

INCIDENTS AFFECTING HEALTH AND SAFETY

ANNUAL TRAINING

SELF-STUDY GUIDE

2011 Edition

INTRODUCTION

Annual training on the rule, Incidents Affecting Health and Safety and notification of the Ohio DoDD Abuser Registry is required by law for ALL county board employees. This ***self-study guide*** has been designed to meet that training and notification requirement.

After completing the self-study guide:

- 1) Review the attached **Abuser Registry Annual Notice**. After review of this notice, **please print and sign acknowledgement form. You can access this form on page 9 of this document.**
- 2) Complete the Incident Affecting Health and Safety Annual Training **Self-Study Test**. You must pass this test with a 75% or better grade. If you fail to pass the test you will be required to attend a training session. You will be notified of the need to attend the training session and must attend the class within 90 days of receiving the notification. Mandatory training sessions may also be required when MUI Unit staff determine after an incident that further training is needed. Any employee who wants to refresh his or her understanding of MUIs, health and safety and related procedures may voluntarily attend training sessions.
- 3) **Return the completed Self-Study Test and Abuse Registry Annual Notice Acknowledgment of Receipt to your Supervisor.**

DEFINITION OF A MAJOR UNUSUAL INCIDENT

An MUI is an incident that adversely affects the health and safety of an individual with a developmental disability who is receiving services through the DD service system or who may receive DD services as a result of an MUI. Included are incidents committed by one consumer against another consumer. It does not matter if the incident is actually seen or if it is only suspected or alleged. An MUI is considered a health and safety risk for a consumer. When an MUI occurs the CCBDD is responsible for protecting the health and safety of the consumer and preventing a reoccurrence of the incident. Ohio Administrative Rule 5123: 2-17-02, "Incidents Adversely Affecting Health and Safety," and CCBDD policy require a system for all employees to report MUIs. A system for investigating, reviewing and correcting MUIs is also required. CCBDD's Administrative Regulation "**Major Unusual Incidents**" describes that system.

CATEGORIES AND DEFINITIONS OF MUIs

The Ohio DoDD has identified several MUIs that are required to be reported to the CCBDD MUI Unit immediately, but no later than four hours after you find out the incident happened or have a suspicion that the incident happened. These incidents are required to be reported wherever or whenever they occur. Any allegation of physical or sexual abuse (including acts committed by one consumer against another), any allegation of misappropriation or theft (including acts committed by one consumer against another), and any allegation of neglect are considered potential crimes. These MUIs must also be reported to the Department of Children and Family Services (DCFS) when the consumer is under the age of twenty-one, or the police if the consumer is 21 or older. MUIs can be reported to DCFS by calling the child abuse hotline at (216) 696-KIDS. If an incident requires that you contact the police, you should call the law enforcement agency where the incident occurred.

The following MUIs are required to be reported IMMEDIATELY to the CCBDD MUI Unit:

Physical Abuse: Physical abuse is the use of physical force that could reasonably result in physical harm to a consumer. There does not need to be an actual injury to the victim for an act to be considered physical abuse. The physical force used just has to be enough that it could cause harm even if it actually does not. All reports of alleged or suspected physical abuse must also be reported to law enforcement or DCFS when the consumer is under the age of twenty-one.

Sexual Abuse: Sexual abuse is unlawful sexual conduct or contact with a person with DD as defined in state law. Unlawful sexual conduct includes oral sex or intercourse with a body part or object. Sexual contact includes

touching the erogenous zones (breasts, genitalia, buttocks, etc.) for the purpose of sexually arousing either person. While it is not against the law for a person with DD to have a sexual relationship with a disabled or non-disabled adult, it would be considered sexual abuse if the conduct or contact is by force or the person with DD lacks the capacity to consent to the activity or is under age. All reports of alleged or suspected sexual abuse must be reported to law enforcement or DCFS when the consumer is under the age of twenty-one.

