In 2016-2017, OPRA Policy Committee’s member priorities included addressing the rules and process for the MUI and UI system. OPRA approached system partners and requested to initiate a work group to address this in advance of the 5-year rule review. The attached document outlines initial concerns raised through OPRA Rules Group and Policy Committee that were presented to DODD.

DODD assembled a work group composed of self-advocates and their supports, DODD MUI representatives, DODD legal representative, County Board MUI representatives and superintendents, Provider representatives from OPRA, OHCA, VFA, Waiver Network, Arc of Ohio, and Guardians.

The purpose of the work group was to complete proactive review of OAC 5123-2-17-02 in preparation of the upcoming 5 year rule update through involvement of diverse stakeholder group. As part of the work group objectives, all procedures and interpretations surrounding the MUI and UI rule were also reviewed.

The work group all agreed that Ohio has an excellent system developed for reporting and investigating incidents adversely affecting health and welfare of individuals with DD. It is a process that has grown and is locally and nationally recognized as a progressive leader in health and welfare systems. This system requires DODD, County Board, Providers, Individuals, family/guardians, law enforcement and other entities.

All stakeholders agreed that the focus of the MUI and UI system should be improvement of health and welfare enhancing the lives of those served. However, feedback reflected that the process has been perceived as a “gotcha” system. Furthermore, the work group identified that the new momentum for culture shift in Ohio towards person centered planning, community choice, behavior support changes must be considered.

Additionally, the stakeholder input identified that the different interpretations, inconsistent practices, and unintended consequences would be addressed. The following unintended consequences were discussed:

* Creating fear/stigma in Direct Care Professionals amidst the largest Workforce Crisis to date. (treatment of DSP during investigation, pulled from schedule, etc…)
* Barrier for hiring-due to fear of ruining career, etc..
* Doesn’t always directly align with current community objectives; doesn’t accept any risk for community enhancements
* Paper compliance vs. outcome driven
* Burdensome administrative time taking away from direct services, at times (ie: filing multiple different categories with separate investigations, semi-annual reports, etc.)
* Families/guardians not always communicated during process

The Draft rule was received on May 14th, 2018. A quick summary of changes are listed below:

|  |  |
| --- | --- |
| Rule reference Page/Category | Quick explanation of change |
| MANY PAGES | In all references, consumers or those receiving service were changed to individual(s) with developmental disabilities  |
| Page 1 (2) (4) | * Clarified agency provider including county board when hey are provider of service.
* Common law employee defined as per rule
 |
| Page 2 (8) | Updated definition of “Developmental Disabilities employee” to include superintendent, board member of county board; administrator, board member of residential facility; administrator, board member of any other public or private procider of services to individual with DD |
| Page 3 (11) (14) | Clarified independent provider or common law employee Definition of ICF aligning with 5124.01 of revised code |
| Page 4 (16) | REVISED definition of Major Unusual Incident |
| Page 5 (v)(vi) | REVISED definition of NeglectChanged Peer to peer to CATEGORY B |
| Page 5 (vi)-Page 6(ix)(b) (iii) | REVISED definition of physical abuseREVISED definition of sexual abuseAdded AED/defibrillator to medical emergency |
| Page 7 (v) (a-e) | REVISED ALL peer to peer definitions adding clarity |
| Page 8 (c)(ii)(iii) | Changed unscheduled hospitalization to unanticipated hospitalization-REVISED definitionREVISED definition of Unapproved Behavior Support  |
| Page 9 (17) (19) (23) (24) | Added definition of physical harmNEW CATEGORY (to address those which were considered in neglect category prior) PROGRAM IMPLEMENTATION INCIDENT-unusual incident involving failure to carry out a person centered plan when such failure causes minimal or no risk. Examples include, but are not limited to, failing to provide supervision for short periods of time, automobile accidents without harm, and self-reported incidents with minimal risk.NEW CATEGORY SYSTEMS ISSUE-substantiated MUI attributed to multiple variables and not to a specific person.DEFINITION OF TEAM |
| Page 10 (25) | REVISED DEFINITION OF UI-added unapproved behavioral supports without risk to health and welfare, emergency room or urgent care treatment and program implementation incidents. |
| Page 12 (b)(6-g) | REVISED-removed Neglect and revised abuse wording for requirement to remove employee from direct contact (now reads removal of employee rom direct contact with any individual when the employee is alleged to have been involved in physical or sexual abuse until such time ……)Added prohibited sexual relations to list of four hour report requirement  |
| Page 13 (7) (8) (11) (12) | Clarified provider submission of written incident report to county board by 3pm on the first working day following the day that the provider becomes aware…Changed time to 5pm on first working day following the day the county board receives notification from provider for county board entry of preliminary incident in ITSAdded that the county board 24/7 call process must be shared with all individuals receiving services and their guardians as applicableNEW-An agency provider shall develop and implement a written policy requiring staff of the agency provider to report MUI to senior management of the provider within 2 working days following the day staff become aware of potential or determined MUI. |
| Page 14 (1) (2) | REVISED-law enforcement notification to any allegation of CRIMINAL ACT.DODD must notify OHP of any allegation of CRIMINAL ACT at a DC. |
| Page 15 (c)  (3) | ADDED-notification of other providers of service as necessary to ensure continuity of care and support for the individual.Clarified that notification shall not be made if PPI, spouse of PPI, or significant other of PPI or when notification could jeopardize health and welfare of individual involved. |
| Page 16 (2-b) | CLARIFICATION-during investigation, additional categories may be added to the record  |
| Page 18 (9) | NEW-except when Law Enforcement or the public children’s services agency is conducting an investigation, the IA shall endeavor to reach a preliminary finding regarding MUI and notify individual and guardian and provider of the preliminary finding within 14 days.  |
| Page 20 (3) (4) | Clarification-Written summary shall not be sent to PPI, spouse of, or significant other of PPIWhen PPI is DD employee or a guardian, the county board shall no later than 5 working days following the recommended closure of the case, make a reasonable attempt to provide written notice to PPI as to whether the MUI has been substantiated, unsubstantiated/insufficient evidence or unsubstantiated/unfounded.  |
| Page 21 (K2) | CHANGED-Members of individual’s team, shall ensure risks associated with MUIs are addressed in individual plan and collaborate ……. |
| Page 22 and 23 | Clarification of reports closed by DODD and county boards |
| Page 24 (1) | Removed semi-annual analysis submission---REVISED---By Jan 31st each year, provider shall conduct in-depth review and analysis of trends and patterns of MUIs occurring during preceding calendar year and compile annual report containing…. |
| Page 25 (2) (3) | Annual report to county Board by 28th of February each year-clarification on county board requirements for report review and availability to DODDCounty Board providing services annual report to DODD by Feb 28th each year |
| Page 26 (d) | Removed Sept meeting—now only says March  |
| Page 27 (5) (6) (9) | ADDED-notification of other providers of service as necessary to ensure continuity of care and support for the individual.Clarified Independent provider submission of written incident report to county board by 3pm on the first working day following the day that the incident occurred…UI Log should only contiain UIs per definition Paragraph C 25 of this rule…ADDED-Cause and Contributing factors as requirement for log |
| Page 28 (10) (11)Page 28 (N-1) | CHANGED-Members of individual’s team, shall ensure risks associated with MUIs are addressed in individual plan and collaborate …….Provider shall upon request by the dept. or CB, provide any and all information and documentation regarding UI and investigation of UI.Added county board review UI log |
| Page 29 (O) (2) | ADDED-Provider shall provide confidential information, including DOB and Social Security Number,  |