

**Home and Community-Based Services Settings Rules**

**Residential Settings:**

**Locks on Doors for Privacy Guidance**

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# Home and Community-Based Services Settings Rules

## Residential Settings: Locks on Doors for Privacy Guidance

### What is the purpose of the rule?

The federal Home and Community-Based Services (HCBS) rule for locks on doors is intended to support individuals' personal privacy in their home; specifically in the bedroom and any bathroom they use in the home. In particular:

“Each individual has privacy in their sleeping or living unit: units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.”

In addition:

“Any modification of [these conditions] must be supported by a specific assessed need and justified in the person-centered service plan.”

Residential living arrangements in Vermont that are a **provider-owned or controlled residential setting**, and are funded through Developmental Disabilities Home and Community-Based services, must comply with this rule. In Vermont, these settings include Staffed Living, Group Living, Shared Living (i.e., with a Shared Living Provider), and Supervised Living arrangements<sup>1</sup> when the agency owns or leases the home setting, or contracts or hires Direct Support Workers for supports in the home. Home settings that are not considered to be **provider-owned or controlled**, and are thus excluded from this rule, include situations when people live independently without paid home supports or with an unpaid family member<sup>2</sup>.

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<sup>1</sup> This rule does not apply to out-of-home respite.

<sup>2</sup> Settings where a person lives with a family member (e.g., sibling) who is paid as a Shared Living Provider are not excluded from this rule.

## What is required?

Locks must be installed on bedroom and bathroom doors where there are currently none so that individuals have the option to close and lock their own bedroom door and the door to any bathroom they use. This includes locking their bedroom to safeguard their possessions when they are not present. It is the choice of the individual when and how they use the lock. **Individuals do not have the choice to decline having a lock on their door.** They may instead choose not to lock their doors, but that is their choice and not that of Direct Support Workers<sup>3</sup>.

Only authorized Direct Support Workers should have keys<sup>4</sup> to these doors. The keys should be used to enter only under limited circumstances, including in an emergency, as agreed to by the individual and their legal guardian, if there is one, and documented in the Individual Support Agreement (ISA)<sup>5</sup>.

Direct Support Workers and other housemates must be trained to always knock first and obtain permission before entering an individual's room or personal living space to respect the individual's right to privacy.

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<sup>3</sup> The term "Direct Support Workers" as used here includes developmental disabilities services provider staff, contracted Shared Living Providers, and other workers who are paid with Developmental Disabilities Home and Community-Based Services funding to support an individual.

<sup>4</sup> The term "key" as used here includes key, pin, card, or other accessible method to open the lock on a door.

<sup>5</sup> When legally required, any references to decisions being made by an individual will include the involvement of a legal guardian, if there is one.

## **What types of locks should be used?**

Locking systems that are allowed:

- Locks that disengage with the turn of the inside knob or push of an inside lever.
- Locks whose door handles meet the physical needs of the individual (e.g., lever handle).
- Key-coded entry system.
- Electronic pin or card-based door entry systems that can be disengaged by a computer.

See examples in the addendum.

The ability to exit the bedroom or bathroom without delay is required, regardless of the specific model of lock used on the door.

The ability of individuals and Direct Support Workers to use non-traditional keys (e.g., electronic pin, card-based) during power outages must be considered.

Locking systems that are not allowed:

- Security locks with deadbolts.
- Locks requiring keys to exit a room.
- Locks that can only be unlocked from inside the room.
- Locks that can only be unlocked from outside the room.

A lock is not needed on the door to a private bathroom that is inside an individual's bedroom. In those cases, only the door into the bedroom must have a lock.

If more than one individual receiving services lives in a home, Direct Support Workers may choose to obtain locks that have a passkey (one main key that opens all doors) that is available to approved Direct Support Workers. However, each of the individual's private doors need to have a lock system that can only be opened by the individual or the passkey.

**Capacity to use a key or electronic entry system:**

**What if an individual does not currently have the capacity to use a key or electronic entry system? Who else may have a key to the individual's bedroom or bathroom?**

It is expected that an individual will be able to understand and use the locking system on their bedroom and bathroom door. If it is determined, through a specific and individualized assessment, that the person is not able to use the locking system on their door, the agency will take steps to evaluate then implement accommodations and/or training to address the need. Plans for immediate, intermittent and/or ongoing accommodations and training will be clearly documented in the ISA.

If an individual can use a key but may be unable to manage the safe keeping of a key (e.g., may regularly misplace or lose keys), a safe place may be set up in the home where the individual can access their key, when needed. Specific Direct Support Workers may be identified to help an individual lock and unlock his or her door and/or help store the key safely. The individual must be part of the decision as to who will provide them with assistance. This procedure must be clearly documented in the ISA.