Prohibited Sexual Relations: Consensual sexual conduct or sexual contact between a consumer and a DD employee who is currently providing services or supports to the consumer is prohibited by the Ohio DoDD. This prohibition also includes anyone in the employee's chain of supervision. The only exception is if the consumer and employee are married.

Verbal Abuse: Verbal abuse is the intentional use of words or gestures to threaten, coerce, intimidate, harass or humiliate a consumer.

Neglect: Neglect is failing to provide a consumer, when there is a duty to do so, with treatment, care, goods, supervision, or services necessary to maintain health and safety. In most cases the treatment, care, goods, services and supervision that a consumer needs would be outlined in the individual plan. For an incident to be considered neglect, it does not have to result in harm. There only has to be a significant possibility of risk to the consumer's health and safety. All reports of alleged or suspected neglect must be reported to law enforcement or DCFS when the consumer is under the age of twenty-one.

Misappropriation: Misappropriation means taking something from a consumer without his or her permission or knowledge or against his or her will, no matter how much it is worth. If the incident involves theft by one consumer from another, the monetary value of the property stolen must be at least \$10. It is not considered an MUI if something is *missing* and there is no allegation or suspicion of theft. All reports of alleged or suspected misappropriation must be reported to law enforcement or DCFS when the consumer is under the age of twenty-one.

Exploitation: Exploitation is defined as the unlawful or improper act of using an individual with DD or his or her resources for monetary or personal benefit, profit, or gain. Identity theft is considered exploitation. Consent of the individual does not matter if the perpetrator is a DD employee.

Peer-to-Peer Acts: Peer-to-peer acts are alleged or actual incidents in which one consumer physically, sexually, or verbally abuses another

consumer, or one consumer commits misappropriation or exploitation against another consumer. To be classified as a peer-to-peer act, the act must meet the definitions of physical, sexual and verbal abuse and exploitation stated above. In the case of a peer-to-peer misappropriation, the value of what is stolen must be at least \$10.00. Because peer-to-peer acts of misappropriation and physical and sexual abuse are possible crimes, these incidents must be reported to law enforcement or DCFS if the consumer who is the victim is under age twenty-one.

Failure to Report: A failure to report an MUI involves an incident in which a DD employee fails to immediately report to the Board or law enforcement when an individual has suffered or is at risk of suffering any injury or condition that reasonably indicates abuse, neglect or misappropriation. A DD employee's failure to report could result in being placed on the Ohio DoDD Abuser Registry and could also result in criminal prosecution.

Suspicious or Accidental Death: The death of any consumer that is accidental or considered to be suspicious must be reported immediately.

Inquiry from the Media: A media inquiry means that you receive a call from the media regarding an MUI that occurred to a consumer. While an inquiry from the media is not an MUI, state law requires that if you get a call from the media, you must report it to the MUI Unit immediately but no later than four hours after you receive the call.

MUIs REQUIRING NEXT DAY REPORTING

The following incidents are required to be reported only if the incident occurs while the consumer is receiving DD services from the county board, or any licensed or certified provider, or if the consumer receives 24-hour services, 7 days a week. The MUIs are to be reported to the CCBDD MUI Unit no later than 3:00 PM the next business day after you have found out that the incident occurred.

Law Enforcement Involvement: Law enforcement involvement is an incident resulting in a consumer's arrest, being formally charged with a crime by law enforcement, or jailed. A citizen filing a complaint with police against a consumer, or a consumer being accused of a crime is not an MUI unless there are formal charges brought or the consumer is arrested.

Attempted Suicide: Any actual physical suicide attempt which results in treatment at a hospital emergency room or in a hospital admission. Verbal suicide threats alone are not an MUI.

Medical Emergency: An incident in which medical intervention is required to save the life of an individual such as the use of the Heimlich Maneuver, CPR, or IV treatment for life-threatening dehydration.

