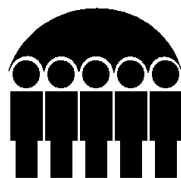


Iowa Department of Human Services

# DEPENDENT ADULT ABUSE

## A Guide for Mandatory Reporters

To report suspected dependent adult abuse:  
In the community, contact the Department of  
Human Services at 1-800-362-2178  
In a health-related facility, contact the  
Department of Inspections and Appeals at  
1-877-686-0027



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## **Dependent Adult Abuse Overview**

“Dependent adult” abuse allegations involve people who are aged 18 or over and are incapable of adequate self care due to physical or mental conditions and require assistance from other people. Dependent adults may be elderly or may have diminished physical or mental capacities that prevent them from meeting their own needs adequately.

Researchers estimate that only 1 in 14 incidents of elder abuse actually come to the attention of law enforcement or human service agencies. Elder abuse is one of the most under-recognized and under-reported social problems in the United States. It is far less likely to be reported than child abuse because of the lack of public awareness. Nationally, it is estimated that over 55% of elder abuse is due to self-neglect. Such abuse can happen anywhere ... in private homes, at health care facilities and in the community at large.

Iowa has an increasing proportion of people who are aged 60 or over. The number of persons 80 or over is increasing more rapidly than any other age group. Iowa’s proportion of older adults in the population exceeds that of the United States as a whole. Nationwide, Iowa ranks:

- 2<sup>nd</sup> in the percentage of persons over age 85
- 2<sup>nd</sup> in the percentage of persons over age 75
- 3<sup>rd</sup> in the percentage of persons over age 65
- 4<sup>th</sup> in the percentage of persons over age 60

In 1993, the Department of Elder Affairs, Iowa State University, and area agencies on aging conducted a statewide needs assessment of non institutionalized Iowans aged 60 to 104. In general, older people in Iowa appear to be doing fairly well, but there are also large numbers who are vulnerable and at risk.

About half of the people in the study lived alone, a trend that is likely to continue into the next century. Those living alone more likely to be older women with lower incomes. The older a woman becomes in our society, the more likely she is to live alone.

Health problems that occur when an elderly person lives alone are more likely to create problems for independent living. While many family and friends provide strong support systems for the elderly, many people who live alone have no one to help them and must rely on the provision of services or on paid assistance. In fact, the data shows that much of the assistance the elderly are receiving is coming from professionals. The elderly who are living alone must have services available to them in order to maintain their independence.

Dependent adults also include those who have diminished physical or mental capacity. People who have a diminished ability to protect themselves and are dependent on others for basic needs are particularly vulnerable to mistreatment, physical violence, threats of assault, verbal abuse, financial exploitation, physical or emotional neglect, and sexual abuse. Iowa has a sizable population of adults who are dependent but are not elderly.

### **Iowa Response**

Iowa Code Section 235B, "Dependent Adult Abuse," took effect on January 1, 1983, and has been amended yearly since then. This law authorizes the Department of Human Services (DHS) to accept reports of suspected dependent adult abuse, evaluate those reports, complete an assessment of needed services, make referrals for services, and maintain a central registry of abuse information.

DHS has legal authority to conduct evaluations and assessments of alleged dependent adult abuse that occurs in the community when it is alleged that:

- ◆ The victim meets the definition of being a dependent adult, and
- ◆ The victim suffers one or more of the five categories of abuse or neglect, and
- ◆ The abuse or neglect occurred as a result of the acts or omissions of a responsible caretaker or of the dependent adult.

DHS conducts approximately 1600 evaluations of dependent adult abuse annually.

Under Iowa Code Chapter 235E, the Department of Inspections and Appeals is now responsible for accepting reports of suspected dependent adult abuse in the following facilities and for completing evaluations of these reports:

- ◆ Health care facilities licensed in Iowa Code section 135C.1,
- ◆ Hospitals defined in Iowa Code section 135B.1,
- ◆ Elder group homes defined in Iowa Code section 231B.1,
- ◆ Assisted living programs certified in Iowa Code section 231C.3, and
- ◆ Adult day services programs defined in Iowa Code section 231D.1.

Additionally, dependent adult abuse may be a crime. Often the evaluating worker and law enforcement work together. Criminal laws provide for the prosecution of alleged perpetrators in cases where a criminal act has been committed.

Other laws provide other means of protection for dependent adults, including substitute decision makers and, when necessary, the involuntary commitment of adults for substance abuse or mental health reasons.

Services can be provided for dependent adults. However all adults have a right to self-determination. This means that the dependent adult can refuse services unless a court determines that the person is not competent to make decisions or is threatening his or her own life or that of others.

Iowa Code section 235B.4 creates a central registry in DHS to provide a single source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. The Central Abuse Registry includes report data, investigative data, and disposition data relating to reports of dependent adult abuse. The purpose of the Registry is to:

- ◆ Facilitate the identification of victims or potential victims of dependent adult abuse by making available a single, statewide source of dependent adult data.
- ◆ Facilitate research on dependent adult abuse by making available a single, statewide source of dependent adult abuse data.
- ◆ Provide maximum safeguards against the unwarranted invasions of privacy that such a registry might otherwise entail.

The Registry issues an annual report on its administrative operation, including information as to the number of requests for dependent adult abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

### **Am I a Mandatory Reporter of Dependent Adult Abuse?**

Iowa Code sections 235B.3(2) and 235E.2 require all of the following people to report suspected dependent adult abuse to the Department of Human Services or the Department of Inspections and Appeals if the person in the course of employment examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse:

- ◆ A member of the staff of a community mental health center
- ◆ A staff member or employee of a health care facility defined in Iowa Code 135C.1; hospital as defined in Iowa Code 135B; elder group home as defined in Iowa Code 231B.1; assisted living program certified under Iowa Code 231C.3, or adult day services programs defined in Iowa Code 231D.1
- ◆ A peace officer
- ◆ An in-home homemaker-home health aide
- ◆ A person employed as an outreach person
- ◆ A health practitioner, as defined in Iowa Code section 232.68
- ◆ A member of the staff or an employee of a community supervised apartment living arrangement, sheltered workshop, or work activity center
- ◆ A social worker
- ◆ A certified psychologist
- ◆ A care review committee member assigned to an elder group home pursuant to Iowa Code Chapter 231B

NOTE: **Any** other person who believes that a dependent adult has suffered abuse **may** make a report of the suspected abuse to DHS. Mandatory reporters may also report suspected abuse **outside** the scope of their professional practice, as **permissive** reporters. An employee of a financial institution may report suspected financial exploitation of a dependent adult.

### **How Do I Report Dependent Adult Abuse?**

441 Iowa Administrative Code 176.4(235B) and 176.5(235B)

Iowa Code Section 235B.3 requires that if you are a mandatory reporter of dependent adult abuse, and you suspect a dependent adult has been abused, you must report it to DHS. Iowa Code Section 235E.2 requires that if the abuse occurred in a health care facility, hospital, elder group home, assisted living or adult day services program, you should report it to the Department of Inspections and Appeals (DIA). Make the report to DHS or DIA by telephone or by other means.

