



# Introduction to the 6400 Regulatory Compliance Guide

Office of Developmental Programs  
February 2020

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RCGs available  
during this  
presentation.

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This presentation will not address specific regulations, interpretations, or clarifications.

It will focus on understanding and using the Regulatory Compliance Guide.

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Regulations are effective as of **February 1, 2020**.

ODP Announcement 19-140 was published in October 2019 accompanied by the document titled "Chapter 6100: Section Effective Dates, Training and Communication Plan."

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# Part 1

## History and Use of RCG

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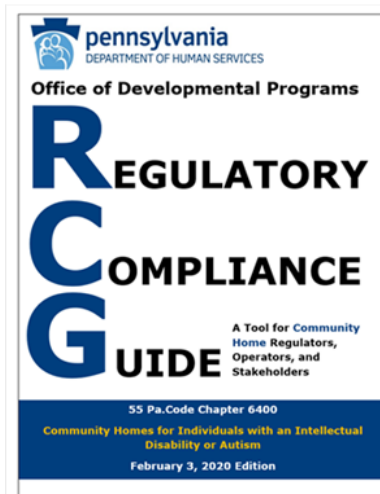
### What is the 6400 Regulatory Compliance Guide?

The Regulatory Compliance Guide, or RCG, is a companion piece to the Chapter 6400 regulations.

It is used to in conjunction with the regulations, not instead of them.

The RCG is not “new regulations” and does not extend meaning of the regulations beyond their original intent.

The RCG a detailed explanation of each regulatory requirement, including expectations for compliance, guidelines for measuring compliance, and the primary purpose for the regulation.



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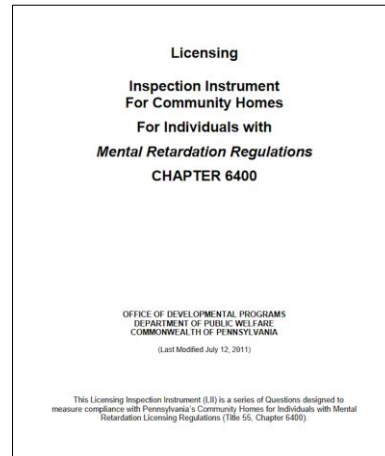
## Why did we produce the RCG?



Since July 2011, ODP has used the Licensing Inspection Instrument (LII) as an interpretive guide to measure compliance and provide clarification on Chapter 6400 regulations.

There have been significant advances in the field of human services licensing and regulatory administration in the 9 years since the LII's release.

**RCG replaces the LII** to reflect these advancements and to conform to the updated regulatory requirements established by the Chapter 6100 regulatory package.



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## RCG Format



43c	6400.43(c) - A chief executive officer shall have one of the following groups of qualifications:				<div>This portion lists the regulation exactly as it appears in Chapter 6400</div>																												
	<div>(1) A master's degree or above from an accredited college or university and 2 years work experience in administration or the human services field.</div> <div>(2) A bachelor's degree from an accredited college or university and 4 years work experience in administration or the human services field.</div>																																
<div><b>Discussion:</b></div> <div>Master's and Bachelor's degrees do not need to be in any specific field or academic discipline. Honorary degrees are not acceptable.</div> <div>Volunteer work and intern work may be counted as work experience.</div> <div><u>"Human services field" includes, but is not necessarily limited to:</u></div> <table><tr><td>Anthropology</td><td>Criminal Justice</td><td>Music Therapy</td><td>Recreational Therapy</td></tr><tr><td>Art/Dance Therapy</td><td>Divinity/Religion/Theology</td><td>Nursing/Medicine</td><td>Rehabilitation Counseling</td></tr><tr><td>Audiology</td><td>Drama Therapy</td><td>Nutrition</td><td>Social Work</td></tr><tr><td>Child Development/Family Relations</td><td>Education</td><td>Occupational Therapy</td><td>Sociology</td></tr><tr><td>Community Mental Health</td><td>Gerontology</td><td>Pastoral Counseling</td><td>Special Education</td></tr><tr><td>Chemical Dependence Administration</td><td>Health Administration</td><td>Physical Therapy</td><td>Speech Pathology</td></tr><tr><td>Counseling/Guidance</td><td>Health Education</td><td>Psychology</td><td>Vocational Counseling</td></tr></table>						Anthropology	Criminal Justice	Music Therapy	Recreational Therapy	Art/Dance Therapy	Divinity/Religion/Theology	Nursing/Medicine	Rehabilitation Counseling	Audiology	Drama Therapy	Nutrition	Social Work	Child Development/Family Relations	Education	Occupational Therapy	Sociology	Community Mental Health	Gerontology	Pastoral Counseling	Special Education	Chemical Dependence Administration	Health Administration	Physical Therapy	Speech Pathology	Counseling/Guidance	Health Education	Psychology	Vocational Counseling
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<div><b>Inspection Procedures:</b></div> <div>Licensing staffs will review the CEO's degree or official college transcript and resume to determine compliance.</div>					<div>The "Inspection Procedures" section describes how licensing staff may measure compliance with the regulation.</div>																												