Missing Individual: An incident in which a consumer cannot be located for a period of time longer than the time indicated in their individual plan and after actions specified in the plan are taken and a search of the immediate area has been conducted; or circumstances indicate that the individual may be in immediate danger; or law enforcement is called to help look for the individual.

Unscheduled Hospital Admission: Any admission for medical or psychiatric reasons that is unplanned or not previously scheduled is an MUI unless the condition requiring in-patient treatment is included in the ISP and the admission is due to specific symptoms related to that condition. A visit to the E.R. in which the consumer is treated and released is not considered a hospital admission.

Known Injury: Any injury from a known cause other than abuse or neglect that requires immobilization or casting due to a fracture, 5 or more sutures or the equivalent, 2nd or 3rd degree burn, dental injury, or an injury that keeps the individual from routine daily tasks for more than two consecutive days.

Unknown Injury: An injury of unknown cause that is not abuse or neglect that requires any treatment that only a physician, physician assistant or nurse practitioner can provide.

Unapproved Behavior Support: The use of an aversive behavior support strategy or intervention that includes a prohibited technique, or where there is no approved behavior support plan with appropriate informed consent from the individual or guardian.

Rights Code Violation: A rights violation is an incident in which the rights of a consumer, as outlined in ORC 5123.62 have been violated and the violation creates a reasonable and likely risk of harm to the individual.

WHAT TO DO IF AN MUI OCCURS

Both county board staff and the staff of any other provider have the responsibility to take all reasonable measures to ensure the health and safety of a consumer when an MUI occurs or is discovered and to file the necessary reports. While every incident is different and the actions required to protect health and safety

will vary depending on the specific situation, the following steps are required and must be followed when an MUI occurs:

Ensure the consumer's health and safety

If a consumer is the possible victim of abuse or neglect, move the consumer to a safe location or remove the alleged offender so there is no contact with the individual. If the abuse or neglect is alleged to have occurred in the consumer's residence, do not send the individual home or back into the potentially abusive or neglectful situation. Keep the consumer in a safe place until required staff are notified and can evaluate and assess the situation. If the consumer has an injury or you suspect that the consumer could be injured, the consumer should be evaluated by a trained medical professional. If no trained medical professionals are available, the consumer should be taken to the closest hospital emergency room for evaluation. For any allegation or suspicion of sexual abuse in which there was the possibility of an exchange of bodily fluids, the consumer must be taken to the closest emergency room.

File the Required Reports

For MUIs involving allegations or actual occurrences of physical or sexual abuse (including peer-to-peer), neglect, or misappropriation notification must be made **immediately** to the police department where the incident occurred. If the incident involves the physical or sexual abuse, neglect, or misappropriation of a consumer under the age of 21, a report must also be filed with the Department of Children and Family Services (DCFS) at 216-696-KIDS.

CCBDD policy requires that all MUIs be reported **immediately** to the MUI Unit via the MUI Hotline. The MUI Hotline is an automated voice mail system. The Hotline can be accessed at 440-333-MUI1 (6841) 24 hours a day, seven days a week. Even you become aware of an MUI outside of your regular business hours, you must report it right away using the MUI Hotline. For incidents of abuse, neglect, exploitation, misappropriation, peer-to-peer acts, suspicious or accidental death or an inquiry from the media about an MUI, you must report the incident to the MUI Hotline immediately but no later than four hours from your discovery of the incident. For other types of MUIs you must call the MUI Hotline by 3:00 pm the next working day following your discovery of the incident. When you call the Hotline, instructions will guide you through the reporting procedure. You will first be asked if you are reporting abuse, neglect, exploitation, prohibited sexual relations, misappropriation or peer-to-peer acts. If you are, you will be instructed to press one. Pressing one results in a page being sent to on-call MUI staff who will ensure that all required immediate steps have been taken. If you are reporting another type of

MUI you will be instructed to press two. In either case you will then be prompted to leave necessary information including the name of the consumer, date of the incident, brief description of the incident, steps taken to ensure health and safety, etc.

