

The CMS HCBS Community Rule requires that each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (§ 441.301)

Privacy applies to primarily to the individual when in his/her room as well as secondarily to the assurance that an individual's possessions can be safeguarded when they are away from the home. This is important as it affects the decision as to what kind of lock is installed. There are locks that only work from the "inside", such as the push button locks present on most typical bedrooms and bathrooms. At a minimum, all individuals need to be provided with a means to lock their door from the inside.

While affording individuals privacy in their living space is a principle that we all support, several questions have arisen with respect to implementation of this requirement which are clarified below:

- 1) The requirement that individuals have a lock on their bedroom doors does not mean that it be used at all times. It simply provides individuals with an additional measure of privacy should they choose to use it.
- 2) Our proposed regulations clearly state that there will not be a lock on a bedroom door that leads to an egress. For these doors, individuals / guardians need to understand and agree to accept a bedroom which cannot have a lock on the door as it serves as an egress in the event of a fire emergency.
- 3) Locks that are on doors should be able to be easily opened by the individual. Many such types of locks are available.
- 4) The inclusion of the requirement for locks on bedrooms doors is included in the revisions to the licensure tool. A new indicator (L90) has been added to the licensure tool that is in the process of being piloted shortly.
- 5) Relative to licensure and certification, the inclusion of the requirement for locks on bedroom doors is not intended to be the sole determinant of whether an individual has privacy. It is in addition to all of the other elements such as asking for permission prior to entering personal space, promoting use of personal space, and fostering privacy that are also in the indicator "Individuals are able to have privacy in their own personal space".

In terms of implementation and application of these new CMS requirements, DDS suggests the following sequential process:

- 1) Providers should determine whether the individual would like to lock their door when they leave for work/ day service and based on discussion with each individual, determine what type of lock needs to be installed. Individuals who prefer to lock their possessions when outside their bedroom will need to have a key lock installed on their bedroom door and be provided with a key.
- 2) Providers that have not already done so should begin to install locks on all bedroom doors (unless there is an egress from the bedroom). Appropriate staff can have a key to each bedroom or a master key or master pin which opens all bedroom doors. So, individuals do not need to be the only people with keys to their doors.
- 3) Once the locks are in place, individuals' patterns of door use should then be reviewed. eg Does the individual choose to lock or merely close their door when they are out of the bedroom? In of the bedroom?
- 4) It is important to note that the requirement is around having a door that is lockable, not necessarily that the door is locked at all times. There will be many individuals who will choose

NOT to lock their doors. The individual may close their door, but never lock it when they are in his/her room. Having a lock on their bedroom door, and choosing not to use it, satisfies the individual's need for privacy and, as long as the door is lockable (whether or not an individual locks it), satisfies CMS requirements.

- 5) There will be those individuals that choose to lock their doors when they are inside the bedroom as an addition assurance of privacy.
- 6) There will be those individuals for whom choosing to use the lock may be contraindicated. In these circumstances, the determination as to whether it is contraindicated needs to be discussed, agreed to and documented in the ISP. For example, locking a bedroom door by an individual who needs increased supervision by staff due to risk of pica may be contraindicated.
- 7) For those that choose to lock their doors and for whom it is not contra-indicated, the provider needs to plan and thoughtfully consider safety in general, balancing the need for privacy and safety, including fire safety. In relation to the need for privacy, if an individual who chooses to lock their door at night requires night-time checks for incontinence, the provider should have a conversation with the individual to discuss and agree on the least intrusive way to assure that the check occurs. For safety, if individuals choose to lock their doors at night when in bed, fire drills would need to be practiced with the additional nighttime steps that would need to be taken to evacuate such as unlocking doors.