contracts for services. (a) For the purposes of this section, counties are authorized to contract with public agencies, municipalities, non-profit agencies, or such other entities as the director may authorize.

(b) Pursuant to an agreement, two or more counties may join together for the purposes of this section. Such agreements shall make provision for the proportionate cost to be borne by each county, the employment of personnel, the receipt and disbursement of funds, and any other matters deemed necessary by the director.

§3. This act shall take effect immediately.
AN ACT to amend the social services law and the public health law, in relation to long term care client access programs and rights of applicants or potential applicants to residential health care facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The legislature hereby finds and declares that persons faced with substantial care needs and expenditures accompanying chronic conditions frequently have inadequate information concerning appropriate community-based alternatives to institutional care. Existing screening processes, designed to assure that institutional care is provided only in accordance with patients' level of care needs, are often limited in focus and not widely available. Therefore, it is the intent of the legislature to ensure that all chronically impaired persons have available to them the opportunity for a comprehensive evaluation of their long-term care needs and access to adequate information regarding alternative options for care.

§2. The social services law is amended by adding a new section sixty-three to read as follows:

§63. Long term care client access program. 1. The local designating authority shall, after consultation with the social services district, the area agency on aging designated under the federal older Americans act of nineteen hundred sixty-five as amended, the local health agency, and the appropriate health systems agency, establish a long term care client access program. Pursuant to a plan adopted as set forth in subdivisions two and three of this section, the program shall ensure the right of each applicant and potential applicant for admission to a residential health care facility to an evaluation of his or her medical and social needs and to information concerning non-institutional services available to meet such needs. For the purposes of this section, the "local designating authority" shall be the
county executive, or in any county which does not have a county executive, the county governing body, or the mayor of the city of New York.

2. The local designating authority shall, after consultation with the entities enumerated in subdivision one of this section, designate the public or private agency or agencies to which all applicants and potential applicants for admission to a residential health care facility will be referred for an evaluation of their medical and social needs and for information concerning non-institutional services available to meet such needs and shall designate the agency which shall have administrative responsibility for the program. After further consultation with such entities, the local designating authority shall submit to the commissioner within one hundred eighty days of the effective date of this section, and biennially thereafter, a plan to implement the provisions of this section, including the designation made pursuant to this subdivision, which shall be subject to approval by the commissioner in consultation with the director of the office for the aging and the commissioner of health.

3. No plan shall be approved unless it (a) demonstrates how each of the following services will be made available to applicants and potential applicants for admission to residential health care facilities:

(i) pre-admission evaluations of their medical and social needs and provision of information concerning non-institutional services available to meet such needs of applicants or potential applicants to residential health care facilities,

(ii) determinations of appropriate level of care and service alternatives,

(iii) referrals to public or private organizations or facilities capable of meeting the needs and delivering appropriate services, and
(iv) notification of applicants and potential applicants of the availability of the long term care client access program; and

(b) assures coordination with community health and social service providers including, but not limited to, hospitals, residential health care facilities, adult homes and home care agencies.

5. The long term care client access program must be operated in accordance with the approved plan and with regulations of the commissioner. Each long term care client access program plan shall be subject to biennial review and approval.

6. The commissioner, in consultation with the director of the office for the aging and the commissioner of health, is authorized to promulgate regulations to implement the requirements of this section.

7. An applicant or potential applicant for admission to a residential health care facility who is not a recipient of medical assistance may be charged a fee, subject to maximum limitations established by the commissioner of health, to meet the cost of performing an evaluation pursuant to the long term care client access program plan.

§3. Subdivision three of section twenty-eight hundred three-c of the public health law is amended by adding a new paragraph n to read as follows:

n. Pursuant to section twenty-eight hundred three-i of this article, every applicant and potential applicant shall have the right to receive or to decline, prior to his or her admission to such facilities, an evaluation of his or her medical and social needs and information concerning non-institutional services available to meet such needs. Nothing herein, however, shall be construed to modify or limit any such requirements as are set forth in section twenty-eight hundred three of this article.

§4. Such law is amended by adding a new section twenty-eight hundred three-i to read as follows:
§2803-i. Rights of applicants to residential health care facilities. 1. In addition to receipt of a copy of the statement of rights and responsibilities of patients receiving care in certain medical facilities provided under section twenty-eight hundred three-c of this article, applicants for admission to residential health care facilities, including individuals being discharged from other facilities, in any county and the city of New York having an approved long-term care client access program plan, pursuant to section sixty-three of the social services law, shall be informed prior to their admission to such facilities of the availability of an evaluation of their medical and social needs and of information concerning non-institutional services available to meet such needs.

2. No person shall be admitted to a residential health care facility unless he or she has been informed of the right to receive an evaluation of his or her medical and social needs and to receive information concerning non-institutional services available to meet such needs as provided in this section.

3. To the extent possible, prior to discharging any person to a residential health care facility, a hospital or home care service agency shall inform such person of his or her right to an evaluation pursuant to this section and, unless such person waives his or her right to an evaluation, shall notify the public or private agency or agencies designated to perform such evaluations pursuant to subdivision three of section sixty-three of the social services law of such person's interest in receiving such an evaluation.

4. A residential health care facility shall ensure, prior to admission, that applicants and potential applicant have been informed of their right to receive an evaluation pursuant to this section and of the address and phone number of the public or private agency or agencies designated to perform such evaluations pursuant to subdivision three of section sixty-three of the social services law. To the
extent possible, unless such a person waives the right to an
evaluation pursuant to this section, the residential health
care facility shall notify such agency or agencies of such
person's interest in receiving such an evaluation.

5. Evaluations shall be performed and information
shall be provided in accordance with forms and procedures
prescribed by the commissioner, in consultation with the
commissioner of social services and the director of the
office for the aging.

6. In addition to any other penalties prescribed by
this chapter or any other provision of law, a residential
health care facility which admits a person who has not been
informed of his or her right to an evaluation pursuant to
this section shall be liable for a penalty pursuant to
section twenty-eight hundred three of this chapter.

7. An applicant or potential applicant for admission
to a residential health care facility who does not wish to
exercise the right to receive an evaluation may decline such
right by indicating in writing (i) that such person has been
informed of the right to receive such an evaluation, and
(ii) that such person does not wish to receive such an
evaluation. In the case of an incompetent applicant, such
applicant's committee, guardian, conservator, spouse or
adult child, may decline such right on behalf of such
applicant.

§5. This act shall take effect on January first,
nineteen hundred eighty-seven; provided, however, that the
commissioners of social services and health and the director
of the office for the aging are hereby authorized and
directed to take such steps in advance of such date as
deemed necessary to the proper implementation hereof
including but not limited to the promulgation of necessary
regulations.