By 3:00 PM the next business day, a written Unusual Incident form must be completed and received by the CCBDD MUI Unit. The Unusual incident Report can either be faxed to the MUI Unit at 216-736-3399 or e-mailed to mui@cuyahogabdd.org.

Make the Required Notifications

Within 24 hours of the occurrence of an incident or your knowledge of it, even if the incident is determined not to be an MUI, the incident must to be reported to the individual's guardian (if applicable), the consumer's support administrator if there is one, the consumer's residential provider, and staff or family at the consumer's home who have responsibility for the consumer's care. If one of these persons is named as a possible perpetrator of an alleged incident, no notification should be made to that person.

INVESTIGATION and PREVENTION

All MUIs are investigated by a certified investigative agent. The investigations must determine the cause and contributing factors in the incident. A prevention plan must be developed for each MUI by the individual's team (support administrator, providers, etc.) and the investigative agent.

OHIO DoDD ABUSER REGISTRY

Any DD employee found to have been the perpetrator in abuse, neglect, prohibited sexual relations, misappropriation, or failure to report MUIs may be placed on the Ohio DoDD Abuser Registry and barred from DD employment for at least 5 years. DD employers must check the Abuser Registry before hiring an employee. See the Abuser Registry Notice at the end of this guide.

UNUSUAL INCIDENTS

An unusual incident is defined as an event or occurrence that is not consistent with routine operations, policies, and procedures in the care of an individual. Unusual incidents include medication errors, falls, peer-to-peer interactions that are not MUIs, service interruption due to overnight

relocation due to fire, natural disaster, or mechanical failure, injuries that are not MUIs and other incidents as determined by the provider.

UIs must be reported within 24 hours of the incident to staff who can initiate appropriate actions and to the provider, staff or family at the individual's home on the same day as the incident.

Staff must identify and implement prevention measures to limit or prevent reoccurrence of the UI.

Providers must maintain a log of Unusual Incidents and review that log at least monthly to ensure that appropriate prevention measures have been taken and to determine if any trends or patterns of UIs exist for any individual. The Ohio DoDD reviews CCBDD logs. A prevention plan must be developed for any trends and patterns and that plan must be incorporated in the individual's plan.

RIGHTS OF INDIVIDUALS WITH DD

Persons with developmental disabilities by law have certain rights as enumerated in the Ohio Revised Code. The list of those rights is attached to this guide. All individuals receiving services must be provided with the list of their rights and have those rights explained to them. Rights of persons with DD include dignity, respect, freedom from abuse, neglect, and restraint, self-determination, free choice of provider, and privacy and confidentiality.

DoDD HEALTH & SAFETY ALERTS

The Ohio DoDD periodically publishes alerts regarding identified trends and patterns as determined by MUIs across the state. Issues like scalding, pressure sores, choking, etc. are addressed. CCBDD staff are notified when new alerts are issued.

ABUSER REGISTRY ANNUAL NOTICE

The Ohio Department of Mental Retardation and Developmental Disabilities (“Department”) maintains an Abuser Registry which is a list of DD employees who the Department has determined have abused, neglected, had sexual contact with, stolen property from, or did not report the abuse or neglect of an individual with DD. If your name is placed on the Abuser Registry you are barred from employment as a DD employee in this state for a minimum of 5 years.

- * **Employees whose names may be placed on the Abuser Registry.** The name of any “DD employee” may be placed on the Abuser Registry. DD employee includes any Department employee, any employee of a county board of DD, and any employee providing specialized services to an individual with DD. A specialized service is a program or service designed to primarily serve individuals with DD including services by an entity licensed or certified by the Department.
- * **Abuser Registry Offenses.** The Department may place the name of a DD employee on the Abuser Registry if it determines that the employee has committed any of the below offenses against an individual with DD.
 - **Abuse**
 - Abuse includes the use of any physical force that could reasonably be expected to result in physical harm.
 - Abuse includes unlawful sexual conduct (unprivileged intercourse or other sexual penetration) and unlawful sexual contact (unprivileged touching of another’s erogenous zone).
 - Abuse includes verbal abuse. Verbal abuse means purposely using words to threaten, coerce, intimidate, harass or humiliate an individual.
 - **Sexual Contact.** Sexual contact means the touching of an erogenous zone for sexual gratification, whether or not consensual, by a DD employee of an individual in the employee’s care who is not the employee’s spouse.
 - **Neglect.** Neglect means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods or services necessary to maintain the health or safety of the individual.
 - **Misappropriation (theft).** This means obtaining the property of an individual or individuals, without consent, with an aggregate (combined) value of at least \$100. Theft of any check, credit card, ATM card and the like are also Abuser Registry offenses.
 - **Failure to Report Abuse, Neglect or Misappropriation.** A DD employee may be placed on the Abuser Registry if the employee unreasonably does not report abuse, neglect or misappropriation of the property of an individual with DD, or the substantial risk to such an individual of abuse, neglect or misappropriation, when the employee should know that his/her non-reporting will result in a substantial risk of harm to such individual.

ORC 5123.542 requires the Department, each county DD board, each entity providing specialized services under contract with a DD board, and each owner, operator or administrator of a residential facility as defined in ORC 5123.19 or of a program certified by the Department to provide supported living services to annually provide written notice to each of its DD employees explaining the conduct for which a DD employee may be placed on the Abuser Registry. More information about the Abuser Registry is on the Department’s website at <http://odmrdd.state.oh.us/CountyBoardsDoc/BoardsInfo.htm> or may be obtained by calling (614) 995-3810.

[Click here](#) to Complete and Return the Acknowledgement of Receipt of the Abuser Register Notice

ORC 5123.62 Rights of persons with a developmental disability.

The rights of persons with mental retardation or a developmental disability include, but are not limited to, the following:

- (A) The right to be treated at all times with courtesy and respect and with full recognition of their dignity and individuality;
- (B) The right to an appropriate, safe, and sanitary living environment that complies with local, state, and federal standards and recognizes the persons' need for privacy and independence;
- (C) The right to food adequate to meet accepted standards of nutrition;
- (D) The right to practice the religion of their choice or to abstain from the practice of religion;
- (E) The right of timely access to appropriate medical or dental treatment;
- (F) The right of access to necessary ancillary services, including, but not limited to, occupational therapy, physical therapy, speech therapy, and behavior modification and other psychological services;
- (G) The right to receive appropriate care and treatment in the least intrusive manner;
- (H) The right to privacy, including both periods of privacy and places of privacy;
- (I) The right to communicate freely with persons of their choice in any reasonable manner they choose;
- (J) The right to ownership and use of personal possessions so as to maintain individuality and personal dignity;
- (K) The right to social interaction with members of either sex;
- (L) The right of access to opportunities that enable individuals to develop their full human potential;
- (M) The right to pursue vocational opportunities that will promote and enhance economic independence;
- (N) The right to be treated equally as citizens under the law;
- (O) The right to be free from emotional, psychological, and physical abuse;
- (P) The right to participate in appropriate programs of education, training, social development, and habilitation and in programs of reasonable recreation;
- (Q) The right to participate in decisions that affect their lives;
- (R) The right to select a parent or advocate to act on their behalf;
- (S) The right to manage their personal financial affairs, based on individual ability to do so;
- (T) The right to confidential treatment of all information in their personal and medical records, except to the extent that disclosure or release of records is permitted under sections 5123.89 and 5126.044 of the Revised Code;
- (U) The right to voice grievances and recommend changes in policies and services without restraint, interference, coercion, discrimination, or reprisal;
- (V) The right to be free from unnecessary chemical or physical restraints;
- (W) The right to participate in the political process;
- (X) The right to refuse to participate in medical, psychological, or other research or experiments.

Effective Date: 09-22-2000