Both the DHS Central Abuse Registry and DHS local offices accept reports from any person who believes dependent adult abuse has occurred. DHS maintain a toll-free telephone line 1-800-362-2178, which is available on a 24-hour-a-day, seven-day-a-week basis. Any person may use this number to report cases of suspected dependent adult abuse. All authorized persons may also use this number for obtaining dependent adult abuse information. DIA can be contacted at 1-877-686-0027.

If you have reason to believe that immediate protection for the dependent adult is advisable, also make an oral report to the appropriate law enforcement agency. A county attorney or law enforcement agency that receives a report of dependent adult abuse must refer it to DHS.

You must also make a report in writing within 48 hours after your oral report. You may use DHS form 470-2441, *Suspected Dependent Adult Abuse Report*, or a format you develop that meets the requirements listed below, based on 441 Iowa Administrative Code 176.5(235B). See the end of this handbook for a sample of form [470-2441](#).

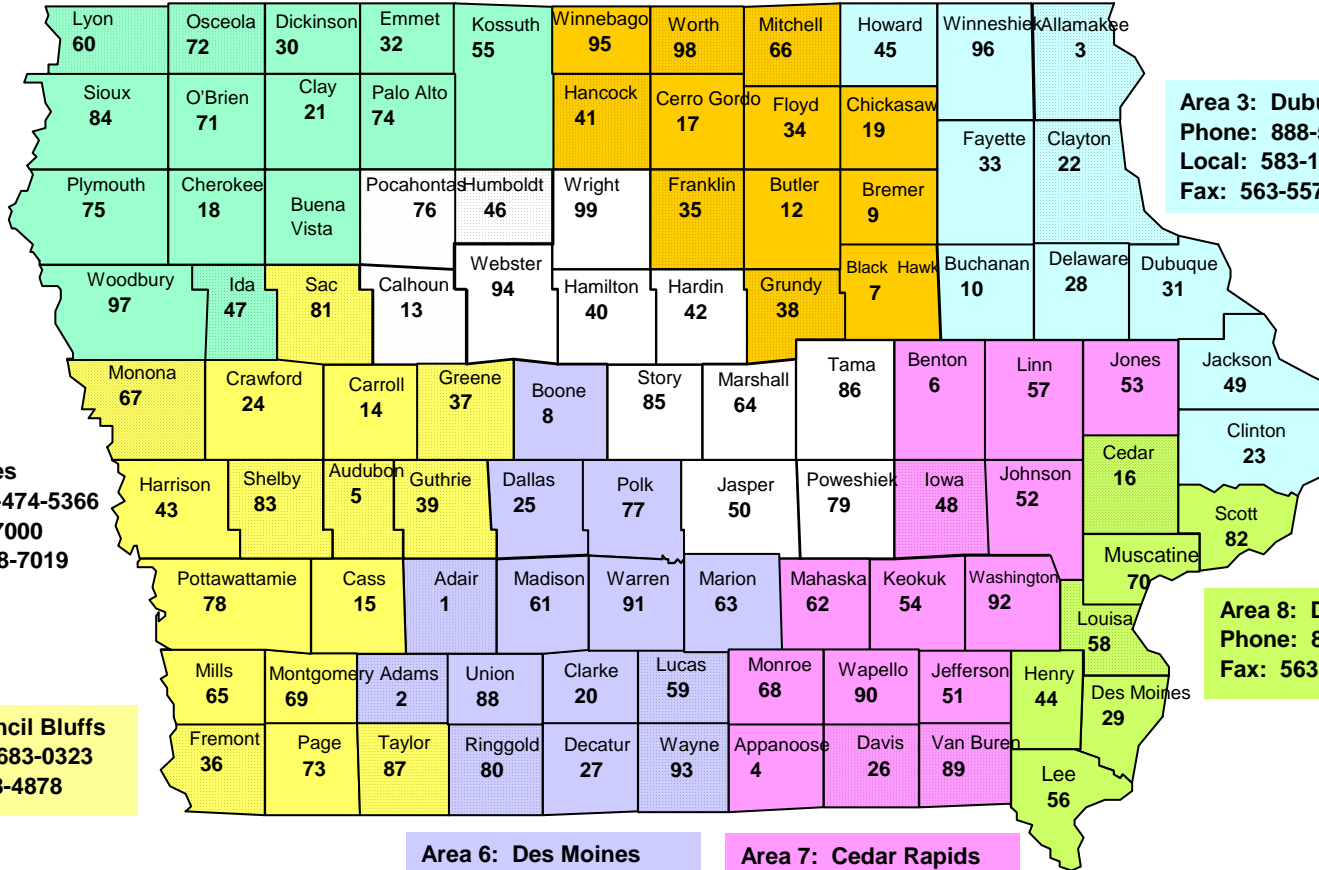
If you are a staff member or employee, you must also immediately notify the person in charge or the person's designated agent. "Immediately" means within 24 hours from the time the mandatory reporter suspects abuse of a dependent adult. The employer or supervisor of a mandatory abuse reporter shall not apply any policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

If you are a staff member or employee of a facility or program licensed or certified by the DIA, you must immediately notify the person in charge or the person's designated agent, who then makes the report to the DIA, within 24 hours, unless the person you are to report directly to is the person you suspect of abusing the dependent adult.

**Area 1: Sioux City**  
 Phone: 712-255-2699  
 Fax: 712-255-2676

### Intake Numbers for Reporting Abuse

**Area 2: Waterloo**  
 Phone: 319-291-2441  
 Fax: 319-291-2619



**Area 3: Dubuque**  
 Phone: 888-583-1039  
 Local: 583-1039  
 Fax: 563-557-9177

**Area 4: Ames**  
 Phone: 866-474-5366  
 Local: 268-7000  
 Fax: 515-268-7019

**Area 5: Council Bluffs**  
 Phone: 877-683-0323  
 Fax: 712-328-4878

**Area 6: Des Moines**  
 Phone: 515-283-9110  
 Fax: 515-283-7912

**Area 7: Cedar Rapids**  
 Phone: 319-892-5055  
 Fax: 319-362-2565

**Area 8: Davenport**  
 Phone: 888-270-3864  
 Fax: 563-326-8240

Less than fulltime offices

### **Report Requirements**

Include in your report the following information, or as much of it as you are able to furnish:

- ◆ The names and home addresses of the dependent adult, relatives, caretakers, and other people believed to be responsible for the dependent adult's care.
- ◆ The dependent adult's present whereabouts, if not the same as the address given.
- ◆ The reason the adult is believed to be dependent.
- ◆ The dependent adult's age.
- ◆ The nature and extent of the adult abuse, including evidence of previous adult abuse.
- ◆ Information concerning the suspected adult abuse of other dependent adults in the same residence.
- ◆ Other information that you believe might be helpful in establishing the cause of the abuse or the identity of the people responsible for the abuse or helpful in assisting the dependent adult.
- ◆ Your name and address.