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## RCG Format (Continued)



### Primary Benefit:

Ensures that the CEO has the required education and work experience to oversee services and supports provided to individuals.

### For Waiver Providers:

Per the Consolidated Waiver, in the case of an entity enrolled on or after November 1, 2018 to provide Residential Habilitation services, or a current provider hiring new executive level staff, one of the following must have a minimum of five years' experience as a manager with responsibility for providing residential services for individuals with an intellectual disability, developmental disability, autism and/or serious mental illness and a bachelor's degree:

- Executive Director of Residential Services; or,
- Chief Executive Officer; or,
- Chief Operations Officer; or,
- Director, Assistant or Associate Director of Residential Services.

This is not a Chapter 6400 requirement and is not required for licensure, but any 6400 licensee that wishes to render waiver-funded Residential Habilitation must meet this requirement in order to successfully enroll as an ODP provider.



The "Primary Benefit" section explains how the regulation protects individuals' health, safety, and well-being.



The "For Waiver Providers" provides information that is not related to licensing requirements but is important for Waiver providers to know and understand.

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## Terms Explained



### "Generally"

The term "generally" appears many times in RCG to clarify the meaning of a term used in a regulation. It does not constitute a strict interpretation or regulatory definition of the clarified term, nor does it limit the term's interpretation.

<b>22a</b>	6400.22(a) - There shall be a written policy that establishes procedures for the protection and adequate accounting of individual funds and property and for counseling the individual concerning the use of funds and property.
<p><b>Discussion:</b> It is the provider's responsibility to demonstrate to licensing staff how the policy required by this regulation:</p> <ul style="list-style-type: none"> <li>• Protects individuals' funds;</li> <li>• Protects individuals' personal property; and</li> <li>• Specifies how individuals will be counseled regarding the use of funds and property.</li> </ul> <p>"Counseled" generally means the provision of assistance and guidance relating to how individuals manage their money and personal possessions.</p>	

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## Terms Explained (Continued)



### “Recommended”

The words “recommended,” “recommended but not required,” and “strongly recommended” are used throughout RCG. These words indicate a suggestion based on best practices, not a regulatory requirement. Failure to follow a recommendation may not result in a regulatory violation.

<b>32s</b>	6400.32(s) – An individual has the right to have a key, access card, keypad code or other entry mechanism to lock and unlock an entrance door of the home.
<b>32s1</b>	6400.32(s)(1) – Assistive technology shall be provided as needed to allow the individual to lock and unlock the door without assistance.
<b>32s2</b>	6400.32(s)(2) – The locking mechanism shall allow easy and immediate access by the individual and staff persons in the event of an emergency.
<b>32s3</b>	6400.32(s)(3) – Direct service workers who provide service to the individual shall have the key or entry device to lock and unlock the door.
<p><b>Discussion:</b> These regulations apply to all doors by which individuals may enter the home.</p> <p>Entrance doors may be locked with a key locking device; however, 6400.101 requires, in part, that exits from the building be unobstructed. A key locking device that requires a key, card, or passcode to exit the home constitutes obstructed egress; the locking mechanism on the inside of the door must be a deadbolt or doorknob lock that can be opened without use of a key.</p> <p>It is <i>strongly</i> recommended that key-locking devices of any kind not be used to meet the requirements of these regulations. Providers are encouraged to use card access systems, keypads, biometric locking devices, or any other device that does not require a key to open the door.</p>	

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## Terms Explained (Continued)



### “Including but not limited to”

The “Discussion” section of some regulations includes bulleted lists of examples of items and terms that are used in the regulations but not defined. The term “including but not limited to” means the list of examples is not exhaustive.

