



# Proposed MUI Rule Changes

AUGUST 2018



How do we build on an excellent well established health and welfare system?

- Renewed focus on prevention, quality improvement and partnerships
- Consider shift to community and person center plans
- Identify opportunities to increase communication during investigation process
- Minimize administrative burden while maintaining a high quality system
- Spotlight individual, DD employees and systems success in promoting health and welfare

# Rule review process

May 2017-February 2018-MUI Work Group met 7 times

- Representatives from Individual and Families/Guardians, OPRA, OACB, The Arc, Ohio Waiver Network, Ohio Health Care Association

Rule Committee Members informed Stakeholders and requested feedback

- OPRA conferences (11/3/17 and 4/5/18), Project Stir (2/16/18), PAR Conference (5/10/18) and OACB (5/11/18)

Rule Review Clearance

CSI Review

Next...Filing of rule, Public Hearing, JCARR Review and setting implementation date



# Moving forward

Engaging stakeholders to develop a plan that includes:

- Communication strategies
- Trainings
- Technology
- Policy and procedure revisions
- Ways to evaluate impact of changes



# Proposed rule changes

- Rule will now be numbered 5123:17-02
- MUI Definition has been changed to the alleged, suspected, or actual occurrence of an incident described in paragraph (C)(16)(a), (C)(16)(b), or (C)(16)(c) of this rule when there is reason to believe the incident has occurred. There are three categories of major unusual incidents that correspond to three administrative investigation procedures delineated in appendix A, appendix B, and appendix C to this rule.
- Move Peer to Peer Acts to Category B

# DD Employee defined

Developmental disabilities employee" means:

- An employee of the department;
- A superintendent, *board member*, or employee of a county board;
- An administrator, *board member*, or employee of a residential facility licensed under section 5123.19 of the Revised Code;
- An administrator, board member, or employee of any other public or private provider of services to an individual with a developmental disability; or
- An independent provider.

# Neglect definition changes

## Existing language

Neglect means when there is a duty to do so, failing to provide an individual with any treatment, care, goods, supervision, or services necessary to maintain the health or safety of the individual.

## Proposed language

Neglect means when there is a duty to do so, failing to provide an individual with medical care, personal care, or other support that consequently results in serious injury or places an individual or another person at risk of serious injury. Serious injury means an injury that results in treatment by a physician, physician assistant, or nurse practitioner.

Systems neglect will be defined as *a substantiated major unusual incident attributed to multiple variables.*



# Program Implementation Unusual Incidents

An unusual incident involving the failure to carry out a person-centered plan when such failure causes minimal risk 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.



INVESTIGATIONS



# Peer to Peer Physical Act

## Existing Language

Physical act that occurs when an individual is targeting, or firmly fixed on another individual such that the act is not accidental or random and the act results in an injury that is treated by a physician, physician assistant, or nurse practitioner. Allegations of one individual choking another or any head or neck injuries such as a bloody nose, a bloody lip, a black eye, or other injury to the eye, shall be considered major unusual incidents. Minor injuries such as scratches or reddened areas not involving the head or neck shall be considered unusual incidents and shall require immediate action, a review to uncover possible cause/contributing factors, and prevention measures.

## Draft Language

Physical act which means a physical altercation that:

- Results in examination or treatment by a physician, physician assistant, or nurse practitioner; or
- Involves strangulation, a bloody nose, a bloody lip, a black eye, a concussion, or biting which causes breaking of the skin; or
- Results in an individual being arrested, incarcerated, or the subject of criminal charges.



## Category B changes:

Prone restraint will be filed as Unapproved Behavioral Supports and upgraded to Physical Abuse, when appropriate.

Medical Emergency definition now includes the use of defibrillator and removed IV for dehydration. Proposed language:

Medical emergency" means an incident where emergency medical intervention is required to save an individual's life (e.g., choking relief techniques such as back blows or cardiopulmonary resuscitation, use of an automated external defibrillator, or use of an epinephrine auto injector).

# Category C changes

- Law Enforcement definition now includes being tazed as a reportable incident.
- Unscheduled Hospitalization will be called an Unanticipated hospitalization. "Unanticipated hospitalization" means any hospital admission or hospital stay *over twenty-four hours that is not pre-scheduled or planned*. A hospital admission associated with a planned treatment or pre-existing condition that is specified in the individual service plan indicating the specific symptoms and criteria that require hospitalization need not be reported.
- Unapproved Behavior Support will be changed to align with OAC 5123:2-2-06
  - Name changed to Unapproved Behavioral Support
  - Include rule reference



# Increased communication

- Except when law enforcement or the public children's service agency is conducting an investigation, the investigative agent shall *endeavor to reach a preliminary finding regarding allegations of physical abuse or sexual abuse and notify the individual or individual's guardian and provider of the preliminary finding within fourteen working days*. When it is not possible for the investigative agent to reach a preliminary finding within fourteen working days, he or she shall instead notify the individual or individual's guardian and provider of the status of the investigation.
- Agency providers shall implement a written procedure for the internal review of all major unusual incidents and shall be responsible for taking all reasonable steps necessary to prevent the recurrence of major unusual incidents. The written procedure shall require senior management of the agency provider to be informed within two working days following the day staff become aware of a potential or determined major unusual incident involving misappropriation, neglect, physical abuse, or sexual abuse.

# Increased communication

- The provider providing services when an unusual incident occurs shall notify other providers of services as necessary to ensure continuity of care and support for the individual.
- County Boards and Provider can share information with the Department for Registry purposes. Language to read: *Confidential information, including date of birth, social security number, etc. can be shared with DODD in implementing Abuser Registry process.*

# Other changes:

- Removal of an employee from direct contact with any individual when the employee is alleged to have been involved in *physical abuse or sexual abuse* until such time as the provider has reasonably determined that such removal is no longer necessary.

*Important note: Nothing precludes any employer from removing an employee if they believe it is necessary (i.e. in cases of verbal abuse, neglect and misappropriation...)*



# Other changes:

- Eliminate filing of multiple MUIs for same incident, focus on event based reporting.
- Removed Semi-Annual Analysis requirement County Board and provider.
- Written notification to PPI will only include DD employee and guardian only-not community members.

# Implementation considerations

1. Develop training on rule revisions utilizing webinars, You Tube videos, in person).
2. Review current training to ensure definitions and other changes are incorporated. The following definitions will be revised:
  - *Neglect, Physical Abuse, Sexual Abuse, Medical Emergencies, Peer to peer-physical, Unanticipated Hospitalizations and Unapproved Behavioral Supports.*
  - *Define Program Implementation Unusual Incident*

# Implementation considerations

3. Make sure training includes Senior Management notifications (who and how).
4. Provide MUI Rule training to Board Members.
5. Ensure supervisors have training on how to conduct unusual investigations.
6. Utilize social media and agency newsletters to inform your staff and stakeholders of upcoming changes.



# Implementation considerations

7. Revise reporting policy to include Senior Management notifications for potential or determined misappropriations, neglect, sexual and physical abuse. Define who in your agency will be notified and how.
8. Review all forms and documents looking for needed revisions
  - Term changes –Unapproved Behavioral Support, *Unanticipated* Hospitalizations
  - Rule number changes 5123:2-17-02


# Implementation considerations

8. Review all forms and documents looking for needed revisions-continued
  - Incident Reports (include name and signature)
  - Unusual Logs should contain only incidents as defined in UI definition
    - *Dental injuries*
    - *Falls*
    - *An injury that is not a significant injury*
    - *Medication errors without a likely risk to health and welfare*
    - *Overnight relocation of an individual due to a fire*
    - *Natural disaster, or mechanical failure*
    - *Peer-to-peer act that is not a MUI*
    - *Rights code violations or unapproved behavioral supports without a likely risk to health and welfare*
    - *Emergency room or urgent care treatment center visits*
    - *Program implementation incidents*

# Pattern/Trend Discussion

- Choking Prevention (Alert/Resources)
- Transportation Concerns
- Transitions





**“When the winds of  
change blow, some  
people build walls and  
others build windmills.”  
– Chinese Proverb**



Abuse and Neglect contacts

Hotline (866)313-6733

DODD MUI Office  
614-995-3810

County Board Contacts

[http://dodd.ohio.gov/contacts/  
Pages/CountyMaps.aspx](http://dodd.ohio.gov/contacts/Pages/CountyMaps.aspx)

[www.dodd.ohio.gov](http://www.dodd.ohio.gov)





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