A report that meets the criteria will be accepted whether or not it contains all of the information listed.

### **Confidentiality and Immunity from Liability**

Iowa Code section 235B.3, states in subsections 7 through 10:

The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency in the state shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 4, or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of a dependent adult abuse report or applies a requirement that results in a failure to make a report, is civilly liable for the damages proximately caused by the failure.

### **Indicators of Possible Dependent Adult Abuse**

The following physical, behavioral, and environmental indicators are listed as signs of possible dependent adult abuse for you to consider in making your report. These lists are examples and are not all-inclusive.

#### **Environment**

- ◆ No food in the house or rotted, infested food
- ◆ Lack of proper food storage
- ◆ Special dietary foods not available
- ◆ Inadequate cooking facilities or equipment
- ◆ Clothes extremely dirty or uncared for
- ◆ Not dressed appropriately for the weather
- ◆ Inadequate or ill fitting clothing, not dressing
- ◆ Wearing all of one's clothing at once
- ◆ Structure dilapidated or in poor repair
- ◆ Fallen steps, high grass, rotted porch, leaking roof
- ◆ Utilities cut off or lack of heat in winter
- ◆ Doors or windows made out of cardboard
- ◆ Unvented gas heaters, chimney in poor repair
- ◆ No fuel for heating or fuel stored dangerously
- ◆ Lack of water or contaminated water
- ◆ Gross accumulation of garbage, papers, and clutter
- ◆ Lack of access to essential rooms
- ◆ Lack of access to community resources
- ◆ Lives on the street
- ◆ Large number of pets with no apparent means of care
- ◆ No income, unpaid bills
- ◆ Out of money by second week of the month
- ◆ Income does not meet monthly expenditures
- ◆ Signs checks over to others
- ◆ Sudden change in money management habits

- ◆ Sudden withdrawals or closing out of bank accounts
- ◆ No TV, radio, telephone, newspapers, magazines
- ◆ No friends or family visits
- ◆ No means of transportation
- ◆ Not physically able to get out and shop, pay bills, etc.

### **Physical Condition**

- ◆ Lack of medical care
- ◆ Lack of personal cleanliness and grooming, body odors
- ◆ Swollen eyes or ankles, decayed teeth or no teeth
- ◆ Bites, fleas, sores, lesions, lacerations
- ◆ Multiple or repeated or untreated injuries
- ◆ Injuries incompatible with explanation
- ◆ Bruises, broken bones or burns
- ◆ Untreated pressure sores
- ◆ Signs of confinement (tied to furniture, locked in a room, etc.)
- ◆ Obesity, malnourishment or dehydration
- ◆ Tremors
- ◆ Difficulty in communication
- ◆ Broken glasses frames or lenses
- ◆ Drunk, overly medicated
- ◆ Lying in urine, feces, old food
- ◆ No use of limbs, lack of mobility

### **Behavior**

- ◆ Intentional physical self-abuse, suicidal statements
- ◆ Persistent liar
- ◆ Does not follow medication directions
- ◆ Refuses needed medical attention
- ◆ Refuses to accept services offered by others
- ◆ Threatens or attacks others physically or verbally
- ◆ Refuses to accept presence of visitor
- ◆ Refuses to open door
- ◆ In total darkness
- ◆ Denies obvious problems (medical conditions, etc.)
- ◆ Increased depression, anxiety or hostility
- ◆ Withdrawn, reclusive, suspicious, timid, unresponsive
- ◆ Refuses to discuss the situation
- ◆ Lack of trust in family as well as in others
- ◆ Refuses to take medication
- ◆ Denies any wrong-doing, medically or otherwise
- ◆ Unjustified pride in self-sufficiency
- ◆ Procrastination
- ◆ Turns off hearing aid
- ◆ Hallucinations, confusion or delusions
- ◆ Disorientation as to place and time
- ◆ Forgetfulness, losing things, not shutting stove off
- ◆ Loneliness, anger, or fearfulness
- ◆ Diminished mental capacity
- ◆ Vague health complaints
- ◆ Longing for death

## **What Is Dependent Adult Abuse Under Iowa Law?**

There are two laws, Iowa Code Chapter 235B for dependent adults in the community and Iowa Code Chapter 235E for dependent adults who live in facilities. "Facilities" include health care facilities defined in Iowa Code section 135C.1, hospitals defined in Iowa Code, section 135B.1, elder group homes defined in Iowa Code section 231B.1, assisted living programs defined in Iowa Code section 231C.1, and adult day services programs defined in Iowa Code section 231D.1.

### **Definitions Used by DHS**

As defined in Iowa Code section 235B.2, "dependent adult abuse" includes five categories of abuse as the result of the willful or negligent acts or omissions of a caretaker:

- ◆ Financial exploitation
- ◆ Physical abuse (including assault and unreasonable confinement or punishment)
- ◆ Sexual abuse
- ◆ Sexual exploitation by a caretaker
- ◆ Denial of critical care (which may also be committed by the dependent adult)

### **Victim**

To be accepted for evaluation, a report must concern a dependent adult. Iowa Code section 235B.2 defines "dependent adult" as a person 18 years of age or older who is:

- ◆ Unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs.
- ◆ As a result of a physical or mental condition that requires assistance from another.

Dependent adult abuse does not include allegations involving:

- ◆ Domestic abuse in a situation where the victim is not "dependent."
- ◆ People who are legally incarcerated in a penal setting, either in a local jail or in the custody of the Department of Corrections.

### **Person Responsible for Abuse**

Iowa Code section 235B.2 defines "caretaker" as a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by the order of the court.

### **Financial Exploitation**

“Financial exploitation” means the act or process of:

- ◆ Taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit without the informed consent of the dependent adult, including theft.
- ◆ By the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
- ◆ As a result of the willful or negligent acts or omissions of a caretaker.

### **Physical Abuse**

“Physical abuse” means one of the following, as a result of the willful or negligent acts or omissions of a caretaker:

- ◆ Physical injury to a dependent adult
- ◆ Injury to a dependent adult which is at a variance with the history given
- ◆ Unreasonable confinement of a dependent adult
- ◆ Unreasonable punishment of a dependent adult
- ◆ Assault of a dependent adult

“An assault” is committed by a caretaker when, without justification, the person does any of the following:

- ◆ Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
- ◆ Any act, which is intended to place another in fear of immediate physical contact, which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
- ◆ Intentionally points any firearm toward another, or displays in a threatening manner any dangerous weapon toward another.

However, the act shall not be considered an assault when the person doing the act and the other person are voluntary participants in a sport, social or other activity that is not in itself criminal, and the act:

- ◆ Is a reasonably foreseeable incident of that sport or activity, and
- ◆ Does not create an unreasonable risk of serious injury or breach of the peace,

Note that there does not have to be an injury to constitute physical abuse.

