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Employees' Manual
Title 16
Chapter G

DEPENDENT ADULT PROTECTIVE SERVICES



Iowa Department
of Human Services

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Overview

Protection to dependent adults is provided through:

- ◆ Encouraging the reporting of suspected cases of abuse.
- ◆ Ensuring the thorough and prompt evaluation or assessment of these reports.
- ◆ Intervening to provide protection to abused dependent adults.
- ◆ Providing rehabilitative services to abused dependent adults.

The Department may receive reports of alleged dependent adult abuse from the following categories of reporters:

- ◆ Mandatory reporters, who in the course of employment examine, attend, counsel, or treat a dependent adult and reasonably believe the dependent adult has suffered abuse. Mandatory reporters must report suspected abuse found in the course of their work. Mandatory reporters who make a report generating an evaluation or assessment are entitled to the following:
 - Written notification of the results of the evaluation or assessment.
 - A copy of the evaluation or assessment report, upon request of the mandatory reporter. This includes founded and unfounded reports.
- ◆ Permissive reporters. Any person who suspects dependent adult abuse may exercise responsibility as a concerned citizen and make an oral or written report of suspected abuse to the Department. A permissive reporter is not required by law to report abuse, and there are no sanctions imposed upon a permissive reporter for failing to report suspected abuse.
- ◆ Mandatory reporters who are reporting permissively. When people who are mandatory reporters in the course of their employment suspect dependent adult abuse outside of the scope of their professional duties, they are encouraged to report the allegation to the Department. They are not legally required to report, nor are they subject to the same duties or privileges that pertain to mandatory reporters.

Intake is completed by centralized intake centers located in each service area. Staff at these centers receive reports and assign cases directly to protective service staff. See 16-G(1), [DEPENDENT ADULT ABUSE INTAKE](#), for information about the procedures for receiving reports of dependent adult abuse, determining jurisdiction of the evaluation, and assigning cases. For a more detailed guide on intake decisions, see Comm. 96, [Dependent Adult Protection Handbook](#).

Because protective service staff and supervisors take turns being “on-call” (after 4:30 P.M., Monday through Friday; weekends and holidays), all protective service staff need access to intake and case assignment policy. On-call staff respond to emergency calls when a dependent adult is suspected to be in immediate danger and must be seen within one hour. On-call workers and supervisors provide intake, case assignment, and emergency home visits after hours.

Dependent adult abuse that occurs in the community is evaluated or assessed by the Department of Human Services (referred to in this chapter as “the Department” or “DHS”). The Department evaluates and assesses reports of dependent adult abuse in the community under the authority of Iowa Code Chapter 235B, “Adult Abuse.”

Dependent adult abuse that occurs in health care facilities, hospitals, adult day programs, assisted living programs, or elder group homes is investigated by the Department of Inspections and Appeals (DIA). DIA investigates reports of dependent adult abuse in the following health care facilities and programs under the authority of Iowa Code Chapter 235E, “Dependent Adult Abuse in Certain Facilities and Programs”:

- ◆ Health care facilities as defined in Iowa Code section 135C.1
- ◆ Hospitals as defined in Iowa Code section 135B.1
- ◆ Elder group home as defined in Iowa Code section 231B.1
- ◆ Assisted living program certified under section 231C.3
- ◆ Adult day services program as defined in Iowa Code section 231D.1

This includes the following Department-operated facilities:

- ◆ Cherokee Mental Health Institute
- ◆ Clarinda Mental Health Institute
- ◆ Independence Mental Health Institute
- ◆ Mount Pleasant Mental Health Institute
- ◆ Glenwood Resource Center
- ◆ Woodward Resource Center

DHS is responsible for:

- ◆ Conducting evaluations and assessments in programs in the community that are not covered by DIA, such as the Medicaid home- and community-based waiver group homes, sheltered workshops, and community supervised apartment living arrangements.
- ◆ Conducting evaluations and assessments in entities covered by DIA if the person suspected of abuse is not a staff member or employee of the facility or program.
- ◆ Ensuring safety in entities covered by DIA after hours, on weekends, and on holidays.

For more detailed instruction on DHS responsibilities in health care facilities, agencies, and programs, see [Comm. 195, Facility, Agency, and Program Handbook](#), in 16-G-Appendix.

Adults have constitutional rights that guarantee certain freedoms. The Department must:

- ◆ Provide services in the least restrictive manner possible.
- ◆ Strive to balance a person's right to personal freedom with the need to protect dependent adults who cannot protect themselves.

This chapter addresses the services that may be provided to dependent adults who are suspected of having been abused. It is divided into six major sections:

- ◆ [Observation and assessing safety](#)
- ◆ [The evaluation and assessment process](#)
- ◆ [Delivery of dependent adult abuse services](#)
- ◆ [Case records](#)
- ◆ [Central Abuse Registry](#)
- ◆ [Release of dependent adult abuse information](#)

Legal Basis

Authority for the reporting and evaluation or assessment of dependent adult abuse and operation of a Central Abuse Registry comes from the following sources:

- ◆ Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, provides funding for various social services, including protective services, through Social Services Block Grant funding.
- ◆ Iowa Code Chapter 217 establishes the purpose and general duties of the Department of Human Services.
- ◆ Iowa Code Chapter 234, "Child and Family Services," vests authority in the Director of the Department to use funds for protective services.
- ◆ Iowa Code Chapter 235B, "Adult Abuse," became effective January 1, 1983. This legislation authorizes the Department to accept reports of suspected dependent adult abuse, evaluate and assess reports, complete an assessment of needed services, and make appropriate referrals for services.
- ◆ Iowa Code Chapter 235E, "Dependent Adult Abuse in Facilities and Programs. This legislation authorizes the Department of Inspections and Appeals to investigate reports of abuse in health care facilities and programs licensed or certified through the Department of Inspections and Appeals.
- ◆ 2009 Iowa Acts, Senate File 438, changes the definition of "sexual exploitation of a dependent adult by a caretaker," revises requirements for obtaining a court order, and adds a new criminal allegation.
- ◆ 2009 Iowa Acts, Senate File 484, which:
 - Regulates the registration of boarding homes and requires an interagency approach to evaluating abuse alleged in a boarding home; .
 - Requires the Department to keep rejected intakes for three years and unfounded reports for five years and to cooperate with other agencies to provide training on reporting abuse in residential settings where dependent adults receive services; and
 - Requires the dependent adult protective advisory council to develop an assessment tool and process for use by agencies involved in assessing an adult's degree of dependency, including periodic visits to persons who refuse services.
- ◆ Iowa Administrative Code 441, Chapter 176, "Dependent Adult Abuse," explains the program in greater detail.

Definition of Terms

Legal reference: 441 IAC 176.1(235B), 176.6(2)
Iowa Code section 235B.3(2)

The legal basis, where applicable, follows each definition.

Adult abuse means either 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, or any of the following as a result of the willful or negligent acts or omissions of a caretaker:

- ◆ Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
- ◆ The commission of a sexual offense with or against a dependent adult.
- ◆ Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the misuse of 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 pretense.
- ◆ 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. (441 IAC 176.2(235B))
- ◆ Sexual exploitation of a dependent adult by a caretaker. "Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult, which includes but is not limited to kissing; touching of 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, 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. (Iowa Code section 235B.2(5))

Appropriate evaluation or assessment means that evaluation or assessment reasonably believed by the Department to be warranted by the facts and circumstances of the case as reported. (441 IAC 176.1(235B))

Assessment means the process of collecting and examining information concerning a dependent adult who allegedly has been denied critical care **due to the acts or omissions of the dependent adult**, for the purpose of determining the circumstances of the adult. The information is used to write the dependent adult abuse assessment report. (Iowa Code section 235B.3; 441 IAC 176.3(3))
"Assessment" also means the completed report when:

- ◆ The dependent adult is responsible for the abuse; **or**
- ◆ The report of abuse is "confirmed, not registered" because the physical abuse or denial of critical care was minor, isolated, and unlikely to reoccur.

At-risk adult means an adult who because of a significant impairment due to a physical or mental disability or both is unable to meet essential daily needs without assistance and is at risk of health or safety due to the impairment, the environment, lack of services, refusal to accept services, substance abuse, no social support, or other risk factors identified through an assessment.

Boarding home (See 16-G(1), Definitions: [Boarding home](#).)

Capacity to consent is a non-legal judgment of a person's functional ability to make decisions. If it is determined that a person lacked the capacity to consent, it does not mean that the person is legally incompetent.

Caretaker means 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 order of the court. (Iowa Code section 235B.2)

Collateral sources means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and visiting nurses. (441 IAC 176.1(235B))

Confidentiality means the withholding of information from any manner of communication, public or private. (441 IAC 176.1(235B))

Confirmed, not registered means that physical abuse or denial of critical care is determined by a preponderance of evidence (more than 50%) to have occurred, but because the abuse is minor, isolated, and unlikely to reoccur, the report is not placed on the Registry. These reports are termed "assessments" and are kept in the local office for five years and then destroyed unless there is a subsequent report. If there is a subsequent report committed by the same caretaker within five years, the report will be kept in the local office and sealed ten years after the subsequent report.

Department means the Department of Human Services and includes the county and central offices of the Department. (Iowa Code section 235B.2; 441 IAC 176.1(235B))

Dependent adult means a person 18 years of age or older who is unable to protect the person's own interests or unable to perform adequately or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another. (Iowa Code section 235B.2; 441 IAC 176.1(235B))

Dependent adult abuse information means any or all individually identified report data, evaluation data, assessment data, and disposition data maintained by the Registry or by any office of the Department. (See also "[report data](#)," "[evaluation or assessment data](#)," and "[disposition data](#).") Iowa Code section 235B.5(F)

Disposition data means information pertaining to an opinion or decision as to the occurrence of dependent adult abuse, including:

- ◆ Any intermediate or ultimate opinion or decision you may reach.
- ◆ Any opinion or decision reached in the course of judicial proceedings.
- ◆ The present status of any case.

Emergency shelter services include, but are not limited to, secure crisis shelters of housing for victims of dependent adult abuse. (Iowa Code section 235B.2(5A))

Evaluation means the process of collecting and examining information concerning a dependent adult who allegedly has been abused or denied critical care **due to the acts or omissions of the caretaker**, for the purpose of determining the circumstances of the dependent adult. The information is used to write the dependent adult abuse evaluation report. An evaluation is done on all allegations of dependent adult abuse that are not due to the acts or omissions of the dependent adult. (See also the definition of "[assessment](#).")

Evaluation or assessment data means information pertaining to the evaluation or assessment of report data, including:

- ◆ Information as to the nature, extent, and cause of the abuse;
- ◆ The identity of persons responsible for the abuse;
- ◆ The names and conditions of other dependent adults in the home; and
- ◆ The dependent adult's home environment and relationships with the caretaker, if there is a caretaker.

