

Concepts to Consider Specific to the Current MUI Rule (5123:2-17-02)

Overall

County Boards and the DD provider community are committed to the health and safety of individuals served by:

- *Responding immediately and effectively to harm/ injury or probable risk of harm to individuals;
- *Conducting thorough investigations and follow through;
- *Developing and implementing preventative action that reasonably reduces the risk of recurrence and;
- * Providing the oversight necessary to ensure accountability;

Nearly 5 years of operating within the current MUI Rule (OAC 5123:2-17-02) has demonstrated a significant and undeniable number of MUIs that required timely reporting, thorough investigation and health and safety follow up. The DD service delivery system in Ohio is stronger and safer as a result of the MUI rule. The challenge facing all stakeholders (the DoDD, county boards, providers and individuals with developmental disabilities and their families) is to continue to improve our efforts in preventing and reducing harm to individuals in the current environment of shrinking resources.

This Concept Paper confirms our commitment to improving this process and ensuring necessary oversight within the DD system while eliminating redundancies and inefficiencies that will allow all stakeholders to better focus efforts on priority areas where it is needed the most.

We believe that the current MUI Rule mandates DD personnel to respond with a level of intervention that is often excessive in terms of its appropriateness, invasiveness, and resources. This mandate does not allow county boards and providers to make appropriate assessments of the potential risk of harm to an individual and respond accordingly. As a result of this resources such as investigation agents, direct care staff, provider administrators, etc. whose attention may be more needed in incidents of higher risk, are compromised. In those cases of lesser priority, the victims and their supports often are provided intervention that takes away from more desired action and services.

DD Personnel are required to treat MUIs as if they have the same or similar level of priority. Experience in dealing with now thousands of cases since the inception of the rule has proven that across all the categories of MUIs, there is a wide range in priority and the level of follow up needed to ensure health and safety. As defined now, there are several categories whereby the full investigation protocol is excessive in the responsibilities and efforts it requires of for the desired and necessary outcomes. The impact dilutes the ability of those responsible to maximize their response to those individuals who are at significant risk as well as meet other quality individual based outcomes.

The current MUI rule requires county boards to conduct investigations even when other statutorily mandated agencies are involved. This redundancy creates confusion, does not enhance the investigation process, and draws resources always from situations in which the only investigating body is the county board.

We believe that these inefficiencies and redundancies can be addressed without compromising the immediate and long-term responses required to protect individual health and safety or the necessary oversight.

Recommendations:

1. In cases of abuse, neglect, and misappropriation when either local law enforcement or children's protective services is conducting an investigation, county board's responsibilities would include:
 - a. Providing information and cooperating with the investigating agency upon request;
 - b. Entering initial information into the ITS and providing investigation updates and outcomes;
 - c. Developing and ensuring implementation of prevention plans.
2. Except for abuse, neglect and misappropriation, all MUIs occurring to individuals living in ICFs/DD would be investigated by the ICF/DD. The ICF/DD would be also be responsible for prevention planning and implementation. ICFs/DD currently have responsibility for conducting investigations by Medicaid rules with oversight by the Department of Health and DoDD. ICFs/DD would be given access to enter initial MUI reports and investigation reports directly into ITS thereby allowing the necessary oversight by DoDD.
3. Revise many of the existing definitions in rule including: risk, verbal abuse, missing individual, known injury, unapproved behavior supports, unscheduled hospitalizations, and peer to peer acts. We believe language clarification is critical in providing the field better guidance in many circumstances, especially when law enforcement should be contacted. We believe that all mandated reporters, including certified Investigative Agents, should use professional judgment (based on and according to "reasonable" criteria) when reporting incidents to law enforcement.
4. Revise the process of using the Protocol/Appendix A and B. Appendix A would be used as general guidance for law enforcement and CSB to perform their investigations with assistance from county boards and providers. Appendix B would be a set of best practice guidelines for all other protocol cases. An Appendix C would be created (replacing the current Appendix B) that would be used for all non-protocol cases. We believe that not all MUIs are "equal" and that some deserve formal investigation while others ~~just~~ need to be "reviewed and/or verified for health and safety". By prioritizing based on the level of risk, we can focus our efforts better and achieve greater efficiencies.
5. To maximize better analysis of MUI trends by all involved, we recommend providers be given direct access to COGNOS reports to permit them to enter data directly into the system. We believe this will increase efficiencies within the system, as providers would no longer be required to "go through" the county board with this data.
6. Redefine "unusual incidents" to include new language regarding "potential risk of harm". We believe this actually provides appropriate guidance to the field consistent with the intent of the rule. This will limit the actual scope of what is reported and thus preserving the integrity of the data truly deserving of review.

7. Change the current requirements in rule regarding DODD investigations, as we believe the current process is fragmented, redundant, and causes continued concern over possible conflict of interest in the event that a county board staff is involved as the PPI. We propose a change that would allow DODD to “own” their own investigations in their entirety. This will certainly reduce inefficiencies and maximize the integrity of the entire process.

We believe that the above recommendations will allow DODD, county boards and providers to shift our resources so that we can better minimize risk for individuals served and focus on priority incidents and crimes to ensure health and welfare. This rebalancing of the system will promote increased local oversight and enhance oversight exactly where it is needed the most.