### **Sexual Abuse**

“Sexual abuse” means the commission of a sexual offense under Iowa Code Chapter 709 or Iowa Code section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker. “Sexual abuse” includes the following subcategories:

- ◆ First degree sexual abuse
- ◆ Second degree sexual abuse
- ◆ Third degree sexual abuse
- ◆ Detention in a brothel
- ◆ Indecent exposure
- ◆ Assault with intent to commit sexual abuse and incest
- ◆ Sexual exploitation by a counselor or therapist
- ◆ Sexual exploitation of a dependent adult by a caretaker
- ◆ Invasion of privacy, nudity
- ◆ Incest

### **Sexual Exploitation by a Caretaker**

“Sexual exploitation by a caretaker” means any consensual or nonconsensual sexual conduct with a dependent adult. This includes but is not limited to kissing; touching the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

Sexual exploitation also includes the transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation.

Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

### **Denial of Critical Care**

“Denial of critical care” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health, as a result of the willful or negligent acts or omissions of a caretaker. This includes the following sub-categories:

- ◆ Denial of or failure to provide adequate food
- ◆ Denial of or failure to provide adequate shelter
- ◆ Denial of or failure to provide adequate clothing
- ◆ Denial of or failure to provide adequate medical care
- ◆ Denial of or failure to provide adequate mental health care
- ◆ Denial of or failure to meet emotional needs necessary for normal functioning
- ◆ Denial of or failure to provide proper supervision
- ◆ Denial of or failure to provide adequate physical care

NOTE: Denial of critical care may also be the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health as a result of the acts or omissions of the dependent adult. (This includes the sub-categories listed above.)

Dependent adult abuse does **not** include the following circumstances:

- ◆ The dependent adult declines medical treatment because the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult’s caretaker declines such treatment acting in accordance with the dependent adult’s stated or implied consent, if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult or the dependent adult’s next of kin or guardian requests withholding or withdrawal of health care from a dependent adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code Chapters 125, 144A, 222, 229, or 633.

### **Definitions Used by DIA**

DIA evaluates reports of abuse in health care facilities, hospitals, assisted living programs, elder group homes, and adult day services programs.

As defined by Iowa code Section 235E.1, "dependent adult abuse" includes the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances.

- ◆ Physical abuse
- ◆ Sexual abuse
- ◆ Sexual exploitation by a caretaker
- ◆ Financial exploitation
- ◆ Neglect

### **Victim**

To be accepted for evaluation, a report must concern a dependent adult. "Dependent adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or protection is impaired, either temporarily or permanently.

### **Person Responsible for Abuse**

The abuse must have occurred as a result of actions taken by a "caretaker" who is a staff member of a facility or program and who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

### **Physical Abuse**

"Physical abuse" means one of the following, as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

- ◆ Physical injury
- ◆ Injury which is at a variance with the history given of the injury
- ◆ Unreasonable confinement
- ◆ Unreasonable punishment
- ◆ Assault that involved the breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances.

"Assault" means the commission of (1) any act that is generally intended to cause pain or injury to a dependent adult, or is generally intended to result in physical contact that would be considered by a reasonable person to be insulting or offensive or (2) any act that is intended to place another in fear of immediate physical contact that will be painful, injurious, insulting or offensive, coupled with the apparent ability to execute the act.

### **Sexual Abuse**

“Sexual abuse” means the commission of a sexual offense under Iowa Code chapter 709 or section 726.2 with or against a dependent adult. This includes the following sub-categories:

- ◆ First degree sexual abuse
- ◆ Second degree sexual abuse
- ◆ Third degree sexual abuse
- ◆ Detention in a brothel
- ◆ Indecent exposure
- ◆ Assault with intent to commit sexual abuse and incest
- ◆ Sexual exploitation by a counselor or therapist
- ◆ Invasion of privacy, nudity
- ◆ Incest

### **Sexual Exploitation by a Caretaker**

“Sexual exploitation by a caretaker” means any consensual or nonconsensual sexual conduct with a dependent adult. This includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in Iowa Code section 702.17.

“Sexual exploitation” also includes the transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, or pubes that is not related to treatment or diagnosis or part of an ongoing investigation.

“Sexual exploitation” does not include touching that is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

### **Financial Exploitation**

“Exploitation” means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

### **Neglect**

“Neglect” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health.

Dependent adult abuse in health care facilities, assisted living programs, elder group homes, and adult day service programs does not include the following circumstances:

- ◆ The dependent adult declines medical treatment because the adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult’s caretaker declines medical treatment acting in accordance with the dependent adult’s stated or implied consent.
- ◆ A dependent adult or the adult’s next of kin or guardian requests withholding or withdrawing of health care from the adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code chapters 125, 144A, 222, 229, or 633.

### **Report Conclusions**

DIA has three possible outcomes in a dependent adult abuse evaluation:

- ◆ **Founded:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. Information on founded reports is maintained on the Central Abuse Registry for ten years and then sealed.
- ◆ **Unfounded:** It is determined by a preponderance of evidence (more than 50%) that abuse has not occurred. Information on unfounded reports is destroyed five years from the date they were unfounded.
- ◆ **Confirmed, not registered:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. When physical abuse or denial of critical care by a caretaker is determined to be minor, isolated and unlikely to reoccur, the report is maintained for five years and then destroyed, unless a subsequent report is founded.

If there is a subsequent report committed by the same caretaker within five years of the nonregistered report, it also may be considered minor, isolated, and unlikely to reoccur depending on the circumstances. These reports are called “assessments” rather than “evaluations.” The subsequent reports will be kept for ten years and then sealed.

## **How Does DHS Respond?**

441 Iowa Administrative Code 176.6(235B)

Immediately upon receipt of a report of dependent adult abuse, DHS shall:

- ◆ Make an oral report to the Central Abuse Registry.
- ◆ Forward a copy of the report to the Registry.
- ◆ Notify the local county attorney of the receipt of the report.
- ◆ Commence an appropriate evaluation or assessment.

Upon receipt of a report of suspected dependent adult abuse, the Central Abuse Registry searches its records. If Registry records reveal any previous report of dependent adult abuse involving the same adult or any other pertinent information with respect to the same adult, the Registry immediately notifies the appropriate DHS office or law enforcement agency of that fact.

The primary purpose of the evaluation or assessment is the protection of the dependent adult named in the report. The evaluation or assessment shall include all of the following:

- ◆ Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.
- ◆ The identification of the person or persons responsible for the adult abuse.
- ◆ A determination of whether other dependent adults in the same residence have been subjected to adult abuse.
- ◆ A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.
- ◆ A critical explanation of all other pertinent matters.