Expungement means the process of destroying dependent adult abuse information.

Family or household member means a spouse, a person cohabiting with the dependent adult, a parent, or a person related to the dependent adult by consanguinity or affinity, but does not include children of the dependent adult who are less than 18 years of age. (Law enforcement officers may offer professional counseling to a family or household member when they are remaining with a victim of criminal dependent adult abuse.) (Iowa Code section 235B.2(5B))

Founded means that it has been determined by a **preponderance of evidence** (more than 50%) that dependent adult abuse has occurred. (Iowa Code Section 235B.9(2))

Guardian means the person appointed by the court to have custody of the person (or ward) under provisions of the Probate Code. (Iowa Code Chapter 633) A guardian may be granted the following powers and duties that 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 needed.
- ◆ 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 for the provision of major elective surgery or any other nonemergency major medical procedure.

Health practitioner means a licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatrist or chiropractor; a resident or intern in any such professions; a licensed dental hygienist; a registered nurse or licensed practical nurse; and a basic emergency medical care provider certified under Iowa Code section 147.161 or an advanced emergency medical care provider under Iowa Code section 147A.6. (Iowa Code sections 235B.3(2)(e)(5); and 232.68(5))

Immediate danger to health or safety means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention. (Iowa Code section 235B.2(5C))

Individual employed as an outreach person means a person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources. (Iowa Code section 235B.2(6); 441 IAC 176.1(235B))

Legal holiday means New Year's Day, Dr. Martin Luther King Jr.'s Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. (Iowa Code, Section 1C.1)

Mandatory reporter means a person who is required to make a report of suspected dependent adult abuse. People who in the course of employment examine, attend, counsel, or treat a dependent adult and reasonably believe the dependent adult has suffered abuse are mandatory reporters.

Mandatory reporters include social workers, members of the staff of a mental health center; peace officers, in-home homemaker-home health aides, people employed for outreach purposes, health practitioners, and staff members or employees of a community supervised apartment living arrangement, sheltered workshop, or work activity center. (Iowa Code section 235B.3(2)) See 16-G(1), [Source of Reports](#), for more information on mandatory and permissive reporters.

Multidisciplinary team means a team of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, and others who have regular contact with dependent adults. (Iowa Code section 235B.1(1); 441 IAC 176.1235B))

Peace officer means a law enforcement officer or a person designated as a peace officer by Iowa Code section 801.4. This includes sheriffs and their regular deputies who are subject to mandated law enforcement training, marshals and peace officers of cities, and various employees of state agencies.

Permissive reporter means any person other than a mandatory reporter who believes that a dependent adult has been abused and makes a report of suspected dependent adult abuse. This includes mandatory reporters making reports outside of employment responsibilities. (Iowa Code section 235B.3)

Employees of financial institutions may report suspected financial exploitation of a dependent adult, but are not considered mandatory reporters. See 16-G(1), [Source of Reports](#), for more information on mandatory and permissive reporters.

Preponderance of evidence means evidence that is of greater weight or more convincing (more than 50%) than the evidence offered in opposition. (441 IAC 176.1(235B))

Proper supervision means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall mean placing a dependent adult in a situation that may endanger the dependent adult's life or health, or cruelly punish or unreasonably confine the dependent adult. (441 IAC 176.1(235B))

Protective services are any services provided to a dependent adult for the purpose of eliminating or preventing abuse.

Registry means the central registry for dependent adult abuse information established in Iowa Code section 235B.5. (441 IAC 176.1(235B))

Report means a verbal or written statement made to the Department, which alleges that dependent adult abuse has occurred. (441 IAC 171.5(235B))

Report data means information pertaining to any occasion involving or reasonably believed to have involved dependent adult abuse, including:

- ◆ The name and address of the dependent adult and of the caretaker, if there is one.
- ◆ The age of the dependent adult.
- ◆ The nature and extent of the abuse, including evidence of any previous abuse.
- ◆ Any other information believed to be helpful in establishing the cause of the abuse and the identity of the person or persons responsible for the abuse.

Social worker means any person who is identified or designated as being a social worker, by job classification.

Subject of a report means the dependent adult, the dependent adult's guardian or legal custodian, and the alleged perpetrator. (Iowa Code section 235B.6(2)(a))

Substitute decision maker means a person providing decision-making assistance to a dependent adult in regards to financial or personal care decisions. A substitute decision maker includes, but is not limited to, the roles of guardian, conservator, representative payee, and attorney-in-fact under a power of attorney.

Support services includes but is not limited to community-based services, including area agency on aging assistance, housing-related services, mental health, fiscal management, home health, counseling, transportation, adult day care, respite, legal, and advocacy services. (Iowa Code section 235B.2(14))

Unfounded means that it has been determined by a **preponderance of evidence** (more than 50%) that dependent adult abuse has not occurred. (Iowa Code section 235B.9(2))

Community Education

Legal reference: Iowa Code section 235B.16 and 2009 Iowa Acts, Senate File 484, section 9

The Department of Human Services, in cooperation with the Department of Aging and the Department of Inspections and Appeals, provides programs of education and training for persons who may be in contact with dependent adult abuse.

Targets include members of provider groups and family members. The programs include, but are not limited to, instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.

Under the guidance of the Department of Aging and the DHS Division of Adult, Children, and Family Services, service area staff arrange for the education of the community and mandatory reporters as to their responsibilities. Either the Abuse Education Review Panel managed through the Department of Public Health or the mandatory reporter's licensure board must approve required mandatory reporter curricula.

DHS will cooperate with these departments and with the Departments of Public Safety and Workforce Development, the Civil Rights Commission, and other state and local agencies performing inspections or otherwise visiting residential settings where dependent adults live, to regularly provide training to staff concerning procedures to report dependent adult abuse and build public awareness on reporting of abuse.

Service area staff also assist the community in developing appropriate services for families in which abuse has occurred or is likely to occur. These educational and community developmental activities may range from presenting educational programs to developing multidisciplinary diagnostic and treatment teams.

Multidisciplinary Teams

Legal reference: Iowa Code section 235B.1(1); 441 IAC 176.15(235)

Each Department service area is required to have at least one multidisciplinary team. The multidisciplinary teams provide consultation to Department staff on evaluation, assessment, ongoing treatment, and recommendation of services for dependent adult abuse cases.

The service area manager or designee uses knowledge of community resources to recruit potential team members to meet the membership guidelines required by law. Each team has a Department member. The Department representative can provide policy information to team members and can help ensure compliance with the terms of the team agreement.

Team membership consists of professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, and other disciplines relative to dependent adults. Members of the team include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

The team is used primarily for consultation; however, it may also be used as a treatment team if that is in the best interest of the client. Depending on composition of the team, consultation may be especially helpful in:

- ◆ Identifying special techniques or courses of action, which are useful in difficult cases.
- ◆ Providing expert analysis of information obtained in an evaluation or assessment.
- ◆ Providing recommendations on service needs and treatment methods for abusive caretakers.
- ◆ Identifying other community resources for treating abuse situations.
- ◆ Providing recommendations on the need for district court action.
- ◆ Providing recommendations on continuation or termination of services.

Multidisciplinary Team Agreements

Legal reference: Iowa Code section 235B.11; 441 IAC 176.15(2)

When the team is established, the service area manager or designee and all team members shall write and sign an agreement on form 470-2328, *Dependent Adult Abuse Multidisciplinary Team Agreement*. The agreement specifies that:

- ◆ The team will be consulted to assist the Department in the assessment, diagnosis, and treatment of dependent adult abuse cases.
- ◆ Any team member can request that the team review a dependent adult abuse case. The Department must approve release of the report through the process specified under [Requests for Dependent Adult Abuse Information](#), in this manual.
- ◆ No team member will disseminate dependent adult abuse information obtained through the multidisciplinary team. This does not preclude dissemination of information as authorized under [Redissemination](#), in this manual, when an individual team member has received information through another authorized access provision.
- ◆ The Department may consider the recommendation of the team in a specific dependent adult abuse case but is not in any way bound by the recommendations.
- ◆ Any written report or document produced by the team pertaining to an individual case is a part of the file for the case and is subject to all confidentiality provisions of Iowa Code Chapter 235B and 441 Iowa Administrative Code Chapter 176.
- ◆ Any written records maintained by the team which identify an individual dependent adult abuse case will be destroyed when the agreement lapses.
- ◆ The consultation team members will serve without compensation.
- ◆ Any party to the contract may withdraw with or without cause upon giving of 30 days' notice.
- ◆ The agreement will expire on a given date.

Whenever a team is created, the Department representative on the team files a copy of form 470-2328, *Dependent Adult Abuse Multidisciplinary Team Agreement*, with the Central Abuse Registry.

The Central Abuse Registry will approve team requests for dependent adult abuse information only when it has a current *Dependent Adult Abuse Multidisciplinary Team Agreement* on file. See [Persons Involved in an Evaluation](#) for policy on releasing information to a multidisciplinary team.

Observation and Ensuring Safety

Legal reference: Iowa Code section 235B.3 & 6; 441 IAC 176.6(2); 441 IAC 176.7(2)

The second stage of the evaluation or assessment process is the prompt commencement of an appropriate evaluation or assessment. The primary purpose of the evaluation or assessment is to provide protection of the dependent adult named in the report.

See 16-G(1), [Case Assignment](#), for more information on how a case is assigned.

When you are assigned a case to evaluate or assess, determine the following:

- ◆ Are there collateral contacts that should be made before you observe and interview the subjects of the report?
- ◆ If the allegation is true, is there an immediate threat of serious harm, injury, or death?
- ◆ If the allegation does not include an immediate threat of serious harm, injury, or death, what reasonable efforts should you make to observe and interview the dependent adult?

If, at any time during the evaluation or assessment, you believe that there is an immediate threat of serious harm, injury, or death as a result of abuse, contact the proper authorities immediately and communicate these concerns. This may include law enforcement or emergency medical units. Document the date and time of this communication in your written report.

You may inform a subject of a dependent adult abuse evaluation or assessment that a person is listed on the child or dependent adult abuse registry or is required to register with the sex offender registry. You may do this only if it is determined necessary for the protection of the dependent adult.

If you become aware that someone who has access to a dependent adult is listed on the child or dependent adult abuse registry or is required to register with the sex offender registry, you may disclose that information to subjects of the evaluation or assessment you are conducting. Subjects of an evaluation are the dependent adult, that person's guardian or attorney, the guardian's attorney, the perpetrator and that person's attorney.