## **Exception to the Rule:**

### **When may there be an exception to the rule?**

There may be times when it is determined to be unsafe for an individual to lock their door. The only circumstance when an existing lock may be deactivated is when the use of a lock poses a risk to the individual's health or safety due to physical, medical and/or emotional needs.

To make an exception to the rule:

1. Health and safety concerns must be evaluated through an Individualized Needs Assessment.
2. The rationale for the exception to the rule, because of a health or safety concern, must be clearly documented in the ISA.

In these circumstances, the following requirements<sup>6</sup> must be documented in the Individual Support Agreement:

1. Document the reason for the exception, including a clear description of the condition and the associated risks.
2. Document what attempts have been tried to address this issue.
3. Include evidence of the ongoing need for the exception to the ISA.

Document steps to work to having a lock, as appropriate, and removing the exception. If removing the exception is not appropriate, document if the condition is long-term and is likely not to change over time. Include established timelines for periodic reviews to determine ongoing need for the exception.

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<sup>6</sup> The wording of these requirements comes directly from the HCBS Rules and applies to any modification of additional conditions regarding a provider-owned or provider-controlled residential setting.

4. Document the informed consent of the individual and guardian, if there is one, in a signed ISA.
5. Include a description of the steps to be taken to reduce risk of harm to the individual due to the exception.

### **What needs to be in policy or otherwise documented?**

Each residential setting must have a written policy that details the distribution, use, and access to keys by individuals and Direct Support Workers, including Shared Living Providers<sup>7</sup>.

Agencies must document in the individual's record the date of installation, what type of locking mechanism is used for each door, and any approved exception to the rule, including the assessment tool used and results of the assessment.

In addition to the individual-specific requirements, the policy must also include:

- How Direct Support Workers are trained.
- How compliance with the **Locks on Doors for Privacy Guidance** will be maintained.
- Emergency procedures to address what to do in the case of a power outage if a locking mechanism is an electronic system.

### **Monitoring of the Locks on Doors for Privacy Guidance:**

**How will the State be checking to see if people are following this guidance?**

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<sup>7</sup> Similar guidance must be included in Shared Living Provider contracts.



Periodically, the Developmental Disabilities Services Division (DDSD) Quality Management Unit (QMU) reviews services at each agency. Using the Guidelines for the Quality Review Process for Developmental Disabilities Services, QMU staff look at Medicaid-funded services for a sample of individuals. For individuals who live in settings that the **Locks on Doors for Privacy Guidance** applies, the QMU team will be confirming compliance.

## **What to do if this guidance is not being followed?**

### **What if there is no lock on the door?**

If the setting is a **provider-owned or controlled residential setting**, and it is funded through Developmental Disabilities Home and Community-Based Services (HCBS), then the HCBS Settings Rule must be followed. That means that there must be a lock on the bedroom and bathroom door for privacy. It is the individual's choice if they use it or not.

If there is not a lock on the door for privacy, individuals should work with their team to correct this by installing a lock. Additionally, this would be an issue that would require corrective action as identified as developed through the Quality Services Review process if it had not been fixed when the agency has its periodic review.

If there needs to be an Exception of the Rule, this needs to be based on an individual health and safety concern for the person who is engaged in services in the home. This must be carefully considering by the team and documented in the person's ISA. (See Section: **Exception to the Rule**, page 6).

**What if staff, other than authorized Direct Support Workers, have access to the key (or other method for opening the lock)?**

Only specific Direct Support Workers are authorized to have access to the key. If people other than those that have been approved to have access to the key, or the key is kept in a place that anyone can get at, this violates the Settings Rule.

**What if the door is locked for reasons other than privacy?**

Locks on doors can only be for privacy. The Settings Rule gives control to individuals about when the lock on a door is used. The lock on a door is for the individual's privacy and the security of their belongings.

It is a basic human right that individuals will not be locked in places by other people. The Developmental Disabilities Services Division Behavior Support Guidelines prohibits the locking of doors (interior and exterior, except for exterior doors at night for safety).

**What to do if the Settings Rule is broken?**

If the Settings Rule isn't being followed, you can:

- Talk to your guardian, if you have one.
- Talk to a trusted friend or family member.
- Contact your service coordinator.
- Contact Vermont Legal Aid by calling 1-800-889-2047.
- Contact the Developmental Disabilities Services Division by calling 802-241-0304.

## Addendum: Examples of Types of Acceptable Locks

Lever Handle Locks



Key Code Locks



Electronic or Card-based Entry