<b>46c</b>	6400.46(c) – Program specialists and direct service workers and at least one person in a vehicle while individuals are being transported by the home shall be trained in first aid techniques before working with individuals.
<p><b>Discussion:</b> This regulation is specific to times when the provider is transporting individuals.</p> <p>“First aid techniques” generally include, but are not limited to, treatment of and response to:</p> <ul style="list-style-type: none"> <li>• Signs of illness that require immediate attention such that 911 should be contacted</li> <li>• Burns</li> <li>• Cuts</li> <li>• Abrasions (scrapes)</li> <li>• Stings</li> <li>• Splinters</li> <li>• Sprains</li> <li>• Strains</li> </ul>	

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## Grouping



RCG lists the regulations in sequential order; however, in some cases, regulations from different sections or subsections have been grouped together for operational purposes, i.e. because the regulations will usually be measured at the same time.

Human Rights Team	
<b>194a</b>	6400.164(a) - If a restrictive procedures is used, the home shall use a human rights team. The home may use a county mental health and intellectual disability program human rights team that meets the requirements of this section.
<b>194b</b>	6400.194(b) - The human rights team shall include a professional who has a recognized degree, certification or license relating to behavioral support, who did not develop the behavior support component of the individual plan.
<b>194c</b>	6400.194(c) - The human rights team shall include a majority of persons who do not provide direct services to the individual.
<b>194d</b>	6400.194(d) - A record of the human rights team meeting shall be kept.
<b>209</b>	6400.209 - If a physical restraint is used on an unanticipated, emergency basis, §§ 6400.194 and 6400.195 (relating to human rights team; and behavior support component of the individual plan) do not apply until after the restraint is used for the same individual twice in a 6-month period.

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## Part 2

# Understanding the Regulatory Web

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## The Regulatory Web



Regulatory requirements are interconnected; to some extent, each regulation connects to one or more regulations. This is called the “Regulatory Web.”

Understanding the regulatory web will help you use RCG to maximum effect.

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## Example: 6400.32(c) and 186



<b>186</b>	6400.186 - The home shall implement the individual plan, including revisions.
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- Failure to provide other needed supervision.
  - Failure to provide protection from hazards.
  - Leaving individual(s) unattended.
  - Failure to provide medication management.
- [Individual #1] NEEDS CLOSE SUPERVISION AT ALL TIMES WHEN IN THE COMMUNITY.
- SHE HAS NO AWARENESS OF TRAFFIC DANGERS, STRANGERS ETC.
- [Individual #1] CAN NEVER BE LEFT ALONE IN A SECTION OF A STORE WHILE HER CARETAKER SHOPPED EVEN IN ANOTHER AISLE.
- SHE ALWAYS NEEDS TO BE WITHIN ARMS LENGTH OF HER CARETAKER.

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## Example: 6400,32(c), 193, 207



<b>32c</b>	6400.32(c) - An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.
<p><b>Discussion:</b> As specified in the regulation, <i>abuse</i> is either:</p> <ul style="list-style-type: none"> <li>• An act or omission of an act that willfully deprives an individual of rights or human dignity, or</li> <li>• An act or omission of an act which may cause or causes actual physical injury or emotional harm to an individual</li> </ul> <p>Examples of abuse include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• The infliction of injury to an individual by a staff person</li> <li>• The infliction of injury to an individual by another individual</li> <li>• Failure to provide care recommended by a health care professional such as diet restrictions, feeding procedures, physical positioning routines, and ensuring a trauma-free environment</li> <li>• Inappropriate use of restrictive procedures as specified at 6400.193</li> <li>• Use of a prohibited procedure specified at 6400.207</li> <li>• Intimidation or punishment of an individual</li> <li>• Deprivation by the community home or its staff persons of goods or services which are necessary to maintain physical or mental health</li> <li>• Sexual harassment, rape, or abuse, as defined in 23 Pa.C.C. Chapter 61 (relating to protection from abuse)</li> <li>• Exploitation by an act or course of conduct, including misrepresentation or failure to obtain informed consent which results in monetary, personal or other benefit, gain of profit for the perpetrator, or monetary or personal loss to the individual</li> <li>• Abandonment or desertion by the community home or its staff persons</li> <li>• Mistreatment or discipline of any kind</li> <li>• Any sexual contact, regardless of consent, between an individual and a staff person</li> <li>• Psychological Abuse that causes or may cause mental or emotional anguish by threat, intimidation, humiliation, isolation, or other verbal or nonverbal conduct.</li> </ul>	