NOTE: Begin a new assessment or evaluation on each additional dependent adult and perpetrator if you discover that there is:

- ◆ More than one dependent adult who has been abused, or
- ◆ More than one perpetrator who is suspected of abusing one or more dependent adults.

Further information is provided on the following topics:

- ◆ [Reasonable efforts to ensure safety](#)
- ◆ [Observation](#)
- ◆ [Safety assessment and plan](#)
- ◆ [Law enforcement intervention](#)
- ◆ [Law enforcement responsibilities](#)

Reasonable Efforts

Legal reference: Iowa Code section 235B.3, 235B.6; 441 IAC 176.7(2)

Determine with your supervisor if there is an immediate threat to the dependent adult's safety. Determine what constitutes "reasonable efforts" on a case-by-case basis. Use common sense and worker and supervisory judgment to determine:

- ◆ What do you need to *do* to observe the dependent adult?
- ◆ How does this fit in with the context of the allegation?

If there is **immediate threat of serious harm**, you must make reasonable efforts to observe the dependent adult within **one hour** of the time the intake was concluded.

When it does not appear that the dependent adult is in immediate threat of serious harm, make reasonable efforts to observe the dependent adult within **24 hours** of accepting the report for evaluation or assessment.

Contact law enforcement for assistance in most cases involving immediate threat of harm. This will help to safeguard the dependent adult and you if the situation is volatile or dangerous.

Emergency medical personnel may take a dependent adult to a medical facility, if necessary. (See [Court-Ordered Interventions](#) for more information on removal of a dependent adult.)

For cases involving an immediate threat to a dependent adult's safety, "reasonable efforts" include documentation of unsuccessful efforts to meet the one-hour time frame. Reasonable circumstances for being unable to observe within one hour include, but are not limited to:

- ◆ Distance away makes a one-hour time frame impossible to achieve.
- ◆ Conditions beyond your control, such as a snowstorm, prevent you from observing the adult.
- ◆ You have an accident en route to observe the dependent adult.

When situations such as these arise, immediately contact law enforcement or other DHS personnel who can reasonably ensure the dependent adult's safety, and document these efforts.

In cases without an immediate threat to a dependent adult's safety, when the alleged perpetrator may have access to the dependent adult, a reasonable effort generally constitutes at least one attempt to have a face-to-face interview and observation of the dependent adult within the 24-hour period.

If the whereabouts of a dependent adult are unknown, phone attempts to locate the dependent adult constitute a reasonable effort. Document all your efforts in the report.

Ultimate responsibility for deciding what is reasonable lies with you and your supervisor. If your supervisor does not believe reasonable efforts were made in a given case, your supervisor will address those concerns with you and clarify expectations for future cases. Your supervisor may *not* "waive" the time limits required by administrative rules.

Observation

Legal reference: Iowa Code Section 235B.3, subsection 6

The purpose of observation of the dependent adult is to determine if the dependent adult has visible symptoms of abuse. Careful observation of the dependent adult is most relevant in evaluating physical abuse allegations.

Using local administrative procedures, you may delegate observation of the dependent adult to other casework staff of the Department.

Document in the report the date and time that the dependent adult is observed, and by whom observed. When the dependent adult was not observed within required period (one hour or 24 hours), document in the report your efforts made to observe the dependent adult.

Carefully describe and document all injuries observed, including the exact location, size, color, and shape. Note the dependent adult's explanation as to how each injury occurred.

Any removal or adjustment of clothing to permit observation must be voluntary on the dependent adult's part. If you suspect there are additional injuries, request that the dependent adult be seen by a physician.

If the dependent adult or guardian of the dependent adult refuses observation, you may want to consider seeking a court order to have the dependent adult examined by a physician. Even though an adult has the right to refuse medical attention, you may think that the adult is not mentally capable of making that decision. See [Medical and Mental Health Examinations](#).

Safety Assessment and Planning

Legal reference: 2009 Iowa Acts, Senate File 484, Section 9

While you are ensuring the safety of the alleged abused dependent adult, it is necessary to assess the dependent adult, determine if the alleged victim is an at-risk adult write a safety plan if you determine from the assessment the person is not safe, and determine if you are required to make periodic visits.

This section will provide instructions for assessing the person, writing a safety plan if necessary and determine if periodic visits are necessary. The section includes the following:

- ◆ [Assessment tools](#)
- ◆ [Determining if adult is at-risk](#)
- ◆ [Safety planning](#)

Assessment Tools

Complete an assessment of the dependency and health or safety risk on every alleged dependent adult you conduct an evaluation or assessment on due to an allegation of abuse at the first visit. Use form 470-4841, *Dependent Adult Assessment Tool*, to assist you in making these determinations.

If you think the alleged dependent adult might lack the capacity to make decisions or have issues with physical capabilities, the mini-cognition test and the physical functioning screen can you assist you with determining that.

Mini-Cognition Examination

To assist you in determining if the alleged victim has the capacity to make decisions regarding the victim's own welfare, use the mini-cognition examination ("mini-cog").

The mini-cog is a very simple and quick diagnostic test for determining capacity to make decisions. This is not a thorough professional mental health examination, but rather an easy to use, cursory tool to assist you in determining if the alleged victim has the capacity to make decisions.

The mini-cog can be carried out by a doctor, clinician, or social worker. It takes about 3 minutes to administer and is often used in emergency departments to identify people who require further investigation into their clinical presentation. The test consists of a three-item recall and a clock drawing test.

1. Ask the person to repeat three unrelated words (e.g. pencil, sing, and strong)
2. Ask the person to draw a clock.
3. Ask the person to recall the three words.

A person who is unable to recall any of the three words is categorized as 'probably does not have the capacity to make decisions.' A person who can recall all three words is categorized as 'probably has the capacity to make decisions.' Persons who can recall one or two words are categorized based on the clock drawing test.

If the person draws a clock that is in any way abnormal, the person is considered as 'probably does not have the capacity to make decisions.' If the clock is normally constructed, the person is considered as 'probably having the capacity to make decisions.'

The mini-cog test results only contribute to a diagnosis of having the capacity to make decisions. The test cannot be used to definitively define the person as not having the capacity to consent.

Physical Functioning Screen

The physical functioning screen is a fast diagnostic test for physical capabilities. It consists of a series of simple tasks the doctor, clinician, or social worker asks the person to perform. It is used to determine if the person needs further assessment by trained medical professionals.

1. Ask the person to put both hands together behind the person's head. This shows if the person has the ability to perform such tasks as combing hair or washing the back.
2. Ask the person to put both hands together in back of the person's waist. This shows if the person has the ability to put clothes on below the waist or bath the lower portion of the body.
3. Ask the person to touch the great toe with the opposite hand while sitting. This shows if the person is capable of putting shoes on or bathing the lower portion of the body.
4. Ask the person to squeeze two of your fingers with each hand. This shows if the person can grasp anything, including silverware to eat.
5. Ask the person to hold a piece of paper between thumb and first finger. Then try to remove it. This shows if the person can pinch, which is necessary to open or close buttons, etc.

6. Ask the person to stand away from the chair without using hands. This shows if the person has the balance to transfer from chair to wheelchair or to walk.

The physical functioning screen contributes to a diagnosis of a person's ability to function in activities of daily living. The screen can indicate issues of functionality, but cannot be used to conclusively define a person's ability to function.

Determining if Adult Is at Risk

Legal reference: 2009 Iowa Acts, Senate File 484, Section 9

Completing form 470-4841, *Dependent Adult Assessment Tool*, will help you determine whether the alleged dependent adult is dependent and whether the adult's health or safety is at risk. It is possible for an adult to be dependent and not be at-risk, to be at-risk and not dependent, or to be both or neither.

Possible Combinations of Dependency and Risk Status		
	At-Risk Adult	Not At-Risk Adult
Dependent Adult	At risk, dependent	Not at risk, dependent
Not Dependent Adult	At risk, not dependent	Not at risk, not dependent

Explanation:

- ◆ **Dependent and at-risk adult:** The alleged victim could be a dependent adult and an at-risk adult if the alleged victim meets the definition of dependent adult and is also an at-risk adult.

For example, the person could be diagnosed with advanced Alzheimer's disease and need 24-hour care; however because the person lives in an isolated, very rural community with no available resources to meet essential daily needs and it hasn't worked to petition the court for an order to remove the adult to another county to a facility that could meet the adult's essential daily needs, the adult's health or safety is also "at-risk".

- ◆ **Dependent adult not at-risk:** The alleged victim could be a dependent adult but not be at risk for health or safety. For example the person could have an intellectual disability but have a guardian who is responsibly assuring that the person has 24-hour care with assistance from local agencies. The person is dependent but not at risk for health or safety.
- ◆ **At-risk adult, not dependent:** The alleged victim could be an at-risk adult and not be a dependent adult. The person could be an at-risk adult because of living in an apartment with serious health hazards such as exposed electrical wiring, large holes in the floor, and no locks on the doors; but not be dependent because even though the person is diagnosed with severe health problems, the person is capable of meeting essential daily needs.

The person is choosing to live in an unsafe, at-risk environment and refuses assistance to find a safer place to live.

- ◆ **Adult not dependent and not at-risk:** The alleged victim could be not a dependent adult and not at risk for health or safety. The person could have health issues but be managing them; meeting essential daily needs and not be at-risk of health or safety.

Make your determination of whether or not the alleged victim is dependent and at-risk. Review the assessment and determine if the adult's health or safety is at-risk. There is no universal, research-based scoring system for assessing risk for dependent adults. Use your critical thinking skills.

On the last page of the form 470-4841, *Dependent Adult Assessment Tool*, explain how the adult, caretakers, or provided services currently in place have eliminated the moderate to high risks to the adult's health or safety. Example:

You have marked the adult is at moderately to high risk due to lacking the ability to bathe, dress, manage toileting needs and completing laundry.

- ◆ If no one is assisting the adult and the adult is refusing assistance, the adult continues to be at-risk due to the inability to attend to these daily needs.
- ◆ However, if a caretaker is providing assistance with those tasks daily, note that on the last page of the Assessment as eliminating the risk.

Safety Planning

Legal reference: 2009 Iowa Acts, Senate File 484

You must write a safety plan for the adult addressing the issues that cause the adult's health or safety to be at risk if:

- ◆ You determine the adult's health or safety is moderately or highly at risk, and
- ◆ You are not able to document how the adult, caretakers, or provided services eliminate the moderate to high risks.

Consult with your supervisor to review the adult's situation and discuss what services might be available in the community or what other informal supports might be located to assist with alleviating the adult's health or safety risk.

You might call a special meeting of your dependent adult multidisciplinary team to get support from the community. If you don't have a multidisciplinary team, consider calling together representatives from any local resources that provide services to dependent adults, such as visiting nurse services, home care agencies, area agencies on aging, or the local central point of coordination administrator.