The DHS process of evaluating reports of dependent adult abuse is as follows:

- ◆ Intake
- ◆ Appropriate evaluation or assessment
  - Contact with the dependent adult at the person's residence or at a care or training program
  - Interview with the alleged perpetrator
  - Obtaining information from subjects of the report and other relevant parties
- ◆ Documentation of conclusions and recommendations for services or court action
- ◆ Documentation of evaluation through completion of reports

- ◆ Completion of required correspondence to subjects and mandatory reporters

Reports of suspected abuse are rejected for evaluation or assessment for the following reasons:

- ◆ The subject of the report is not a dependent adult.
- ◆ The alleged perpetrator is not a caretaker.
- ◆ The allegations do not constitute abuse.
- ◆ The information provided is insufficient to suspect abuse.
- ◆ The information is provided in duplicative or in addition to a previous report.
- ◆ The report was referred to the Department of Inspections and Appeals.

You will be notified whether or not your report is accepted for evaluation or assessment.

### **Evaluation or Assessment**

DHS may request information from any person believed to have knowledge of a case of dependent adult abuse. This includes but is not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report.

The person **shall cooperate and assist** in the evaluation upon the request of DHS. County attorneys, law enforcement agencies, multidisciplinary teams, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of DHS. County attorneys and law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

With the consent of the dependent adult or caretaker, the evaluation or assessment may, when appropriate, include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult.

If permission to enter the residence and to examine the dependent adult is refused, the district court may authorize DHS to enter the dependent adult's residence and to examine the dependent adult to make an evaluation or assessment, upon a showing of probable cause that the dependent adult has been abused. A court may also authorize DHS to gain access to the financial records of the dependent adult upon a showing of probable cause that the dependent adult has been financially exploited.

DHS transmits a copy of its evaluation or assessment report, including actions taken or contemplated, to the Registry within 20 regular working days after it receives the adult abuse report, unless the Registry grants an extension of time for good cause.

Upon completion of the report, **all subjects and mandatory reporters are notified in writing** of the conclusions of the evaluation or assessment report.

### **Boarding Homes**

2009 Iowa Acts, Senate File 484, section 5

DIA registers boarding homes and DHS evaluates allegations of abuse in boarding homes, through a coordinated interagency approach. The composition of the multidisciplinary team depends on the allegations and discoveries made during an evaluation or assessment of abuse or violation of registration.

DHS and DIA may participate in a investigation composed of employees from the State Fire Marshall, the Division of Criminal Investigation of the Department of Public Safety, the Workforce Development Department, the Civil Rights Commission, or other local, state, or federal agencies.

### **Report Conclusions**

The conclusion of the investigation is based on an evaluation of all of the information gathered during the investigation. There are three possible outcomes in a dependent adult evaluation or assessment:

- ◆ **Founded:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. These are the only reports that are listed on the Central Abuse Registry. (See [Retention of Records](#).)
- ◆ **Unfounded:** It is determined by a preponderance of evidence (more than 50%) that abuse has not occurred.
- ◆ **Confirmed, not registered:** It is determined by a preponderance of evidence (more than 50%) that the physical abuse or denial of critical care by a caretaker has occurred, but the abuse is determined to be minor, isolated, and unlikely to reoccur.

### **What Happens After the Evaluation?**

Based on the evaluation, DHS completes an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. In some situations there are treatment services that are available and may be offered to assist the dependent adult.

DHS does not have independent legal authority to compel the acceptance of protective services. Adults have constitutional rights that guarantee certain freedoms. Adults have a right to self-determination and have the right to voluntarily accept services or to decline or refuse them. DHS strives to balance a person's right to personal freedom with the need to protect dependent adults who are unable to protect themselves.

Upon voluntary acceptance of the offer of services, DHS makes referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The following services may be offered and provided without regard to income: dependent adult protection, social casework, adult day care, adult support, transportation, and family planning.

### **Law Enforcement Intervention**

Iowa Code section 235B.3A gives the following responsibilities to law enforcement officers:

If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

1. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.
2. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.
3. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:
  - a. You have the right to ask the court for the following help on a temporary basis:
    - (1) Keeping the alleged perpetrator away from you, your home, and your place of work.
    - (2) The right to stay at your home without interference from the alleged perpetrator.
    - (3) Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.
  - b. If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

- c. If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.

### **Court Action**

DHS transmits a copy of the report of its evaluation or assessment to the local county attorney. The county attorney notifies the DHS local office of any actions or contemplated actions with respect to a suspected case of adult abuse.

When a dependent adult is the victim of a criminal act by the caretaker, the caretaker may be criminally charged for maltreatment of the dependent adult. Some examples are:

Neglect or abandonment of a dependent person	Iowa Code 726.3
Wanton neglect of a dependent adult	Iowa Code 726.8(1)
Nonsupport of a dependent adult	Iowa Code 726.8(2)
Assault (various forms)	Iowa Code 708
Sexual abuse (various forms)	Iowa Code 709
Incest	Iowa Code 726.2
Dependent adult abuse (various forms)	Iowa Code 235B.20

When there is no way to protect a dependent adult adequately with voluntary services, the district court may be petitioned to intervene on behalf of the dependent adult. The district court can be petitioned to do any of the following:

- ◆ Authorize the provision of protective services to a dependent adult who is in need of services but lacks the capacity to consent to receipt of those services.
- ◆ Enjoin a caretaker from interfering with the provision of protective services to a dependent adult who is in need of such services and consents to the receipt of those services.
- ◆ Restrain a caretaker from abusing a dependent adult.
- ◆ Order the provision of the following to a dependent adult who has been the victim of dependent adult abuse when the dependent adult lacks capacity to consent to the receipt of services or is subject to an immediate threat to the person's health and safety, or when the dependent adult's abuse results in irreparable harm to the person's physical or financial resources or property:
  - Removal of the dependent adult to safer surroundings
  - Provision of medical services to the dependent
  - Provision of other needed services to the dependent adult

When DHS determines that the best interests of the dependent adult require court action, DHS may initiate action for:

- ◆ The appointment of a guardian or conservator, or
- ◆ The admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code Chapters 125, 222, 229, or 633.

When DHS determines a dependent adult is suffering from abuse which represents an immediate danger to the health or safety of the dependent adult and results in irreparable harm to the dependent adult or the physical or financial resources of the dependent adult, and the adult lacks the capacity to consent to receive services, DHS will petition the court to order any of the following:

- ◆ Remove the dependent adult to safer surroundings;
- ◆ Order the provision of medical services;
- ◆ Order the provision of available services, including emergency services; or
- ◆ Terminate a guardianship or conservatorship.

The county attorney shall assist DHS in the preparation of the necessary papers to initiate the action, and shall appear and represent DHS at all district court proceedings. DHS assists the district court during all stages of court proceedings involving a suspected case of adult abuse.

In every case involving adult abuse substantiated by DHS that results in a judicial proceeding on behalf of the dependent adult, the court shall appoint legal counsel to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem.

Before legal counsel or a guardian ad litem is appointed pursuant to 1983 Iowa Acts, chapter 153, section 4, the court shall require the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. When the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.

### **Substance Abuse Commitment**

Either the county attorney or an interested person may commence proceedings under Iowa Code Chapter 125 for the involuntary commitment of a substance abuser to a facility. Proceedings begin with the filing of a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence.

The application must:

- ◆ State that the applicant believes the respondent is a chronic substance abuser
- ◆ State other pertinent facts
- ◆ Be accompanied by one or more of the following:
  - A written statement of support by a physician
  - One or more supporting affidavits
  - Other corroborative information

An attorney is appointed to represent the respondent. The court orders a hearing and an examination. The court may issue an order for immediate custody if the respondent is believed to be a danger to self or others.

A commitment hearing is held. The respondent's welfare is paramount. If the evidence is clear and convincing, a complete evaluation is ordered. The evaluating facility must report to the court whether the respondent:

- ◆ Does not require further treatment, or
- ◆ Requires full-time (inpatient) treatment, or
- ◆ Requires out patient treatment, or
- ◆ Needs treatment but is not responding to the treatment provided

Further hearings can order continued treatment if warranted.

### **Mental Health Commitment**

Any interested person may commence proceedings under Iowa Code Chapter 229 for the involuntary hospitalization of a person. Proceedings are begun by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The application must:

- ◆ State that the applicant believes the respondent is seriously mentally impaired
- ◆ State other pertinent facts
- ◆ Be accompanied by one or more of the following:
  - A written statement of support by a physician
  - One or more supporting affidavits
  - Other corroborative information

An attorney is appointed to represent the respondent. The court orders a hearing and an examination. The court may issue an order for immediate custody if the respondent is believed to be a danger to self or others.

A commitment hearing is held. The respondent's welfare is paramount. If the evidence is clear and convincing, a complete evaluation is ordered.

The evaluating facility must report to the court whether the respondent:

- ◆ Does not require further treatment, or
- ◆ Requires full-time (inpatient) treatment, or
- ◆ Requires outpatient treatment, or
- ◆ Needs treatment but is not responding to the treatment provided

Further hearings can order continued treatment if warranted.

### **Conservatorship**

A “conservatorship” is a court-authorized relationship under Iowa Code sections 633.566 – 633.667 whereby one person assumes the responsibility for the custody and control of the property of another. The person to whom custody of the property is awarded is called a “conservator.” The person over whose property custody is granted is called a “ward.”

The appointment of a conservator means that the ward is either under legal age or by reason of mental, physical, or other incapacity is unable to make or carry out important decisions concerning the ward’s **financial** affairs. It does not mean that the ward is of unsound mind.

A petition for the appointment of a conservator of the property of a dependent adult may be sought to protect the property of the dependent adult if the protective concern is based on an imminent danger to that person’s property. In the absence of legal action, no person has the right to manage the property of an adult contrary to the adult’s consent.

A conservator must do all of the following:

- ◆ Take possession of the ward’s property and protect and preserve it, invest it prudently, and account for it.
- ◆ Maintain a complete list of all receipts and disbursements.
- ◆ Within 60 days of appointment, file an initial report and inventory of the property of the ward in the conservator’s possession or of which the conservator has knowledge.
- ◆ File with the court the following reports containing full itemized accounting and a list of all assets:
  - An annual report filed within 30 days of the anniversary date of the conservator’s appointment.
  - A final report filed at the termination of the conservatorship.

Failure to file a required report is a breach of the conservator’s duty to the ward and to the court. If the ward’s will comes into the conservator’s hands, it must be delivered to the court for safekeeping.

A conservator has these general powers:

- ◆ Collect, receive and receipt for any property or income of the ward, including Social Security or Veterans Benefits.
- ◆ Sell or transfer perishable personal property or personal property having an established market value.
- ◆ Receive additional property from any source.
- ◆ Make payments to the ward or to others for the benefit of the ward.
- ◆ After obtaining a court order the conservator may:
  - Invest and reinvest the funds of the ward.
  - Sell, lease or mortgage real estate.
  - Do any other thing the court determines to be in the ward's best interest.

### **Guardianship**

When the concern is for the dependent adult's life, rather than the adult's property, a person may seek guardianship appointment to provide for the legal sanction of moving the adult or protecting the adult. In the absence of such legal action, no one has the right to physically relocate an adult against the adult's will. The appointment of a guardian, authorized under Iowa Code sections 633.552 – 633.565, does not constitute an adjudication that the ward is of unsound mind.

The following conditions must be verified before filing a guardianship petition:

- ◆ The dependent adult is incompetent to make decisions regarding the adult's person.
- ◆ A qualified professional has written a document clearly stating that the dependent adult is incompetent to make decisions regarding the adult's person and the reasons for this.
- ◆ A qualified person has agreed to act as the guardian if appointed.

A guardian may be granted the following powers and duties, which may be exercised without prior court approval:

- ◆ Providing for the care, comfort and maintenance of the ward, including the appropriate training and education to maximize the ward's potential.
- ◆ Taking reasonable care of the ward's clothing, furniture, vehicle and other personal effects.
- ◆ Assisting the ward in developing maximum self-reliance and independence.
- ◆ Ensuring the ward receives necessary emergency medical services.
- ◆ Ensuring the ward receives professional care, counseling, treatment or services as necessary.
- ◆ Any other powers or duties the court may specify.

A guardian may be granted the following powers, which may be exercised only upon court approval:

- ◆ Changing the ward's permanent residence at the guardian's request, if the proposed new residence is more restrictive of the ward's liberties than the current residence.
- ◆ Arranging the provisions of major elective surgery or any other non-emergency major medical procedure.
- ◆ Consent to the withholding or withdrawal of life-sustaining procedures in accordance with Iowa Code Chapter 144A.

The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary. The court may direct that the guardian have only a specially limited responsibility for the ward. If so, the court shall state those areas of responsibility that shall be supervised by the guardian. The ward shall retain all others. The court may alter the respective responsibilities of the guardian and the ward after notice to the ward and an opportunity to be heard.

A guardian must file the following reports with the court:

- ◆ An initial report within 60 days of appointment.
- ◆ An annual report within 30 days of the anniversary date of the appointment.
- ◆ A final report within 30 days of the event causing termination.

### **How Is Dependent Adult Abuse Information Handled?**

Iowa Code section 235B.6 provides that confidentiality of dependent adult information shall be maintained, except as specifically authorized. DHS must withhold the name of the person who made the report of suspected dependent adult abuse. Only the court or the Central Abuse Registry may allow the release of that person's name.

#### **Retention of Records**

Information on all **founded** reports (whether evaluated by DHS or by DIA) is maintained on the Central Abuse Registry for 10 years and then sealed.

EXCEPTION: When the dependent adult is responsible for self-denial of critical care, DHS keeps the report in the local office, not on the Central Registry. These are called "assessments" rather than "evaluations."

