

MUI Rule Definitions Task Force
Revised Work on (OAC 5123:2-17-02) "DD MUI Rule" Proposals
(Category & Risk Definitions)

MUI means the alleged, suspected or actual occurrence of an incident when there is reason to believe:

- The level of risk to the health and safety of an individual may adversely affect the individual OR
- Place the individual at risk to such a degree that probable risk is more likely to result as listed in this rule's definitions AND
- If an individual is receiving services through the DD service delivery system or will be receiving such services as a result of the incident.

MUIs would be defined as below in terms of the nature of the incident and the risk to the individual rather than by category type alone. This change in classification would allow for enhanced responses to the health and safety risks of individuals and would allow CBDDs and providers to apply resources to individuals who are at most risk. MUIs would be classified according to 2 Levels.

At-Risk Individual means an individual whose health or safety is adversely affected or whose health and safety may reasonably be considered to be in danger of being adversely affected to be at a level of potential or probable risk (per this rule's definitions) as a result of the incident. The level of that risk is a primary factor in determining the appropriate incident type and related actions. Per this rule, both incident types, Unusual (UI) and Major Unusual Incidents (MUI) require at a minimum, that the responsible parties ensure immediate health and safety actions, administrative review, and steps that prevent or reduce the risk of recurrence regardless of type.

Risk of Harm the "level of harm" reasonably expected to result or that did result as alleged or reported.

Probable Risk of Harm This level of risk is most often consistent with MUI level incidents and includes:

- Risk of harm reasonably expected to result or that did result in a level of harm that requires one of the following:
 - treatment that only a physician, physician's assistant, or nurse practitioner could provide OR
 - requires emergency evaluation (seen at urgent care, emergency room, or physician)

NOTE TO DODD for interpretive guidelines: Consideration would have to be given to whether we include "the level of harm would impair the individual's ability to functionally engage in the individual's daily routines". Examples of incident with NO injury but probable risk: a missed gun shot, stab "attempt", pushed into the busy street, etc.

Major Injury would reasonably require treatment of one of the following types:

- that only a physician, physician assistant, or nurse practitioner can provide OR
- that requires emergency evaluation (seen at urgent care, emergency room, physician).

(C) (1) "Administrative Investigation" means the gathering and analysis of information related to a major unusual incident so that appropriate action can be taken to address any probable (as defined in this rule) harm or probable risk of harm and prevent future occurrences.

Protocol Appendix A is used for those MUI's that LE investigates

Protocol Appendix B is used for those MUI's that LE does not investigate but IA needs to complete an investigation.

Non-Protocol Appendix C is used for UBS, Unscheduled Hospitalizations

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MUI – PROTOCOL

~~(APPENDIX A TYPE—Under Current Rule)~~

Appendix A or B under proposed rule

Death means the death of an individual (category considers whether death was accidental, suspicious, or by natural causes).

Physical abuse means the use of physical force that results in or could reasonably be expected to result in physical harm or serious physical harm as those terms are defined in section 2901.01 of the revised code— a major injury (as defined in this rule) or one of the following injuries: black eye, bloody or broken nose, or broken bones not usually casted such as toes, fingers, etc. Such force may include, but is not limited to, hitting, slapping, pushing, or throwing objects at an individual. Note: The Definitions Task Force believed the proposed definition appropriate and akin to ORC. However, we recognize that it is not ORC and so provided ORC definitions below for the convenience of review...

FROM ORC

(3) "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(4) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious physical harm to persons" means any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain. Should consider adding...

Sexual abuse means unlawful sexual conduct or sexual contact as those terms are defined in section 2907.01 of the Revised Code and the commission of any act prohibited by section 2907.09 of the Revised Code (e.g., public indecency, importuning, and voyeurism).

Verbal – Non-Physical Abuse means purposefully using words, or gestures, images, graphics, symbols, text, recording, video, or equivalent messages to threaten, coerce, intimidate, harass, or humiliate an individual.
~~Alleged victim—Individual—demonstrates fear, change in routine for self protection, etc.~~

Prohibited sexual relations means an DD employee engaging in consensual sexual conduct or having consensual sexual contact with an individual who is not the employee's spouse, and for whom the DD employee was employed or under contract to provide care at the time of the incident and includes persons in the employee's supervisory chain of command.