Discuss the risks to the at-risk adult and ask the individual to participate in writing a safety plan. Questions to consider in preparing the safety plan:

- ◆ If the at-risk adult has a phone, is the person capable of making a telephone call to request assistance?
- ◆ Is it possible to adapt the phone to allow the at-risk adult to use it, if there is a phone but the at-risk adult can't use it?
- ◆ Is there a list of emergency numbers near the phone and if so, does the at-risk adult know where it is?
- ◆ Is the at-risk adult capable of getting out the bed, chair, or door to get out of the home in case of fire or other emergency? If not, is there a buzzer to alert someone else in the same building if it is not a single family home?

Use Form 470-4835, *Safety Plan for At-Risk Adult*. See 16-G Appendix, form 470-4835, [Safety Plan for At-Risk Adult](#). Include in the plan:

- ◆ What the adult is capable and willing to do to eliminate the identified risks
- ◆ What the caretaker is willing to do to eliminate the risks to the adult
- ◆ What other formal or informal supports can do to eliminate the risks to the adult
- ◆ Other ways to alleviate the risks to the adult that you discovered in the assessment

If the risks can be removed by requesting court ordered services or arranging for other legal interventions, such a guardian, contact your county attorney and make arrangements to do that. See [District Court Intervention](#).

Law Enforcement Intervention

Legal reference: Iowa Code Sections 235B.3(7), 235B.2(5)"a"(1), and 235.20; 441 IAC 176.6(8), 176.6(9), and 176.6(10)

At any time during an evaluation or assessment, you may want to involve law enforcement. If you are concerned about the immediate safety of the subjects of the report, call the local law enforcement agency and request assistance.

If at any time during an evaluation or assessment, you believe that a criminal offense may have occurred, you must call the local law enforcement agency and report the criminal offense. A law enforcement officer may charge a perpetrator with one of the following criminal offenses:

- ◆ **Neglect or abandonment of a dependent person**, which occurs when a person has legal responsibility for any other person who is dependent knowingly or recklessly exposes that person to a hazard or danger against which that person cannot reasonably be expected to protect that person's self, or who deserts or abandons that person. The perpetrator commits a class C felony. (Iowa Code Section 726.3)
- ◆ **Wanton neglect of a dependent adult**, which occurs if the caretaker knowingly act in a manner likely to be injurious to the physical, mental, or emotional welfare of a dependent adult. Wanton neglect is a serious misdemeanor. (Iowa Code Section 726.8(2))

- ◆ **Nonsupport of a dependent adult**, which occurs when a person who has legal responsibility either through contract or court order for support of a dependent adult fails or refuses to provide support. Nonsupport is a class D felony. (Iowa Code Section 726.8(2))
- ◆ **Assault**, which occurs if the caretaker does any of the following:
 - Commits 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 a dependent adult, coupled with the apparent ability to execute the act.
 - Commits any act that is intended to place a dependent adult in fear of immediate physical contact that will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
 - Intentionally points any firearm toward a dependent adult or displays in a threatening manner any dangerous weapon toward a dependent adult. (Iowa Code Section 708.1)

Classifications of other criminal offenses based on violation of Iowa Code Chapter 235B are as follows:

Action	Classification
Intentional dependent adult abuse that results in serious physical injury	Class C felony
Reckless dependent adult abuse that results in serious injury	Class D felony
Exploitation if the value of the property, assets, or resources exceeds \$100.	Class D felony
Reckless dependent adult abuse results in physical injury	Aggravated misdemeanor
Other intentional or knowing dependent adult abuse	Serious misdemeanor
Exploitation if the value of the property, assets, or resources is \$100 or less	Simple misdemeanor

A caretaker alleged to have committed a violation of Iowa Code Chapter 235B shall be charged with the respective offense cited, unless a charge may be brought based upon a more serious offense. In that case, the charge of the more serious offense supersedes the less serious charge.

Charges of dependent adult abuse may be initiated upon complaint of private individuals, as a result of investigations by social service agencies, or on the direct initiative of a county attorney or law enforcement agency.

Law Enforcement Responsibilities

Legal reference: Iowa Code section 235B.3A

If you notify a law enforcement officer that dependent adult abuse that is criminal in nature has occurred, the officer must use all reasonable means to prevent further abuse, including but not limited to the following:

- ◆ If requested, remain on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a law enforcement officer. The officer may stay in the home, or if unable to remain at the scene, may assist the dependent adult in leaving the residence and securing support services or emergency services.
- ◆ Assist the dependent adult in obtaining medical treatment necessitated by the abuse, including providing assistance in obtaining transportation to the emergency room of the nearest hospital.
- ◆ Provide the 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 and the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area;

1. You have the right to ask the court for the following help on a temporary basis:
 - ◆ Keeping the alleged perpetrator away from you, your home, and your place of work.
 - ◆ The right to stay at your home without interference from the alleged perpetrator.
 - ◆ Professional counseling for you, your family or household members, and the alleged perpetrator of the dependent adult abuse.
2. If you are in need of medical treatment, you have the right to request that the law enforcement officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.
3. If you believe that police protection is needed for your physical safety, you have the right to request that the law enforcement officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

- Requesting the dependent adult to read the statement; and
- Asking whether the dependent adult understands the rights.

Evaluation and Assessment Process

Legal reference: Iowa Code section 235B.3; 441 IAC 176.3(235B), 176.6(235B), & 176.7(235B)

The process of evaluating and assessing reports of dependent adult abuse is described in the following steps:

- ◆ [Interviews with subjects of the report and other relevant collateral sources](#)
- ◆ [Gathering of physical and documentary evidence](#)
- ◆ [Assessment and evaluation conclusions](#)
- ◆ [Service recommendations and referrals](#)
- ◆ [Documentation of evaluation or assessment through completion of reports](#)
- ◆ [Completion of required correspondence to subjects, mandatory reporters, and facilities](#)

Interviews

Conduct interviews with the alleged victim and the alleged perpetrator and with any other persons who may have relevant information regarding the allegations of abuse. When conducting interviews, disclose only the information necessary to conduct the interview fully. A release of information form is not required to request information from any person for an evaluation or assessment.

NOTE: If anyone you need to interview speaks a foreign language that you do not comprehend and there is no interpreter available, you can obtain assistance from the "Language Line" at: 1-877-746-4674.

When an evaluation or assessment requires an interview with a subject who resides in another state, make every effort to secure the interview through a formal request to the adult protective agency of the other state.

To locate the phone number of the adult protective services unit in the state you want to request an interview from, go to: <http://www.apsnetwork.org/>. This is the web page for the National Adult Protective Services Association. There is a red box under the heading labeled, "Report Abuse." Click on it to pull up a map of the United States. Click on the state you need and the number of the state adult protective services unit will appear.

If the other state refuses to conduct the interview, consult with supervisory staff to determine the best way to obtain information from the out-of-state subject.

If the dependent adult has had a medical examination, contact the physician for results of the examination. If the purpose of the medical examination was to determine the cause of physical injuries, tell the physician the explanation the subjects of the report have given for the injuries. Ask the physician if the injuries are consistent with the explanation.

Interviewing the Alleged Victim

Legal reference: Iowa Code, section 235B.3(6)

You are required to interview the dependent adult or document your reasonable efforts to conduct the interview.

The primary purpose of interviewing the dependent adult is to assess the dependent adult's safety. Other purposes are to:

- ◆ Address the abuse allegations.
- ◆ Assess the dependent adult's mental and physical capabilities.
- ◆ Assess the home environment.
- ◆ Assess the relationships between the dependent adult and other members of the household.
- ◆ Assess service needs.

Interview the alleged victim in the least disruptive manner. Options are as follows:

- ◆ Contact the dependent adult or guardian, state the reason for contact, and provide identification.
- ◆ Contact family or a collateral source, such as a neighbor or friend, the dependent adult or guardian knows and trusts to request assistance.
- ◆ Contact the service worker or HCBS waiver specialist who was notified to contact you by the Intake Unit when the abuse report was accepted for referral. This person might have valuable information to assist in your interview with the alleged victim. This person might want to coordinate a visit with you.
- ◆ Contact law enforcement and request assistance. When the dependent adult or guardian will not discuss the report with the evaluator, the next step is to contact the county attorney, with supervisory approval, and request the county attorney's assistance to secure a district court order.

If a Department service worker has an open service case on the dependent adult, consider coordinating a home visit to interview the dependent adult together. The service worker can provide valuable information concerning the dependent adult, contribute to a more comfortable interview because the adult will know the worker, and eliminate the need to interview the adult more than once concerning the incident.

If the dependent adult has a guardian, you might want to contact the guardian, especially if you anticipate difficulty communicating with the dependent adult.

When the guardian is the person who is suspected of abusing the dependent adult, do not notify the guardian you are going to interview the dependent adult. Even though a legal guardian has control of the dependent adult's physical person, your authority to interview a dependent adult who is suspected of being abused, has precedence over the guardian's control of the person.

Contact the county attorney for assistance if the guardian or a family member or associate of the guardian who might try to protect the guardian interferes in any way to prevent you from interviewing the dependent adult or from interviewing the dependent adult alone. Obtain an emergency court order to enter the residence of or examine or interview the dependent adult. See [Court-Ordered Interventions](#).

Clearly identify yourself and the purpose of your visit. Ask open-ended questions which require the dependent adult to explain or to provide information. Take into consideration the adult's age, functioning level, and ability to communicate in conducting the interview.

Conduct the portion of the interview that addresses the specific dependent adult abuse allegations away from the alleged perpetrator. The dependent adult will most likely be afraid of the alleged perpetrator and not willing to be honest about the alleged abuse in front of the alleged perpetrator.

Factors to consider in assessing safety include the dependent adult's ability to protect him or herself, how the caretaker is expected to respond to the allegations, the severity of abuse, and if abuse has occurred previously.

Document your initial assessment of the dependent adult's safety in the report. Explain what was done in relation to the allegations. Document a more complete assessment of the dependent adult's safety in the "Narrative" section.

If you feel that a dependent adult is **not** safe, document that fact in the report. Include documentation of your efforts to protect the dependent adult (e.g., "The following actions have been taken to ensure the protection of the dependent adult:...").

Dependent Adult Refuses Interview

Legal reference: Iowa Code Section 235B.3(6); 441 IAC 176.6(3)

A dependent adult or the dependent adult's guardian may refuse to be interviewed. If you can show probable cause that a dependent adult has been abused, a court may authorize you to do any of the following:

- ◆ Evaluate or assess the dependent adult.
- ◆ Enter the residence of a dependent adult.
- ◆ Gain access to the financial records of a dependent adult.
- ◆ Write an evaluation or assessment of a dependent adult.

Interviewing the Alleged Perpetrator

Legal reference: Iowa Code Section 235B.3(7)

In all reports of alleged dependent adult abuse when there is a caretaker who is the alleged perpetrator:

- ◆ Make a reasonable effort to interview the alleged perpetrator.
- ◆ Document the interview, or offer of an interview, with the alleged perpetrator in the final report.

If an alleged perpetrator is in custody of law enforcement or corrections, seek assistance from law enforcement and the county attorney before interviewing the alleged perpetrator. Law enforcement personnel may wish to assist in the interview and may wish to provide the alleged perpetrator with a Miranda warning, to ensure any information learned may be used for a criminal case.

If while interviewing the person alleged responsible for the abuse, you discover that the person has the power of attorney for health care (POAHC), is acting as the dependent adult's caretaker, and is not a relative of the dependent adult within the third degree of consanguinity, the person could be committing a violation of Iowa Code section 144B.4. See [Caretakers Who Have Power of Attorney for Health Care](#).

Collateral Contact Interviews

Legal reference: Iowa Code section 235B.3(9)

You may want to interview other persons who have information concerning the allegation of abuse of the dependent adult. You may request information from any person who may have knowledge of the alleged incident. This includes, but is not limited to, the county attorney, a social services provider, a financial representative, or a person who is a mandatory reporter.

That person must cooperate and assist, upon your request. If the person objects due to confidentiality laws, provide form 470-3326, *Dependent Adult Abuse Information Request*, which quotes your legal right to obtain the requested information:

“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.” Iowa Code, Section 235.B.3, subsection 7.

If the person fails to provide the necessary information that you require to complete your evaluation or assessment, you may need to request assistance from the county attorney to obtain a court order.

HIPAA Policy for DHS Protective Services

Legal reference: 45 CFR 164.512

There are exemptions under the Health Insurance Portability and Accountability Act (HIPAA) that give you the authority to ask for and be given necessary medical information to complete your dependent adult abuse evaluation or assessment.

See Employees' Manual 1-C, [Disclosures About Victims of Abuse or Neglect](#).

Complete form 470-3326, *Dependent Adult Abuse Information Request*, and either mail it or give it directly to medical personnel who have medical information you need to complete your report. See 16-G-Appendix, form 470-3326, [Dependent Adult Abuse Information Request](#).

Courtesy Interview

Upon request, all Department offices shall provide assistance to another office evaluating or assessing an allegation of dependent adult abuse. Use the following procedure for courtesy interviews:

- ◆ The requesting unit emails the other Centralized Intake Unit and requests a courtesy interview. The requesting unit explains the situation and forwards materials as necessary.
- ◆ The unit receiving the request conducts the courtesy interview within one week of receiving the email or receiving the written materials necessary to conduct the interview. Any variation from this time limit must be discussed and agreed upon between units.
- ◆ The unit receiving the request telephones or emails the results of the interview to the requesting unit immediately following completion of the interview, and follows this call or email with a written summary of the interview within 20 working days. The unit that conducts the courtesy interview maintains a copy of the written summary until notified of the evaluation or assessment outcome.
- ◆ If the interview was recorded, the interviewing unit forwards the recording to the requesting unit. (This recording does not substitute for the telephone call or email and written summary.)
- ◆ The unit conducting the evaluation or assessment confirms receipt of the written report from the unit that conducted the courtesy interview by providing that unit with an outcome notification following completion of the report.
- ◆ Following receipt of the evaluation or assessment outcome, the unit that conducted the courtesy interview expunges its copy of the written report.

Allegations of Abuse in Programs Providing Care or Training

Legal reference: Iowa Code Sections 235B.3(7) and 252B.6(2); 441 IAC 176.6(11)“a”

See [Facility, Agency, and Program Evaluation Handbook, Comm. 195](#), for a comprehensive guide to completing evaluations of dependent adult abuse perpetrated by a caregiver in out-of-home settings.

Boarding Homes

Legal reference: 2009 Iowa Acts, Senate File 484, section 5

Contact your supervisor if during your evaluation or assessment of abuse of a dependent adult you become aware the person is living in a boarding home. Either you or your supervisor shall contact the Service Help Desk to coordinate a boarding home evaluation with the Department of Inspections and Appeals and other local, state or federal agencies, depending on what you discover during your evaluation or assessment.

If you discover what appears to be violations or issues with employment, safety, or civil rights, contact the local, state, or federal agency to make a referral as described below.

◆ Employment

The Iowa Workforce Development, Division of Labor Services, works with persons who have issues relating to employment, such as persons working for less than minimum wages or working in conditions that unsafe. Contact the state office at 515-281-6374.

The Equal Opportunity Commission in the U.S. Department of Labor works with agencies that have contracts to employ persons at less than minimum wage. Contact the Commission at 1-800-669-4000.

◆ Safety

The Iowa Department of Public Safety, Division of Criminal Investigations, works with issues relating to law enforcement, such as conflict of interest involving local law enforcement. Contact the Division at 515-725-6010. See also [Law Enforcement Intervention](#) and [Law Enforcement Responsibilities](#).

The State Fire Marshall works with issues relating to the safety of buildings. If the local fire department is unable to address unattended to safety concerns, contact the State Fire Marshall at 515-725-6145.

The Iowa Department of Public Health addresses issues related to public health when local building inspectors are unable to resolve issues related to the safety of a person living in an unsafe living arrangement.

◆ **Civil rights**

The Iowa Civil Rights Commission addresses issues relating to all persons being treated equally. If the dependent adult is unable to secure housing, services or meet other needs based on age, race, gender, or anything relating to civil rights, make a referral to the Iowa Civil Rights Commission at 1-800-457-4416.

Depending on the specific allegations, you may be asked to coordinate your interviews with representatives from any of the above agencies or other licensing entities, such as HCBS Waiver programs.

Because your evaluation of abuse has been changed from an evaluation of one dependent adult to an evaluation of abuse in a facility, agency, or program, follow directions in Comm. 195, [Dependent Adult Abuse in Facilities, Agencies and Programs](#), to continue your evaluation.

Assessments in Boarding Homes at Request of DIA

The Department of Inspections and Appeals (DIA) may request DHS complete an assessment on all the persons residing in a home that DIA is investigating for possible violations of boarding home registration rules.

If you are assigned to complete these assessments, you do not have to follow the 20-working-day timeframes if the allegations do not include suspicion of dependent adult abuse.

If while completing the assessments you discover a dependent adult whom you suspect has been abused, report the suspected abuse to the intake unit for a dependent adult abuse evaluation.

Do not enter completed assessments on persons in boarding homes on the System on Dependent Adults (SODA). Prepare a hard copy file for your files, only.

Gathering Physical and Documentary Evidence

Legal reference: Iowa Code Section 235B.3(6) and (7)

The next step in the evaluation or assessment process is gathering of physical and documentary evidence. It is important that you observe evidence relating to the abuse allegation, and document your observations.

Determine the accuracy of the allegations, in part, through the gathering and evaluation of physical and documentary evidence. "Evidence" includes, but is not limited to descriptions, photographs, X-rays, and financial records. Further information is given in the following sections:

- ◆ [Descriptions](#)
- ◆ [Photographs or X-rays](#)
- ◆ [Medical and mental health examinations](#)
- ◆ [Payment for examinations and expenses](#)
- ◆ [Financial records](#)

Descriptions

Describe the dependent adult and any relevant conditions and objects you examine during the course of the evaluation or assessment. Example:

Describe the injuries on the dependent adult and the chair the dependent adult was supposed to have fallen out of when injured.

When possible, link the description to the allegation. Example:

Where are the injuries on the dependent adult?
Exactly how did the dependent adult fall to sustain such injuries?
How low to the floor is the chair?
Are there any hard wood surfaces on the chair that could cause injury?
Is there a table or other piece of furniture near the chair that the dependent adult could have fallen against if the dependent adult did, in fact fall from the chair?
Is there carpeting on the floor next to the chair? Is the carpet thick or thin?

Photographs or X-rays

There is no authorization for reimbursement for a Department protective services worker to take photographs or X-rays of a dependent adult or order them to be taken.

With the consent of the dependent adult or legal guardian, you may take photographs at your own expense to be used in an abuse evaluation or assessment. There may be local administrative procedures for reimbursement.

Medical and Mental Health Examinations

Legal reference: 441 IAC 176.16(235B)

The information from a medical or mental health examination can assist in determining the capabilities of the dependent adult and the caretaker. The person examined must voluntarily agree to the examination. The Department has no authority to require an examination.

Based on that information, determine if the adult is dependent or what the recommended services should be. Examples:

1. During the evaluation process, you learn that the adult has a condition affecting the person's functioning level. A professional examination is needed to determine if the person is a dependent adult. Information from that examination may assist you in recommending services.
2. During the evaluation process, the alleged perpetrator appears to have an undiagnosed or untreated mental health condition serious enough to affect the person's ability to act as caretaker. Based on an examination, you may assist the caretaker to secure needed services and determine the appropriateness of the person as a caretaker.
3. The alleged perpetrator is an adult daughter who has an intellectual disability and is the caretaker for her dependent adult mother. The daughter has income from Social Security and receives Medicare but is over income guidelines for Medicaid.

An examination can help determine the capability of the daughter to provide care and help identify areas that she can and cannot manage.

The daughter may be able to prepare breakfast and an evening meal if mobile meals were used for the noon meals. Or the daughter may not be able to change a dressing, but the visiting nurse may be able to provide this service.

4. The report alleges that the grandson sexually assaulted his grandmother while he was providing care to her. You need medical evidence to found sexual abuse.

If the dependent adult does not have health care insurance or funds available to pay for the examination, arrange to have the examination paid for through local funds when available. See [Payment for Examinations and Expenses](#).

Payment for Examinations and Expenses

Legal reference: 61 IAC 9; Iowa Code Sections 912.1, Subsection 2, and 912.3

Funding is available for examinations related to sexual abuse and for other victim expenses. There are sometimes local funds, but there are no state funds available to pay for a medical or mental health examination, if the dependent adult or caretaker does not have health insurance or funds available to pay for an examination.

- ◆ **Medical and mental health examinations.** There are sometimes local funds available to pay for medical or mental health examinations, when dependent adults or their caretakers do not have resources to pay for an examination. Persons who have Medicare, Medicaid, or private insurance coverage that would pay for the examination are considered to have a resource immediately available.

Consult with your supervisor to determine if there are local funds available to pay for medical or mental health examinations for either a dependent adult or caretaker when information learned from an examination would be beneficial in determining if dependent adult abuse has occurred.

- ◆ **Sexual abuse examinations.** In a sexual abuse evaluation, the cost of the medical examination to assess the allegation is paid for by the Iowa Crime Victim Assistance Program, which is operated by the Department of Justice.
- ◆ **Payment for other victim expenses.** Victim expenses associated with any dependent adult abuse may be reimbursable through the Crime Victim Assistance program, which is operated by the Department of Justice, through the Attorney General's office.

To obtain reimbursement from Crime Victim Assistance funds:

- ◆ An abuse report must be filed with DHS. The incident only needs to be reported; it does not need to be accepted for evaluation. When DHS does not accept the report because the person is not dependent, there is not a caretaker, or there is not an allegation of reportable abuse, the alleged victim still may be eligible for Crime Victim Assistance.
- ◆ There must be a perpetrator and a victim. When there is an allegation of self-denial of critical care, the dependent adult will **not** be eligible for this assistance.

- ◆ Someone must sign the Crime Victim Assistance application papers. This may be the dependent adult, that person's guardian, or a relative or friend of that person who is willing to sign the application. (DHS employees may **not** sign applications, which might ultimately result in Department fiscal or other liability, with no legal recourse.)
- ◆ A claim for the cost of a medical examination in a sexual abuse case or other victim expenses must be submitted within 45 days of the examination date or expense.

Crime Victim Assistance can reimburse for emergency care in a health care facility, but there must be someone to sign the health care facility admission application and the Crime Victim Assistance application.

The address of the Crime Victim Assistance Program is:

Crime Victim Assistance Compensation Program
Lucas Building, Ground Floor Room 018
321 E 12th Street
Des Moines, Iowa 50319-0114
Phone: (515) 281-5044 or 1-800-373-5044
<http://www.state.ia.us/government/ag/cva/html>

Financial Records

Legal reference: Iowa Code Section 235B.3(6); 441 IAC 176.6(3)

When you are evaluating an allegation of financial exploitation against a dependent adult, you may petition the court to order access to the dependent adult's financial records. Consult with your supervisor before requesting this court action through the county attorney's office.

If you are authorized by the Department and can show probable cause that a dependent adult has been financially exploited, a court may authorize you, to make an evaluation and to gain access to the financial records of the dependent adult.

Drawing Conclusions

Your judgment and conclusions are required to:

- ◆ [Assess the dependent adult's home environment and family relationships.](#)
- ◆ [Determine whether the allegations of abuse are founded.](#)

Assessment of the Home Environment and Relationships

Legal reference: 441 IAC 176.6(2)

The next step in the evaluation or assessment is an assessment of the home environment.

When alleged abuse involves a dependent adult living in the adult's own home, assess the home environment. When protective concerns are identified, assess the relationships of other household members to each other. Include in your assessment the following:

- ◆ Identification by name and role of the other household members.
- ◆ Identification of the household strengths and weaknesses.
- ◆ An analysis of the risk factors to the dependent adult named in the report.
- ◆ When protective concerns are identified, an analysis of the risk factors to other dependent adults within the household.

Factors that may be relevant to an assessment of the home environment and relationships of household members include:

- ◆ Dependent adult characteristics
 - Age
 - Physical, mental, and social abilities
 - Substance use or abuse
 - History of irresponsible or violent behavior
 - Ability to protect self
 - Relationship with caretaker and other household members
 - Lifestyle previous to abuse report

- ◆ Caretaker characteristics (when there is a caretaker)
 - Mental, physical, and emotional capabilities
 - Substance use or abuse
 - History of irresponsible or violent behavior
 - Attitude toward dependent adult
- ◆ Environmental characteristics
 - Social support systems
 - Economic condition
 - Adequate necessities (shelter, food clothing, medical care, transportation)
 - Adequate services
 - Other stresses
- ◆ Summary of previous founded reports

When the abuse allegation involves any out-of-home setting other than a care facility, assess the environment where the abuse occurred (not the dependent adult's home environment). Assess the relationships between the alleged perpetrator and the victim and any other dependent adults to whom the alleged perpetrator provides care.

When you conduct an evaluation or assessment at an out-of-home setting, (example: Waiver program, work activity center), assess the environment and relationships where the abuse allegedly occurred. It may be necessary to include an assessment of the dependent adult's own home and household relationships to assess service needs.

Conclusions About Allegations

Legal reference: Iowa Code Section 235B.3; 441 IAC 176.6(2)

The final part of the evaluation or assessment is to evaluate all information gathered during the course of the evaluation or assessment. Include an assessment of the following:

- ◆ Physical evidence
- ◆ Documentary evidence
- ◆ Observations
- ◆ Interviews with victim, perpetrator, and others with relevant information

You may also contact experts who have particular knowledge regarding the allegation. Experts may include, but not be limited to, medicine, psychiatry, psychology, and law enforcement. You may obtain other evaluative information through textbooks, scholarly journals, or other publications.

You may discuss the circumstances of any case with your local multidisciplinary team without requesting Registry permission if you do not reveal the names of the subjects of the report.

Based upon the information obtained during the evaluation or assessment, formulate and report conclusions about the following:

- ◆ Whether the alleged victim is a dependent adult.
- ◆ Whether there is a caretaker, and if the caretaker is the alleged perpetrator.
- ◆ Whether the allegations of dependent adult abuse contained in the report are founded or unfounded.
- ◆ What services the dependent adult and other household members need.
- ◆ Whether district court action needs to be initiated.

After determining the adult is dependent, assess the credibility of those interviewed and develop a rationale concerning credibility. You must determine whether each allegation in the report is:

- ◆ **Founded**, which means that it has been determined by a preponderance of evidence (greater than 50%) that abuse has occurred.
- ◆ **Unfounded**, which means that it has been determined by a preponderance of evidence (greater than 50%) that dependent adult abuse has not occurred.
- ◆ **Confirmed, not placed on the registry**, which means it has been determined by preponderance of evidence (greater than 50%) physical abuse or denial of critical care by a caretaker, has occurred but is minor, isolated and unlikely to reoccur.

NOTE: If there is more than one dependent adult or more than one person suspected of being responsible for abuse, open separate reports. Each report opened concerns no more than one dependent adult and one person thought to be responsible for abuse.

Confirmed, Not Placed on the Registry

Legal reference: Iowa Code Section 235B.3(1)(c)

When physical abuse or denial of critical care are confirmed to have occurred but are minor, isolated and unlikely to reoccur, the report will not be placed on the Central Abuse Registry but will be maintained as an assessment only in the local office.

To determine if the physical abuse or denial of critical care is “minor, isolated, and unlikely to reoccur” consider the following:

◆ **Physical abuse.** Determine if an allegation of physical abuse is **minor** by considering:

- The location and size of the injury.
- The force used to inflict the injury.
- The potential of greater injury to the dependent adult.
- The medical condition of the dependent adult.
- The mental health and competency of the dependent adult.

Determine if an injury is **isolated** by considering:

- Whether there are previous reports of dependent adult abuse.
- Whether there are previous criminal or child abuse reports.
- Whether the information gathered in the current evaluation offers evidence to support that the incident was an isolated occurrence.

Determine if the injury is **unlikely to reoccur** by considering:

- The caretaker’s response to the incident of abuse and receptiveness to taking classes or accepting advice on how to provide quality care to dependent adults without harming them.
- Whether factors contributing to the abuse continue to exist, are ongoing, or are no longer present.

An example of a confirmed, not registered physical abuse report:

A woman confined to a wheelchair needs assistance with transferring from her bed to the chair, grooming, toileting, bathing, transportation, and household chores. She can prepare simple meals and tries to assist with her own care. She has no mental health issues and is competent to make decisions regarding her own welfare.

She receives services from a health care agency. Different aides come at different times of day. One day the woman wasn't feeling well and wouldn't get up from bed to go to the toilet. The paid caretaker got impatient and twisted and squeezed the woman's arm trying to force her to get up, leaving a bruise the size of a quarter. The woman's physician confirms the injury was minor.

This has never occurred before and the woman is otherwise pleased with the care she receives from the aide and other aides from the health care agency. The aide admits she had twisted the woman's arm and apologizes to the woman for injuring her. The agency she worked for offers to pay for her to attend an anger management and stress reducer class. The aide agrees to take the class. There is no record of the aide ever injuring anyone before this incident.

The report is confirmed for physical abuse. The woman received a minor physical injury from one of her caretakers, who records showed had never injured anyone previously, and the physical abuse was unlikely to reoccur.

The criteria of **minor, isolated and unlikely to reoccur** has been met. The report is confirmed but not placed on the Registry as a founded report.

- ◆ **Denial of critical care.** Determine if an allegation of denial of critical care is **minor** by considering:
 - The length of time the dependent adult was in danger.
 - The likelihood the dependent adult would have suffered injury or death.
 - The medical condition of the dependent adult.
 - The mental health and competency of the dependent adult.

Determine if an allegation of denial of critical care is **isolated** by considering:

- Whether there are other reports of dependent adult abuse, and
- Whether the information gathered in the current evaluation offers evidence to support that the incident is an isolated occurrence.

Determine if an allegation of denial of critical care is **unlikely to reoccur** by considering:

- The caretaker's response to the abuse and receptiveness to taking classes or accepting advice on how to provide quality care to dependent adults.
- Whether factors contributing to the denial of critical care continue to exist, are ongoing, or are no longer present.

An example of a confirmed, not registered denial of critical care report:

Mr. A, a depended adult man with Alzheimer's disease, is found wandering lost several blocks from his home on a busy street. The police received a call from someone who found Mr. A wandering and looking confused. He didn't know who he was or where he lived. The police took him to the police station. By that time, Mrs. A had made a missing persons report on him, so the officer took Mr. A home.

Law enforcement had also rescued Mr. A once in the previous year. Mrs. A, who is the caretaker, had installed a security system with a door alarm after that incident. This time, she had paid a neighbor to stay with him while she ran errands. She did not remember to tell the neighbor to set the alarm after she left to prevent her husband from leaving the home and getting lost.

The neighbor went to the bathroom and when she came out, Mr. A was gone. She looked everywhere in the house, but couldn't find him. She called Mrs. A on her cell phone. Mrs. A called the police to report Mr. A missing and then went home.

Mrs. A agrees not to leave Mr. A with caretakers without explaining how to set the door alarm in the security system after she leaves, to prevent him from getting lost.

While Mr. A was not adequately supervised, since he got out of the house because the paid caretaker had not activated the door alarm, he did not suffer harm when he left the house and wandered away.

Mrs. A has never before neglected to tell paid caretakers how to activate the alarm and the necessity of doing it. She acknowledges that her husband may need more supervision and agrees to write down complete instructions for his care to give all paid caretakers, including instructions on how to activate the security alarm to prevent him from leaving.

The report is confirmed for denial of critical care by failure to provide adequate supervision. The criteria of **minor, isolated and unlikely to reoccur** has been met. The report is confirmed but not placed on the Registry.

Service Recommendations and Referrals

Legal reference: 441 IAC 176.6(7)

The dependent adult abuse evaluation or assessment may be the beginning of the case planning for the dependent adult, caretaker, and other household members. Discuss with the household members the types of services that may be beneficial to the dependent adult and household.

When a dependent adult is already receiving services, document that in the report. Assess the services being provided in conjunction with the person or agency responsible for providing the services. Recommend additional services, if needed. Document the types of services recommended in the report "recommendation for services" section.

Factors in making a service recommendation include:

- ◆ Caretaker expectations that exceed the dependent adult's abilities.
- ◆ Lack of access to adequate food, shelter, clothing, or other necessities.
- ◆ History of substance abuse by household members.
- ◆ History of domestic abuse.
- ◆ History of child or dependent adult abuse.
- ◆ History of animal abuse.

You do not have the legal authority to compel the dependent adult to accept services. Explain this to the dependent adult or the dependent adult's guardian when you discuss your recommendations.

The possible service options following completion of an evaluation or assessment are:

- ◆ [No service need identified](#)
- ◆ [Services provided by community agencies recommended](#)
- ◆ [Department services recommended](#)

No Service Need Identified

When no service is recommended, document the reason in the report. No service recommendation is likely to occur when:

- ◆ The allegation is unfounded.
- ◆ No protective concerns are identified.
- ◆ The allegations are “founded” and:
 - The risk of abuse is low.
 - The abusive incident is minor in nature and appears to be an isolated incident.
 - The perpetrator is not a household member and is unlikely to have continued contact with the dependent adult.
 - The dependent adult or guardian of the dependent adult indicates an unwillingness to accept any services.

Services From Community Agencies Recommended

In some circumstances, you may determine that the dependent adult, the alleged perpetrator, or the household of the dependent adult would benefit from services that are available through community agencies.

These agencies include, but are not limited to, community mental health centers, private social service agencies, private practice counselors, area agencies on aging, and others. These services are appropriate when all of the following conditions apply:

- ◆ The risk of abuse is low.
- ◆ Monitoring by Department workers is not available.
- ◆ The household is likely to follow through independently in securing assistance.
- ◆ The household has the financial or other resources to obtain help through community resources.

When you recommend that a household seek assistance through community agencies:

- ◆ Discuss the type of service recommended and possible resources for receiving the service with the family, and
- ◆ Document them in the report under the “recommendations for services” heading.

Department Services Recommended

You may offer services by the Department when you believe that the dependent adult is at risk of being abused and the conditions causing or contributing to the abuse or the potential for abuse still exists. This must be supported in the evaluative or assessment findings of the report.

If you believe that services are necessary before you complete the evaluation or assessment, make a service referral and document in the report.

Adult protective services through the Department may be offered without regard to income, if the county in which the dependent adult lives is willing to pay for the services.

In areas of the state that have no Department service workers who work with adults, it is not possible to offer services by the Department. In areas where there are service workers who work with adults, the services you may offer are limited to the services available through the Department in that area of the state.

Follow local procedure in making service referrals to the service units. Attempt to obtain a signed application for the dependent adult being referred for ongoing Department services. If obtained, forward this signed application to the service unit by the next working day.

Make every attempt to provide a smooth transfer of services from the evaluation or assessment worker to the service worker. In some cases, this may involve a joint visit to the dependent adult.

NOTE: If you determine that the alleged dependent adult is an "at-risk" adult, you must provide periodic visits to assess any increase or decrease in risk or impairments and assess the at-risk adult's goals, feelings and concerns if you have been unable to:

- ◆ Arrange for protective services through a court order,
- ◆ Arrange for a legal guardian,
- ◆ Persuade the at-risk adult to accept services, or
- ◆ Participate in preparing a safety plan.

See [Periodic Visits](#) for more information.

Report

Legal reference: Iowa Code Section 235B.3(1); 441 IAC 176.6(5)

Complete a report on all evaluations and assessments within 20 working days of the receipt of the allegation of dependent adult abuse. Use form 470-0688, *Dependent Adult Abuse Evaluation or Assessment Report*, in the System on Dependent Adults (SODA).

EXCEPTION: The 20-working-day timeframe does not apply to assessments of persons residing in homes that are being investigated for possible violations of boarding home registration rules unless there is an allegation of an abused dependent adult. (See [Assessments in Boarding Homes at Request of DIA.](#))

The *Dependent Adult Abuse Evaluation or Assessment Report* is considered a legal document. Make every attempt to use complete, legal, and accurate names, addresses, dates of birth, and other identifying data. Locate these through public assistance records, driver's license records, city directories, etc.

The report form contains information pertaining to the date the report was completed, the date of intake, identifying numbers, identification of family, dependent adult, and person responsible for the abuse, allegations, findings, and outcomes.

Form 470-0688 can accommodate unlimited pages of narrative. Add your narrative to the bottom of the page. The narrative report shall include information on the following:

- ◆ **Allegations.** Include a detailed and complete statement of each allegation made by the informant. If new allegations are made or discovered during the evaluation or assessment, address them the same as you do the allegations made at the time of referral. Include any pertinent information that explains the allegations.

Do not include the name of the informant in this or any other section of the narrative. Rather, refer to the person either as a collateral contact or in the context of the informant's relationship to the dependent adult abuse report, such as the supervisor or coworker of the person suspected of being responsible for the abuse.

- ◆ **Actions Taken to Protect and Assessment of Dependent Adult Safety.**
Summarize the steps taken to attempt to improve the safety or reduce the risk of abuse of the dependent adult.
 - Document actions taken to locate, observe, and interview the dependent adult. Provide a summary of the adult's condition and safety.
 - Document actions taken to locate and interview the person suspected of being responsible for the abuse.
 - List previous founded reports involving any of the subjects of the current evaluation or assessment, including dates and the subject's role in the previous reports.
 - If it was necessary to request a court order with the assistance of the county attorney, include a detailed and complete statement explaining the steps taken and the information provided that led to the request for a court order. Provide a summary of the outcome for the dependent adult as a result of obtaining a court order.
 - If you contacted law enforcement, include a detailed account of law enforcement involvement with attempts to reduce the risk of abuse or improve the safety of the dependent adult. Record any charges filed against the person responsible for abuse.
- ◆ **Summary of Contacts.** Clearly identify everyone interviewed. Use the same name for the person throughout the narrative. Do not identify the informant in the narrative. If you interview the informant, refer to the person as you do other contacts.
 - A record of all contacts made, including:
 - Names of persons contacted and interviewed,
 - Dates and times of contact, and
 - Information collected through the contact that is pertinent to the allegations.
 - All pertinent information about contacts with the person thought to be responsible for the abuse, unless the evaluation was terminated before this contact, based on preliminary evaluation findings that repudiate the allegations.

If you are unable to locate or contact the person thought to be responsible for the abuse, document how and when you attempted to locate and interview this person.

- A summary of findings resulting from visual observation of the dependent adult and conversations with the dependent adult.
 - A summary of and reference to reports and other documentation obtained from experts that contain information pertinent to the allegations of abuse, such as physician reports.
 - Information concerning any previous founded dependent adult abuse reports involving either the dependent adult or the person thought to be responsible for the abuse.
 - A summary of your observations pertinent to the allegations. It is important to separate factual from subjective observations. Avoid recording non-pertinent information in the narrative report.
- ◆ **Evaluative or Assessment Conclusions.** Use this section to summarize your conclusions as to whether abuse has occurred. Include in this section:
- A precise and complete statement of the types of abuse that have occurred, or a statement that the report of suspected dependent adult abuse is unfounded.
 - A precise summary of the information used to form this conclusion. This summary may be very brief but needs to verify every factor necessary for a finding that abuse occurred. See [Dependent Adult Protection Handbook, Comm. 96](#).
 - When information is disputed by different sources, a statement as to the reason certain information is considered more credible while other information is discounted. If you have any reason to believe any information is incorrect or distorted, explain your reasons for this belief.
 - State clearly whether the adult is or is not dependent and the reasons you have for this determination.
 - State clearly whether the person responsible for abuse is or is not a caretaker and explain why.
 - Address each allegation thoroughly as to whether it is founded or unfounded and the reasons you have made that conclusion.

Do not include new information in the conclusion. Any information in the conclusion must be first stated in the evaluative findings.

- ◆ **Recommendations for Service.** Use this section to specify the following:
 - Whether protective services are necessary to reduce the risk of abuse of the dependent adult or to prevent or remedy some other identified problem.
 - The type of services needed, if any.
 - Your estimate of the caretaker or dependent adult's ability to benefit from services, if any.
- ◆ **Recommendation for District Court Action.** Use this section to specify:
 - Whether district court action is necessary to reduce the risk of abuse or increase the safety of the dependent adult.
 - The type of action needed, if any.
 - The reason that district court action is necessary, if it is needed.
 - Whether criminal court action is necessary to attempt to reduce the risk of abuse or increase the safety of the dependent adult or other dependent adults in the community.
 - The type of crime the person responsible for abuse has committed. See 16-G, [Law Enforcement Intervention](#), for specific crimes related to dependent adult abuse.

The following sections give more information on:

- ◆ [Attachments](#)
- ◆ [Extensions](#)
- ◆ [Addenda](#)

Attachments

Do not attach reports from other sources that may contain material relevant to the evaluation or assessment. Rather, review them for information that is pertinent to the allegations being evaluated. Examples include:

- ◆ Medical evaluation of an alleged physical injury.
- ◆ Medical report of a sexual abuse examination.
- ◆ Mental health competency evaluation to determine dependency.
- ◆ Mental health evaluation and treatment records.
- ◆ Substance abuse evaluation and treatment records.
- ◆ Bank or other financial institution records.
- ◆ Previous evaluation or assessment reports.
- ◆ Law enforcement record of an assault (unless it is in place of a mandatory reporter report).

Summarize significant information from the reports in the evaluation or “assessment finding” section or the “evaluation or assessment conclusion” section of the report. Clearly identify the source of the other agency report, but do not include information that is not related to the dependent adult abuse allegation.

When you have completed the report, expunge the agency’s report. This prevents the other agency’s report from being available to other subjects of the abuse report who are entitled to review dependent adult abuse information, but who do not legally have access to the other agency’s information.

When you have documents that may be needed for evidence in a court action, give them to the county attorney or give them back to whoever gave them to you. Inform the person you give the documents to that they may be needed in the future, so the records will not be destroyed and need to be recreated.

Extensions

Legal reference: 441 IAC 176.6(5)

If the evaluation or assessment takes longer than 20 working days, request an extension from your supervisor. Request extensions only if the unavailable information would have a significant impact on the evaluation or assessment conclusion in the report.