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Prohibited Procedures	
<b>193a</b>	6400.193(a) - A restrictive procedure may not be used as retribution, for the convenience of the staff members, as a substitute for the program or in a way that interferes with the individual's developmental program.
<b>207(1)</b>	6400.207(1) - Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving. Seclusion includes physically holding a door shut or using a foot pressure lock.
<b>207(2)</b>	6400.207(2) - Aversive conditioning, defined as the application of startling, painful or noxious stimuli.
<b>207(3) Part 1</b>	6400.207(3) - Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.
<b>207(4) Part 1</b>	6400.207(4) - A chemical restraint, defined as use of a drug for the specific and exclusive purpose of controlling acute or episodic aggressive behavior.
<b>207(5) Part 1</b>	6400.207(5) - A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. A mechanical restraint includes a geriatric chair, a bedrail that restricts the movement or function of the individual, handcuffs, anklets, wristlets, camisole, hamlet with fasteners, muffs and mitts with fasteners, restraint vest, waist trap, head strap, restraint board, restraining sheet, chest restraint and other similar devices. A mechanical restraint does not include the use of a seat belt during movement or transportation. A mechanical restraint does not include a device prescribed by a health care practitioner for the following use or event: <ol style="list-style-type: none"> <li>Post-surgical or wound care.</li> <li>Balance or support to achieve functional body position, if the individual can easily remove the device or if the device is removed by a staff person immediately upon the request of indication by the individual, and if the individual plan includes periodic relief of the device to allow freedom for movement.</li> <li>Protection from injury during a seizure or other medical condition, if the individual can easily remove the device or if the device is removed by a staff person immediately upon the request or indication by the individual, and if the individual plan includes periodic relief of the device to allow freedom of movement.</li> </ol>
<b>208(c)</b>	6400.208(c) - A prone position physical restraint is prohibited.
<b>208(d)</b>	6400.208(d) - A physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor is prohibited.
<b>210(a)</b>	6400.210(a) - Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

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<b>51b1-5</b>	<p>6400.51(b) – The orientation must encompass the following areas:</p> <ol style="list-style-type: none"> <li>1. The application of: <ul style="list-style-type: none"> <li>o Person-centered practices</li> <li>o Community integration</li> <li>o Individual choice, and</li> <li>o Supporting individuals to develop and maintain relationships.</li> </ul> </li> <li>1. The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101-10225.5102), the Child Protective Service Law (23 Pa.C.S §§ 6301-6386), the Adult Protective Services Act (35 P.S. §§ 10210.101-10210.704) and applicable protective services regulations.</li> <li>2. Individual rights.</li> <li>3. Recognizing and reporting incidents.</li> <li>4. Job-related knowledge and skills.</li> </ol>
Staff Training	
<b>196a</b>	6400.196(a) – A staff person who implements or manages a behavior support component of an individual plan shall be trained in the use of the specific techniques or procedures that are used.
<b>196b</b>	6400.196(b) – If a physical restraint will be used, the staff person who implements or manages the behavior support component of the individual plan shall have experienced the use of the physical restraint directly on the staff person.
<b>196c</b>	6400.196(c) – Documentation of the training provided including the staff persons trained, dates of training, description of training and training source shall be kept.
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<div>Example: 6400.181(c)-(e)</div> 	
<b>181c</b>	6400.181(c) – The assessment shall be based on assessment instruments, interviews, progress notes and observations.
<b>181e</b>	<p>6400.181(e) – The assessment must include the following information:</p> <ol style="list-style-type: none"> <li>1. Functional strengths, needs and preferences of the individual.</li> <li>2. The likes, dislikes and interests of the individual.</li> <li>3. The individual's current level of performance and progress in the areas: <ul style="list-style-type: none"> <li>i. Acquisition of functional skills.</li> <li>ii. Communication.</li> <li>iii. Personal adjustment.</li> <li>iv. Personal needs with or without assistance from others.</li> </ul> </li> <li>4. The individual's need for supervision.</li> <li>5. The individual's ability to self-administer medications.</li> <li>6. The individual's ability to safely use or avoid poisonous materials, when in the presence of poisonous materials.</li> <li>7. The individual's knowledge of the danger of heat sources and ability to sense and move away quickly from heat sources which exceed 120° F and are not insulated.</li> <li>8. The individual's ability to evacuate in the event of a fire.</li> <li>9. Documentation of the individual's disability, including functional and medical limitations.</li> <li>10. A lifetime medical history.</li> <li>11. Psychological evaluations, if applicable.</li> <li>12. Recommendations for specific areas of training, programming and services.</li> <li>13. The individual's progress over the last 365 calendar days and current level in the following areas: <ul style="list-style-type: none"> <li>i. Health.</li> <li>ii. Motor and communication skills.</li> <li>iii. Activities of individual living.</li> <li>iv. Personal adjustment.</li> <li>v. Socialization.</li> <li>vi. Recreation.</li> <li>vii. Financial independence.</li> <li>viii. Managing personal property.</li> <li>ix. Community integration.</li> </ul> </li> <li>14. The individual's knowledge of water safety and ability to swim.</li> </ol>
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			 <b>pennsylvania</b> DEPARTMENT OF HUMAN SERVICES	
#	Assessment Requirement	Applicable Regulation(s) <b>55 Pa.Code § 6400</b>		
1	Functional strengths, needs and preferences of the individual.	32(e) -An individual has the right to make choices and accept risks. 32(g) - An individual has the right to control his own schedule and activities. 87(a) – The home shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment. 143(a) - If an individual refuses routine medical or dental examination or treatment, the refusal and continued attempts to train the individual about the need for health care shall be documented in the individual's record.		
2	The likes, dislikes and interests of the individual.	32(e) -An individual has the right to make choices and accept risks. 32(g) - An individual has the right to control his own schedule and activities. 81(k) – Bedroom furnishings. 59(a) - Day services such as competitive community-integrated employment, education, vocational training, volunteering, civic-minded and other meaningful opportunities shall be provided to the individual. 190(a) - The individual home shall provide recreational and social activities, including volunteer or civic-minded opportunities and membership in National or local organizations at the following locations: (1) The individual home. (2) Away from the individual home.		
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# Part 3

## Identifying Violations and Providing Technical Assistance Using RCG

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## Example: Lighting



66	6400.66 - Rooms, hallways, interior stairways, outside steps, outside doorways, porches, ramps and fire escapes shall be lighted to assure safety and to avoid accidents.
<p><b>Discussion:</b> The kinds of lighting required by this regulation are dependent on the needs of the individuals as identified in the assessment and Individual Plan. Compliance with this regulation may simply require standard lighting, or may require more sophisticated elements such as tactile guides or special lighting at the walkways and exits.</p> <p>There is no regulatory requirement that exit signs above doors be lighted. This may, however, be required by the local building authority.</p> <p>If outside lights near egress routes are not activated at all times, the home should ensure that switches for these lights are easily located and activated along the path of egress. It is important that all individuals can use these lights during an emergency to evacuate safely.</p> <p><b>Primary Benefit:</b> Ensures a rapid evacuation in the event of an emergency, and minimizes the risk of falls or other injuries due to inadequate illumination.</p>	

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## Scenarios



*Note: The bedside lamp in the scenarios listed below is the only light in the bedroom.*

1. The regulator turns on the bedside lamp in Individual #1's bedroom. The lightbulb burns out when the switch is flipped.
2. The regulator turns on the bedside lamp in Individual #1's bedroom. It does not work. The provider replaces the lightbulb, and the lamp works.
3. The regulator turns on the bedside lamp in Individual #1's bedroom. It does not work. The provider replaces the lightbulb, but the lamp is still inoperative.