Information on DHS-evaluated reports that are **confirmed, not registered** is maintained in the local office for 5 years and then destroyed, unless a subsequent report is founded. If there is a subsequent report committed by the same caretaker within 5 years, the original report will be kept in the local office and sealed 10 years after the subsequent report.

Information on **unfounded** reports is destroyed 5 years from the date they were unfounded.

Reports that are **rejected** for evaluation or assessment are kept in the local office for 3 years and then expunged.

### **Access to Information**

Access to “founded” or “unfounded” dependent adult abuse information is authorized to:

- ◆ “Subjects” of a report (the adult victim, the guardian or legal custodian of the adult victim, and the alleged perpetrator) or the attorney for any subject.
- ◆ An employee or agent of DHS responsible for investigating an abuse report.
- ◆ DHS personnel as necessary for the performance of their official duties.
- ◆ The mandatory reporter who reported the abuse.
- ◆ The long-term care resident’s advocate.
- ◆ Multidisciplinary teams.

Access to “founded” dependent adult abuse information (not to “unfounded” information) is also authorized to:

- ◆ People involved in an investigation of dependent care, including a health practitioner or mental health professional, a law enforcement officer, a multidisciplinary team.
- ◆ Individuals, agencies, or facilities providing care to a dependent adult named in a report under some circumstances. This includes a facility licensing authority, a person or agency responsible for the care of a dependent adult victim or perpetrator, a DHS registration or licensing employee, or a person providing care to an adult who is regulated by DHS, and the legally authorized protection and advocacy agency.
- ◆ Judicial and administrative proceedings under some circumstances. This may include district court, a court or administrative agency hearing an appeal for correction of dependent adult abuse information, an expert witness at any stage of an appeal hearing, and a court or administrative agency making an unemployment compensation determination.
- ◆ A person conducting bona fide dependent adult abuse research.
- ◆ DHS personnel, a person or agency under contract with DHS to carry out the duties of the Registry, or the attorney for DHS.
- ◆ The Department of Justice.
- ◆ A legally constituted adult protection agency from another state for investigative or treatment purposes.

- ◆ A health care facility administrator or designee.
- ◆ State or local substitute decision maker.
- ◆ A nursing student program administrator and to the Board of Education for abuse background checks.

To request dependent adult abuse information, complete form [470-0612](#), *Request for Dependent Adult Abuse Registry Information*. A sample of this form is included at the end of this handbook. Send this form to the local DHS office or to the Central Abuse Registry at the following address: DHS Central Abuse Registry, 1305 E Walnut St, 5th Floor, Des Moines, Iowa 50319-0114

A person who would not otherwise have access to dependent adult abuse information, may request this information on an individual who agrees to authorize this information for the purpose of a background check. This can be accomplished by completing form [470-4531](#), *Authorization for Release of Dependent Adult Abuse Information*. A sample of this form is included at the end of this handbook.

The form must be completed as follows:

- ◆ The person requesting the information must complete and sign the top section of the form, and
- ◆ The person authorizing the background check must sign in the middle section.

Dependent adult abuse information is limited to whether or not there is a record of the person being checked as having been found to have abused a dependent adult. The person requesting the information will fax or mail the form to the Central Abuse Registry. The address and fax number are at the top of the form. DHS will perform the background check and fax or mail it back to the requester.

### **Request for Correction or Expungement of Abuse Information**

A subject of a dependent adult abuse report who feels there is incorrect or erroneous information contained in the evaluation or assessment report, or who disagrees with the conclusions of the report, may request correction of the report.

To request a correction of a report, a person must file a written statement to the effect that the information referring to the person is in whole or in part erroneous with DHS within six months of the date of the notice of the results of the evaluation. Submit to: DHS Appeals Section, 1305 E Walnut St, 5th Floor, Des Moines, Iowa 50319-0114

The local office social worker or the social worker's supervisor may wish to review the report, along with any additional information the requester provides. They may uphold, modify or overturn the original finding. A requester not satisfied with the local office review may request an administrative appeal hearing.

The administrative law judge may uphold, modify, or overturn the finding. DHS may defer the hearing until the conclusion of a court case relating to the information or findings.

If the requester is not satisfied with the decision of the administrative law judge, the matter may be appealed to the district court. The decision resulting from the hearing may be appealed to the court of Polk County or to the court of the district in which the person resides.

Iowa Code section 235B.10 provides in subsections 4, 5, and 6 that:

Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235B.12.

If the Registry corrects or eliminates information as requested or as ordered by the court, the Registry shall advise all persons who have received the incorrect information of the fact. Upon application to the court and service of notice on the Registry, an individual may request and obtain a list of all persons who have received dependent adult abuse information referring to that individual.

In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information and the identity of any person who has been reported as having abused an adult may be withheld upon a determination by the registry that disclosure of the person's identity would be detrimental to the person's interest.

### **What Training Do Mandatory Reporters Need?**

Iowa Code section 235B.16 requires that a mandatory reporter whose work involves the examination, attending, counseling, or treatment of adults on a regular basis shall:

- ◆ Obtain a statement of the abuse reporting requirements from the person's employer (or from DHS, if self-employed) within one month of initial employment or self-employment.
- ◆ Complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment (or self-employment).
- ◆ Complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

NOTE: These requirements do not apply to a physician whose professional practice does not regularly involve providing primary health care to adults.

If the person is an employee of a hospital or similar public or private facility, the employer is responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day.

If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the training as part of:

- ◆ A continuing education program required under Iowa Code chapter 272C and approved by the applicable licensing board,
- ◆ A training board using a curriculum approved by the abuse education review panel established by the Director of Public Health, or
- ◆ A training program using such an approved curriculum offered by the Department of Human Services, the Department of Aging, the Department of Inspection and Appeals, the Iowa Law Enforcement Academy, or a similar public agency.

A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program that combines child abuse and dependent adult abuse curricula and thereby meet both training requirements simultaneously. The person may satisfy the combined requirements through completion of a two-hour training program, if the training curriculum is approved by the applicable licensing or examining board or by the abuse education review panel established by the Department of Public Health.

Related provisions of Iowa Code section 235B.10 require:

- ◆ The Department of Aging in cooperation with the Department of Human Services shall conduct a public information and education program. The elements and goals of the program include but are not limited to:
  - Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.
  - Providing caretakers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caretaker and dependent adult relationship.
  - Affecting public attitudes regarding the role of the dependent adult in society.
- ◆ The Department of Human Services, in cooperation with the Department of Aging and the Department of Inspections and Appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to Instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

- ◆ The content of the continuing education required pursuant to Iowa Code Chapter 272C for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.
- ◆ The Department of Inspections and Appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.
- ◆ For the purposes of this subsection, “licensing board” means an examining board designated in Iowa Code section 147.13, the Board of Educational Examiners created in Iowa Code section 272.2, or a licensing board as defined in Iowa Code section 272C.1.
- ◆ A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to Iowa Code section 235B.3 shall require as a condition of licensure that the person be in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person’s completion of the training requirements.