The following constitute “good cause” to request an extension of a dependent adult abuse report:

- ◆ Law enforcement or therapist recommends a delay in interviewing a subject of the report.
- ◆ Necessary medical or psychological information is not yet available.
- ◆ A subject or significant collateral source is unavailable for an interview. (You need to be reasonably able to anticipate that an interview will be possible.)
- ◆ Recently acquired information necessitates additional evaluation or assessment and interviews.
- ◆ Unexpected circumstances results in worker or supervisor being unavailable (illness, emergencies).

Extensions may be requested in 10-day increments only, except under unusual circumstances where it is known a longer time period is necessary. Extensions may be granted for a maximum of 30 working days. No more than three extensions shall be granted.

The maximum number of days there are to complete a report is 110, including 20 days for all reports and a maximum three possible extensions with a maximum of 30 days per extension, for a total of 90 additional extension days. (20 + 90 = 110 days.)

Request an extension in SODA (System on Dependent Adults) as follows:

1. Choose the number of days on the "Extension" drop down box on the Evaluation tab near the top of the screen.

SODA only allows you to choose "30 days." However your supervisor may approve a lower number of days depending on the reasons you need for the extension.
2. Choose an "Extension Reason" from the drop down box.
3. Click on the "Request Extension" button.

An email will automatically be sent to your supervisor. Form 470-0627, *Dependent Adult Abuse Report Request for Extension*, will automatically be stored in "Documents."

When your supervisor approves an extension of time to complete the report, complete and send form 470-3246, *Dependent Adult Protective Extension Notification*, to notify the subject of the report of the extension of time.

Addenda

Legal reference: 441 IAC 176.6(5)

Submit an addendum to the report when any of the following occur:

- ◆ New information about the allegation becomes available that would alter the finding, conclusion, or recommendation of the original report.
- ◆ An alleged perpetrator who was previously unavailable comes forward and requests an interview to address the allegation of the report.
- ◆ A final appeal decision modifies any portion of a report. Submit an addendum reflecting the appeal decision within 60 days of the decision.
- ◆ Documentation related to a report arrives after the report is completed and filed.

If you decide to change the original report, take the following steps:

- ◆ Prepare an addendum to delete, add, or provide corrected information to the original report. Include new or corrected information in the addendum. Extensive changes may require submission of an entire corrected report, rather than referencing the original in an addendum.
- ◆ Transmit the addendum or revised report to the county attorney, using form 470-0688, *Dependent Adult Abuse Evaluation or Assessment Report*. Check the "addendum" section under "type of report" on the "Evaluation" screen in SODA. Identify the section of the original report being supplemented or corrected.
- ◆ Notify the subjects of the evaluation or assessment, the mandatory reporter (if applicable), and any other person who has received a copy of the original report of the changes, using form 470-2444, *Adult Protective Notification*, in SODA.
- ◆ If there is an open service case, notify the assigned caseworker of the changes to the original report.

Forms and Correspondence

After completing the assessment or evaluation report, you are responsible for:

- ◆ [Notifying subjects and others of the outcome.](#)
- ◆ [Notifying the facility of problems with policy or procedure \(if applicable\).](#)
- ◆ Sending a copy of the completed report to the county attorney's office.

Notice of Outcome to Subjects and Others

Legal reference: 441 IAC 176.10(9) and (10)

Make reasonable attempts to notify subjects of a report verbally of the evaluation or assessment outcome. Do this as soon as you have completed the report.

Use form 470-2444, *Adult Protective Notification*, in SODA to provide written notice of the results of a dependent adult abuse evaluation or assessment to:

- ◆ All subjects of the evaluation or assessment, including:
 - The dependent adult victim.
 - The guardian of the dependent adult victim.
 - The alleged perpetrator.

- ◆ All mandatory reporters who reported suspected abuse that has been evaluated or assessed.
- ◆ A DHS worker who conducted a courtesy interview for the case at the request of the assigned worker.

Complete and send this notice when you complete the report, or whenever you submit an addendum. When a victim has cognitive difficulties and would not comprehend the content of the notification, send the notice addressed to the guardian and the dependent adult.

Inform subjects of a report and the mandatory reporter who made the report (if applicable) of their right to obtain a copy of dependent adult abuse information, included in the report.

Notice of Problems With Agency or Facility Policy or Practice

While completing an evaluation or assessment in an agency, program, or facility, you may discover problems with policy, practice, or compliance with licensing, approval, accreditation, or registration rules. If so, after completing the evaluation or assessment, you must send a notice to the agency, program, or facility about those problems.

This notice is required regardless of whether the abuse allegations are founded, confirmed, not registered, or unfounded. For instructions on completing the Notice to Facility and a sample letter, see Comm. 195, [Facility, Agency, and Program Evaluation Handbook](#).

Delivery of Protective Services

The dependent adult may voluntarily accept services of the Department or other community agencies to address the problems identified in the evaluation or assessment. Court intervention is required to appoint a legal representative for the dependent adult or to compel the dependent adult to accept mental health or substance abuse services. If no other services are available or acceptable to an at-risk adult, you may need to continue periodic protective visits.

Protective services are described in the following sections:

- ◆ [Voluntary dependent adult abuse services](#)
- ◆ [Caretakers who have power of attorney for health care](#)
- ◆ [District court intervention](#)
- ◆ [Periodic visits](#)

Voluntary Dependent Adult Abuse Services

Legal reference: 441 IAC 176.6(7)

You may offer dependent adult abuse services regardless of the conclusion of the report. You may offer services in cases where abuse is unfounded but a significant potential for abuse is identified for any dependent adult in the home.

Explain to the dependent adult that the Department does not have legal authority to compel the acceptance of protective services. When you are recommending services, make an effort to prepare the dependent adult for the treatment worker's expected contact.

The dependent adult abuse evaluation or assessment is the beginning of the case planning and assessment procedure. A comprehensive case plan is not required for dependent adult abuse evaluations or assessments. However, the case plan is required for all other dependent adult abuse protective services.

You are responsible for providing an assessment to the treatment or services unit. This may be included in the abuse report, the written referral to services, or a transfer memo.

When protective services are accepted, the length of time that service is provided is limited by policy governing the specific service. Terminate treatment services as soon as:

- ◆ The case plan requirements that affect the protection of the dependent adult are met, or
- ◆ The dependent adult withdraws or refuses further treatment services.

Dependent Adult Abuse Protective Services Case Plan

Include in the dependent adult abuse protective services case plan the following:

- ◆ Assessment:
 - The mental and physical challenges that prevent the person from being independent.
 - The services needed to protect the dependent adult or assist the adult towards independence.

- ◆ Financial eligibility:
 - Dependent adult protection, social casework, and adult support may be provided without regard to income to dependent adults who are determined by an evaluation or assessment to be at risk of abuse.
 - All other services provided to dependent adults who have been determined to be at risk of abuse can be provided only if the dependent adult meets the financial eligibility guidelines of the service that is being provided.

Some counties provide local purchased services to dependent adults at risk of abuse without regard to income. Check for local resources.

- ◆ Complete the rest of the case plan according to instructions currently in place for all case plans. Generally the case plan will include:
 - Expected outcomes of the case plan.
 - Specific services and who will provide them.
 - Responsibilities and action steps for all persons included in the case plan, including the dependent adult.
 - Reassessment and revision.

Caretakers Who Have Power of Attorney for Health Care

Legal reference: Iowa Code sections 144B.4(1) and (2)

A caretaker who has the power of attorney for health care decisions for the dependent adult and is not a relative may be violating Iowa Code section 144B.4, which prohibits designation of the following as the attorney in fact to make health care decisions for a person under a durable power of attorney for health care:

- ◆ A health care provider who is attending the person on the date of the designation.
- ◆ An employee of a health care provider that is attending the person on the date of designation unless the employee is related to the person by blood, marriage, or adoption within the third degree of consanguinity.

This law does **not** apply to all other powers of attorney, which concern financial, not health care matters. (See Iowa Code Chapter 633B, "Powers of Attorney.") There is no legal prohibition against caretakers being given power of attorney for financial matters whether related or not.

If you discover a caretaker who is not a relative as described above and has power of attorney for health care decisions for a dependent adult, notify the county attorney and include this information in your evaluation of the abuse allegation.

Because this is in violation of the law, another person will need to be designated with power of attorney for health care decisions for the dependent adult. Relay this information to the dependent adult if the dependent adult appears competent to comprehend it. If not, make a referral to the local DHS service unit, case management, or other local agencies that could arrange for a new power of attorney for health care decisions.

Attempt to determine if the person with the power of attorney for health care decisions is performing in that capacity for any other dependent adults that the person is providing care for and who are not a relatives as described above. If so:

- ◆ Contact the county attorney's office, as the person may be in violation of the law; and
- ◆ Make a referral to the Intake Unit on any other dependent adults for whom the person may have power of attorney for health care. It is reasonable to assume the caretaker may be exploiting the other dependent adults.

District Court Intervention

Legal reference: Iowa Code sections 235B.3(7), 235B.17, 235B.18, and 235B.19; 441 IAC 176.6(8), 176.6(9), 176.6(10)

Supervisory approval is required in making a decision about pursuing court action. Determine whether the court should be involved in a particular case based on these factors:

- ◆ Is the adult competent to make decisions regarding personal and financial affairs?
- ◆ If the adult appears to be incompetent, is the condition temporary or permanent?
- ◆ Has the adult exhibited behaviors that were life threatening to self or to others?
- ◆ Has a caretaker prevented an abused dependent adult from receiving services?
- ◆ Does an abused dependent adult who lacks capacity to consent need emergency services or protection from a perpetrator?

- ◆ Does the dependent adult appear to lack the capacity to make decisions concerning finances?
- ◆ Does the dependent adult appear to be making financial decisions that are not in the adult's best interests?

The decision to pursue court action is not necessarily based on a finding that a dependent adult is abused. The evaluation or assessment may reveal a circumstance which does not constitute dependent adult abuse, but which requires court intervention. When legal intervention is necessary, consider the least restrictive legal option that is in the best interest of the dependent adult. Legal interventions discussed in this chapter include:

- ◆ [Court-ordered interventions](#)
- ◆ [Emergency orders for protective services](#)
- ◆ [Guardianship](#)
- ◆ [Conservatorship](#)
- ◆ [Substance abuse commitment](#)
- ◆ [Mental health commitment](#)

Legal options that are less restrictive and available in Iowa are:

- ◆ Conditional guardian or conservator
- ◆ Temporary conservatorship during an evaluation or assessment
- ◆ Temporary guardian or conservator
- ◆ Emergency temporary guardian or conservator
- ◆ Power of attorney
- ