



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 16, 2023

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
Room 241, House Office Building
Annapolis, Maryland 21401

Re: RE: HB 490 – Residential Service Agencies – Employee Registry - Letter of Concern

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of concern for House Bill (HB) 490 – Residential Service Agencies – Employee Registry. HB 490 requires MDH to establish and maintain a registry of each employee of every Residential Service Agency (RSA). The bill requires an RSA that provides “home health care” to submit certain employee information to MDH. All RSAs provide home health care services per Md. Code Ann., Health General §19-4A-01(f)(1).

The Office of Health Care Quality (OHCQ) is the agency within MDH that is delegated the authority to license residential service agencies and conduct surveys to determine compliance with applicable State and federal law. There are currently 1,874 licensed RSAs in Maryland. Each licensed RSA may employ anywhere from one, to over a thousand, individuals.

Md. Code Ann., General Provisions Article §4-501(b)(1) states that a governmental unit may not create records containing personal information unless the need for the information has been clearly established by the governmental unit. The need for MDH to collect and maintain this information does not appear to have been established.

HB 490 requires that the data reported include each RSA employee’s full name, identification number, job title, gender, home and mailing address, and completed training or certifications. The employee’s identification number could be their social security number. This employee information must be maintained by the State using reasonable security procedures and practices to protect the personal identifiable information.

The establishment and maintenance of the proposed RSA registry will require five additional administrative positions at OHCQ. Additionally, the quarterly reporting of this information would place a significant administrative burden on RSAs, the majority of which are small businesses.

Finally, MDH is also concerned about the potential disruptive impact these requirements may have on delivery of services provided by RSAs to Medical Assistance participants. In FY 2021,

MDH reimbursed RSAs \$402,087,076 for personal assistance services provided to 14,562 Medicaid participants. RSAs must be in good standing with OHCQ to participate as Medicaid providers and bill for services. As such failure to comply with these reporting requirements would jeopardize not only RSAs' licensure status with OHCQ, but also their status as Medicaid providers. MDH anticipates monitoring quarterly updates from OHCQ would pose a substantial administrative burden on provider services staff, while also compromising vulnerable participants' ability to access care.

If you would like to discuss this further, please do not hesitate to contact Megan Peters, Acting Director of Governmental Affairs at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott".

Laura Herrera Scott, MD, MPH
Secretary