Peer-to-peer acts means ~~acts committed by one individual against another when there is physical abuse with intent to harm; verbal abuse with intent to intimidate, harass, or humiliate; any sexual abuse; any exploitation; or intentional misappropriation of property of significant value.~~
an incident in which one individual takes one or more of the following actions against another individual when the individual committing the act is targeting, or firmly fixed, on an individual and the act is not accidental, random or circumstantial;

1. A physical act that results in an injury to an individual. Reportable injuries are defined as:
 - ~~a. an injury that requires or would reasonably expected to require treatment only a physician, physician assistant or nurse practitioner could provide OR~~
 - ~~b. emergency evaluation at an emergency room or urgent care or emergency evaluation by a physician OR~~
 - e.a. one of the following exceptional injuries: black eye, bloody or broken nose, broken bones not generally set/casted such as toes, fingers, bruises consistent with an act of choking.
2. Sexual conduct or contact for the purposes of sexual gratification without the consent of the victim (interpretative guideline should include language particular to PPIs of higher function or abilities who appeared knowing of an advantage of a non-verbal or defenseless individual).
3. Use of verbal or non-physical words, gestures, or other means to threaten, coerce, intimidate, harass or humiliate an individual whereby the individual has the means to carry out a threat and the victim ~~demonstrates fear or a~~ demonstrates changes in their routine or behavior to protect self.
4. Intentional misappropriation or exploitation of the property or resources of another individual over ten dollars in value.
- 4-5. 5. Exploitation per the rule definition.

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.

Misappropriation means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Ohio Revised Code, including Chapters 2911. and 2913. of the Revised Code.

Exploitation means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.

Rights code violation means any violation of the rights enumerated in section 5123.62 of the Revised Code that creates a reasonable-risk of harm to the health or safety of an individual.

Failure to report means that a person, who is required to report pursuant to section 5123.61 of the Revised Code, has reason to believe that an individual has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse (including misappropriation) or neglect of that individual, and such person does not immediately report such information to a law enforcement agency, a county board, or, in the case of an individual living in a developmental center, either to law enforcement or the department. Pursuant to division (C)(1) of section 5123.61 of the Revised Code, such report shall be made to the department and the county board when the incident involves an act or omission of an employee of a county board.

MUI – NON-PROTOCOL
(~~APPENDIX B TYPE – Under Current Rule~~
Non-Investigatory Summary will be completed by IA)

Attempted suicide means a physical attempt by an individual which results in emergency room treatment, in-patient observation, or hospital admission. TF simply asks that there be an emphasis on the words "physical attempt".

Law enforcement means any incident that results in the individual being charged, incarcerated, or arrested including individuals receiving DD services but not under the care of a provider at the time of the incident.

Missing individual means an incident that is not considered neglect, and the individual's ~~cannot be located for a period of time longer than specified in the individual service plan and the individual cannot be located after actions specified in the individual service plan are taken and the individual cannot be located in a search of the immediate surrounding area; or circumstances indicate that the individual may be in immediate jeopardy~~ whereabouts are unknown and the individual is believed to be at ~~probable imminent~~ risk of harm. NOTE: DODD, CO BOARD, and PROVIDER TRAINING around the point of risk will have to be provided. Interpretative guidelines with examples must be created. The Individual Plan alone cannot detail all circumstances and applies to only known risks. There may be external risks that act upon the individual unanticipated. Some of those will be abuse, exploitation, etc., Some will simply be missing. However, TF recommends a Health and Safety Alert that defines what action steps should be taken by those involved to establish risk, particularly if unknown. Including it in the definition caused much confusion about what and when missing occurs. So we made it simple.

Medical emergency means an incident where emergency medical intervention is required to save an individual's life (e.g., Heimlich maneuver & related choke relief techniques to save life such as back blows, cardiopulmonary resuscitation, Epi-Pen, intravenous for dehydration).

