The Office of Health Care Quality (OHCQ) is announcing updates to the Residential Service Agency (RSA) regulations. The prior version became effective in 1994 and was amended in 1997. Those regulations outlined the need for required policies and procedures with a broad reference to comply "with applicable sections of the Health Occupations Article, Annotated Code of Maryland." Consequently, many providers had difficulty interpreting and complying with the regulations. The goal of the new RSA regulations is to provide clarification for all RSA providers while ensuring consistent compliance in delivering safe patient care and outcomes for all Marylanders.

What are the changes to the regulations?
Changes include:

1. Professional requirements for RSA owners;
2. Business plans required for new RSA providers;
3. Requirements for training, policies and procedures, the complaint process, and the governing authority's responsibilities;
4. An explanation of care plan development;
5. Requirements for informed consent and waived services by a cognitively capable adult;
6. Clinical record requirements, including standards for care notes, maintenance of client records, and a comprehensive list of client rights and responsibilities;
7. The imposition of sanctions for falsely advertising the agency prior to licensure;
8. The imposition of sanctions and penalties with the identification of harm or egregious findings during the survey process;
9. An opportunity for RSA providers to dispute deficiency statements;
10. Nursing requirements, incorporated from the Maryland Board of Nursing's Nurse Practice Act, defining the registered nurse's role in assessing all new clients, participating in care plan development, and assigning appropriate personnel; and
11. Nursing supervision requirements, including monitoring care plan implementation, delegating tasks, training staff, and supervising staff at specific intervals.

Why are the regulations necessary?
As people increasingly receive care in the community rather than in facilities, RSAs are emerging as a fast-growing and increasingly relied-upon source of health care services. OHCQ and the provider community recognized the need for more clear regulations.

How were the regulations developed?
A work group formed in 2005 to update RSA regulations by incorporating current practices, clarifying standards and licensing requirements, and establishing sanctions for noncompliance. The workgroup, which included OHCQ staff, residential service and home care providers, and other interested stakeholders met on a regular basis for approximately 5 years. In early 2011, the revised draft regulations were printed in the Maryland Registry.

Will training be offered to providers?
The Maryland National Capital Home Care Association (MNCHA) supports the updated regulations and is working in collaboration with OHCQ to conduct State-wide training on the new regulations before they go into effect.

Will there be a significant fiscal impact on providers?
On balance, we believe these regulations will be less onerous on providers. The regulations clarify standards by incorporating current industry practices and existing Maryland Board of Nursing (MBON) scope of practice standards. Current MBON standards require nursing oversight of many tasks which RSA are increasingly being relied upon to provide. The regulations clarify that some nursing oversight is required, while allowing clients, with informed consent, to contract for lesser care and for there to be no nursing oversight for companion and other non-health-related services.

License fees were not changed. The new fee for amending a license applies only to licensees who require this service, and penalties and sanctions apply only to licensees who fail to comply with the regulations.

Can a Cognitively Capable Adult waive certain services?
Yes. A cognitively capable adult client may waive recommended certified care services or make changes to a recommended plan of care. A cognitively capable adult can also express specific preferences for a plan of care to take effect during a period when she or he is not cognitively capable. This is done by completing a waiver of services agreement. A client representative with legal authority to make health care decisions may not waive recommended certified care services but may make changes to the recommended plan of care.

Who do I contact for additional information?
If you have any questions, please do not hesitate to contact Barbara Fagan at 410-402-8041 or bfagan@dhmh.state.md.us.