However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

- ◆ For persons required to report cases of dependent adult abuse pursuant to Iowa Code section 235B.3, who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility’s or program’s licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.
- ◆ For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.
- ◆ For mandatory reporters who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the person’s compliance with the training requirements of this subsection.

Iowa Department of Human Services

**SUSPECTED DEPENDENT ADULT ABUSE REPORT**

This form may be used as the written report that mandatory reporters file with the Department of Human Services following an oral report of suspected dependent adult abuse. See page 2 for instructions.

There are three criteria for a dependent adult abuse referral:

- (1) A dependent adult.      (2) Abuse as defined in Iowa Code 235B.      (3) A caretaker, if applicable.

**REPORT INFORMATION**

Name of Dependent	Phone (    )	Birth Date	
Street	City	State	Zip Code
1. Person is a dependent adult because:			
2. Type of abuse noted:			
<input type="checkbox"/> Physical injury	<input type="checkbox"/> Financial exploitation	<input type="checkbox"/> Denial of care by dependent adult him/herself	
<input type="checkbox"/> Sexual offense	<input type="checkbox"/> Unreasonable punishment	<input type="checkbox"/> Denial of care by caretaker	
<input type="checkbox"/> Unreasonable confinement			
Information about suspected abuse: (Incidents, previous abuse, person responsible for abuse, name and address of guardian, etc.)			
3. Caretaker: (Omit if deprivation is <u>by</u> the dependent adult.)			
Name		Phone (    )	
Street	City	State	Zip Code
Person is a caretaker because:			

**REPORTER INFORMATION**

Name	Position	Relationship to Adult
Office Address		Phone (    )
Names of other mandatory reporters who have knowledge of the abuse		
Signature of Reporter		Date

**Instructions for Completing Form 470-2441,  
Suspected Dependent Adult Abuse Report**

- ⇒ The mandatory reporter who has made the initial oral report of suspected abuse to the Department of Human Services prepares this form.
- ⇒ Submit this form within 48 hours of the oral report to the Protective Service Unit that will be conducting the evaluation or assessment.
- ⇒ If the oral report was not accepted for evaluation or assessment, this form is not necessary.
- ⇒ If your agency has a report form or letter format that includes all of the information requested on this form, you may use the agency format in place of form 470-2441.

**Use the space below if there is not enough space for all pertinent information on the front of this form. You can attach collateral reports or other information to the form.**

**REQUEST FOR DEPENDENT ADULT ABUSE REGISTRY INFORMATION**

To request information about dependent adult abuse, complete this form and mail it to:

**Central Abuse Registry, Iowa Department of Human Services, 1305 E Walnut, Des Moines, Iowa 50319-0114.**

Note: Information will be released only to people who have access to it under Iowa Code section 235B.6.

**Criminal Penalties** (235B.12)

1. Any person who willfully requests, or seeks to obtain dependent adult abuse information under false pretenses, or who willfully communicates or seeks to communicate dependent adult abuse information to any agency or person except in accordance with section 235B.6 and 235B.8, or any person connected with any research authorized pursuant to section 235B.6 who willfully falsifies dependent adult abuse information or any records relating thereto, is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate dependent adult abuse information except in accordance with section 235B.6 and 235B.8 shall be guilty of a simple misdemeanor.
2. Any responsible grounds for belief that a person has violated any provision of this chapter shall be grounds for the immediate withdrawal of any authorized access such person might otherwise have to dependent adult abuse information.

**Redissemination of Dependent Adult Abuse Information** (235B.8)

1. A recipient of dependent adult abuse information authorized to receive the information shall not redisseminate the information, except that redissemination shall be permitted when all of the following conditions apply:
  - a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
  - b. The person to whom such information would be redisseminated would have independent access to the same information under section 235B.6.
  - c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.
  - d. The written record is forwarded to the registry within thirty days of the redissemination.

Name of person making request:		Office phone:	
Office address:			
Position and basis for authorization (Code 235B.6):			
Information requested concerning (name—first, middle, last):		Social security number:	Birth date:
Maiden name or alias (if applicable):	Address:		
What information is requested:			
Date	Signature		
<b>To be completed by Registry personnel</b>			Date:
<input type="checkbox"/> Request approved by:			
<input type="checkbox"/> Request denied because:			
Information released:			

### Authorization for Release of Dependent Adult Abuse Information

This form must be used to authorize release of dependent adult abuse information when the person requesting the information does not have independent access to it in Iowa law. Complete a separate form for each person about whom information is requested. Send the original to the Central Abuse Registry, Iowa Department of Human Services, 1305 E Walnut Street, 5th Floor, Des Moines, IA 50319-0114 or fax to 515-242-6884.

**To be completed by the person requesting information:**

Requester			
Address			
City	State	Zip Code	Phone Number

The information concerns:

Name (first, middle initial, last)			
Maiden Name or Alias (if applicable)	Birth Date	Social Security Number	
Address			
City	State	Zip Code	County

What is the purpose of your request for dependent adult abuse information?

I have read and understand the legal provisions for handling dependent adult abuse information that are printed on the second page of this form.

Signature	Date
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**To be completed by the person authorizing the Department of Human Services to release dependent adult abuse information:**

Signature	Date
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**To be completed by the Central Abuse Registry or designee:**

- The person named above is listed on the Dependent Adult Abuse Registry as having abused a dependent adult.
- The person named above is not listed on the Dependent Adult Abuse Registry as having abused a dependent adult.
- This request for information is denied because the form is incomplete.

Signature	Date
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Comments:

## **Legal Provisions for the Handling of Dependent Adult Abuse**

### **Redissemination of Dependent Adult Abuse Information, Iowa Code 235B.8**

A person, agency, or other recipient of dependent adult abuse information shall not redisseminate this information. However, redissemination is permitted when all of the following conditions apply:

- The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
- The person to whom the information would be redisseminated would have independent access to the same information under Iowa Code section 235B.6.
- A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.
- The written record is forwarded to the Registry within 30 days of the redissemination.

### **Criminal Penalties, Iowa Code 235B.12**

Any person is guilty of a criminal offense when the person:

- Willfully requests, obtains, or seeks to obtain dependent adult abuse information under false pretense.
- Willfully communicates or seeks to communicate dependent adult abuse information to any agency or person except in accordance with Iowa Code sections 235B.6 through 235B.8.
- Is connected with any research authorized pursuant to Iowa Code section 235B.6 and willfully falsifies dependent adult abuse information or any records relating to dependent adult abuse.

Upon conviction for each offense, the person shall be punished by a fine of up to \$1,000 or imprisonment for not more than two years, or by both fine and imprisonment.

Any person who knowingly, but without criminal purposes, communicates, or seeks to communicate dependent adult abuse information except in accordance with Iowa Code sections 235B.6 and 235B.8 shall be fined not more than \$100 or be imprisoned not more than ten days for each such offense.