Known injury means an injury from a known cause that is not considered abuse or neglect and that requires treatment that only a physician, physician's assistant, or nurse practitioner can provide. Interpretative Language could include: ~~such treatment would include immobilization, casting, five or more sutures or binding of the equivalent size such as by glue, laser, etc., 2nd or 3rd degree burns, dental injuries, or any injury that prohibits the individual from participating in routine daily tasks for more than two consecutive days.~~

Serious Bodily Injury: As defined in section 2011(19)(A) of the Act (as added by section 6703(a)(1)(C) of the Affordable Care Act) as an injury as a result of a known or unknown cause involving extreme physical pain; involving substantial risk of death; involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

Unscheduled hospitalization means any hospital admission that is not scheduled unless the hospital admission is due to a pre-existing condition that is specified in the individual service plan or nursing care plan, indicating the specific symptoms and criteria that require hospitalization. Interpretative guidelines may include more information about conditions, etc.

~~Unapproved behavior support means the use of any aversive strategy or intervention prohibited action/intervention per [OAC 51232-1-02(j)(2)(g)] implemented without approval by the human rights committee or behavior support committee or without informed consent.~~

MUI – NON-PROTOCOL
(APPENDIX C TYPE - Under Proposed Rule)

Unscheduled hospitalization means any hospital admission that is not scheduled unless the hospital admission is due to a pre-existing condition that is specified in the individual service plan or nursing care plan, indicating the specific symptoms and criteria that require hospitalization. Interpretative guidelines may include more information about conditions, etc.

Unapproved behavior support means the use of any aversive strategy or intervention prohibited action/intervention per [OAC 51232-1-02(J)(2)(g)] implemented without approval by the human rights committee or behavior support committee or without informed consent.

Comment: [11] A MUHS Unscheduled Hospitalization is reported to MU and UI is expected to call the MU dispensing HHS and MU sends out the report with all the other scheduled UI. The next day summary, the OMRP or CPE/DO or SS and following. At any point in the medical record and up to 30 days after.

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NON-Protocol MUI Exceptions

Currently, if a non-protocol type incident happens while under the care or intervention of a provider, the incident is an MUI. If the individual was not under the care of a provider (home with family, alone time that is not under the coverage of a provider, etc. then the non-protocol level incident is NOT an MUI. While most of us recognize that a DD mandated reporter who discovered this latter incident should likely report it as a UI, much clarification is needed and requested from DODD. This is not a “category” definition and goes well beyond this Task Force’s charge. In particular, the TF asks that clarification include more detail about when an individual is under the providers care, etc. The ICF Task Force will have to consider this as well.

UI Definition

Includes UI Level of Risk Threshold & Minor to Moderate Injury

UI definition

An Unusual Incident or UI means an event or occurrence involving an individual that does not meet MUI category definitions. An UI poses a level of potential risk (as defined in this rule) and is not consistent with routine operations, policies and procedures, or the care or individual service plan of the individual, ~~but is not an MUI.~~

Comment [I2]: UI definitions should align with CMS definitions on memo dated March 18, 2011. This will be added into interpretive guidelines.

Unusual incidents (UIs) include, but are not limited to, illness; medication errors; falls; peer to peer incidents ~~that are not MUIs~~; overnight relocation of an individual due to fire, natural disaster, or mechanical failure; and any minor to moderate injury to an individual.

Potential Risk of Harm – This level of risk is most often consistent with UI level incidents and includes:

- Risk of harm that has no clear certainty (may occur) and/or no fixed time such that the level of harm:
 - would NOT require treatment that only a physician, physician's assistant, or nurse practitioner can provide AND
 - would not require emergency evaluation (seen at urgent care, emergency room, or physician) AND
 - would NOT be expected to impair the individual's ability to functionally engage in the individual's routine activity

In cases of neck, head, and bone injuries, see MUI definitions related to injuries as some will qualify for MUIs.

Minor to Moderate Injury – appears primarily on the surface on the skin (scratch, red mark, bruise, etc.) AND all of the following applies:

- that would NOT reasonably require treatment that only a physician, physician assistant, or nurse practitioner can provide OR
- that would NOT require emergency evaluation (provided by urgent care, emergency room, by physician) OR
- that are not of the head, neck, and bone variety described in the MUI injury definitions.

The end. Completed 6:05pm 03-13-12. Revised 4:59pm 03-14-12. Revised 4:31pm 03-16-12.

Programs. It should be completed as soon as information is available but no longer than 5 days after the incident occurred. If the individual remains hospitalized for more than 5 days, an updated follow up form will be submitted upon discharge.