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## Example: Keys and Locks



<b>32r</b>	6400.32(r) - An individual has the right to lock the individual's bedroom door.
<b>32r1</b>	6400.32(r)(1) - Locking may be provided by a key, access card, keypad code or other entry mechanism accessible to the individual to permit the individual to unlock and lock the door.
<b>32r2</b>	6400.32(r)(2) - Access to an individual's bedroom shall be provided only in a life-safety emergency or with the express permission of the individual for each incidence of access.
<b>32r3</b>	6400.32(r)(3) - Assistive technology shall be provided as needed to allow the individual to lock and unlock the door without assistance.
<b>32r4</b>	6400.32(r)(4) - The locking mechanism shall allow easy and immediate access by the individual and staff persons in the event of an emergency.
<b>32r5</b>	6400.32(r)(5) - Direct service workers who provide services to the individual shall have the key or entry device to lock and unlock the door.

**Discussion:** All individuals have the right to lock their bedroom doors. Bedroom doors must be equipped with locks even if the individual does not wish to lock his or her door unless the individual clearly expresses that he or she does not want the door to be equipped with a lock.

Additionally, if a key locking device of any kind is used, the provider must ensure the following, at a minimum, in order to meet the requirements of 6400.32(r)(4):

- All staff persons must have keys to each individual's bedroom on their persons at all times when individuals are present in the home.
- In addition to keys carried by staff persons, copies of keys to each individual's bedroom door must be stored in a location accessible only to staff.
- Each key must be clearly labeled to identify which key opens each individual's bedroom door.

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## Scenarios




1. Three individuals live in the home. None of their bedroom doors are equipped with locks of any kind. Two individuals have clearly expressed that they do not wish their doors to be equipped with a locking device. The third individual, however, does want a lock on the door.
2. Three individuals live in the home. Their bedroom doors are equipped with key-locking devices. Staff persons do not have keys to each individual's bedroom on their persons at all times when individuals are present in the home.
3. One individual lives in the home. Her bedroom door is not equipped with a lock. The individual desires to have a lock on her door. The individual engages in self-injurious behaviors and requires line-of-sight supervision at all times.

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<b>32v</b>		6400.32(v) – An individual’s right may only be modified in accordance with § 6400.185 (relating to content of individual plan) to the extent necessary to mitigate a significant health and safety risk to the individual or others.	
		<p><b>Discussion:</b> “Significant health and safety risk” generally means anything that may result in substantial physical or emotional pain, bodily injury, death, or substantial risk of death if the rights listed on this section are protected and promoted to the fullest possible extent.</p> <p>Rights must be modified to allow the maximum amount of choice and control consistent with the assessment and Individual Plan; modifying rights beyond what is needed to mitigate a health and safety risk is not permitted.</p> <p>Please see “Risk Mitigation” discussed at 6400.32(e) above for more information about managing risk.</p> <p><b>Primary Benefit:</b> Promotes self-direction, choice, and control while allowing for prevention of injury or death.</p>	
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		<p>Additional regulations to consider:</p> <ul style="list-style-type: none"> <li>• <b>32(e)</b> An individual has the right to make choices and accept risks.</li> <li>• <b>32(h)</b> An individual has the right to privacy of person and possessions.</li> <li>• <b>33(b)</b> The provider shall assist the affected individuals to negotiate choices in accordance with the provider's procedures for the individuals to resolve differences and make choices.</li> </ul>	
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## Technical Assistance



It is *strongly* recommended that key-locking devices of any kind and/or card access systems that do not have an override mechanism not be used to meet the requirements of these regulations.

Providers are strongly encouraged to use keypads, biometric locking devices, or any other device that both does not require a key or card to open the door and has an override mechanism that can be used in emergencies.



\$100



\$140



\$65

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# Part 4 Maintaining RCG

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## 6400 RCG – First Edition



- This is the first version of 6400 RCG.
- RCGs will be updated as necessary over time.
- There will be situations that 6400 RCG does not address.

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## What to do when RCG doesn't address a situation



- Inform the provider that this situation requires further discussion.
- Report the situation to your supervisor after the inspection.
- Regional RPMs, Supervisors, and Regulatory Administration Unit staff will discuss the situation and come to a conclusion about clarification.

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## Maintaining the RCG



- The Regulatory Administration Unit logs all clarification decisions.
- Clarification decisions are monitored to track frequently-occurring situations.
- RCG is updated to add or remove content based on clarification decisions.
- An updated version of RCG is released every 6 months with updated content.

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# Part 5

## General Discussion

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Questions or Comments:  
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