Unscheduled Hospitalization Follow Up

Individual's Name:

Date of Admission:

Date of Discharge:

1. Circumstances that led to the hospitalization? What signs and symptoms was the individual displaying?
2. How long were the symptoms present before hospital admission?
3. Were there any contributing factors that have been identified?
4. When was the last medical appointment/treatment for this individual related to the admitting signs and symptoms?
5. What treatment was provided during the hospitalization?
6. What was the admitting and discharge diagnosis? Please note and explain if discharge diagnosis is different.
7. What is the prognosis for the individual?
8. What are the discharge orders?
9. Past hospitalizations related to this diagnosis/event?
10. Was this a trend/pattern? Yes/No
11. Recommendations/Preventative Measures: (check all that apply)

Recommendations:	Yes	No	N/A	Explain:
Physical/Social Environmental Changes				
Policy/System Changes				
Staff Training				
Counseling				
Team Meeting to address IP Changes				
Medication Changes				
Follow up appointments scheduled				
PT/OT/SLP Referral Need				
Diet change				
Home Health Care				
Other:				

12. Recommend closure? Yes/No

a. If No, Investigation by IA recommended for potential abuse _____ or potential neglect _____.

Signature/Title:

Date:

This form would be completed by the QMRP or designee in ICF's/DD or the SSA for individuals served in the Waiver Programs. It should be completed as soon as information is available but no longer than 5 days after the incident occurred.

Unapproved Behavior Support Follow Up

Individual's Name: _____

Date of Incident: _____

1. Summarize the incident. (Specifically, what type of intervention(s) was utilized?)
2. Was this a new behavior for the individual? Yes _____ No _____
 - a. If not, is a behavior support plan in the process of being developed? Yes _____
No _____ If not, why: _____
3. Check all precipitating factors that have been identified that necessitated the aversive intervention.

<input type="checkbox"/> Excessive noise	<input type="checkbox"/> Medication Change
<input type="checkbox"/> Change in routine	<input type="checkbox"/> Illness
<input type="checkbox"/> Asked to complete task	<input type="checkbox"/> Pain/Headache
<input type="checkbox"/> 1:1 attention unavailable	<input type="checkbox"/> Incontinence
<input type="checkbox"/> Peer aggression, tease or threat	<input type="checkbox"/> Possible hallucination or delusion
<input type="checkbox"/> Outing cancelled	<input type="checkbox"/> Loss of important relationship
<input type="checkbox"/> Unable to communicate wants/needs/feelings	<input type="checkbox"/> ISP/BSP not followed as written
<input type="checkbox"/> Staff ratio was not appropriate	<input type="checkbox"/> Other (note in comments)

Comments: _____

4. Was there physical injury?
 - a. Injury to individual? Yes _____ No _____ Type: _____
 - a. Was medical treatment necessary? Yes _____ No _____
Type: _____
 - b. Injury to staff? Yes _____ No _____ Type: _____
 - a. Was medical treatment necessary? Yes _____ No _____
Type: _____
5. Was the aversive intervention used an agency approved intervention? Yes _____
No _____ N/A _____ Type: _____
6. Was the aversive intervention safely implemented? Yes _____ No _____
7. Was there imminent danger? Yes _____ No _____
8. Were less restrictive measures attempted? Yes _____ No _____
 - a. What were the less restrictive measures attempted? Comments: _____
9. Is there a BSP in place? Yes _____ No _____
 - a. Was the plan followed? Yes _____ No _____
10. Was the aversive intervention terminated in a timely manner? Yes _____ No _____

Time began: _____ Time ended: _____

11. Were staff trained in the use of this aversive intervention? Yes _____ No _____

a. List name(s) and title(s) of the staff who implemented the intervention:

12. Was this a trend/pattern? Yes/No

13. Recommendations/Preventative Measures: (check all that apply)

Recommendations:	Yes	No	N/A	Explain:
Physical/Social Environmental Changes				
Agency Policy/System Changes				
Staff Training				
Counseling for the individual				
Team meeting to address IP and/or BSP changes				
Medication Changes				
Proactive changes to be implemented				
Follow up appointments scheduled				

14. Recommend closure? Yes/No

a. If No, Investigation by IA recommended for a full protocol investigation _____.

Signature/Title:

Date: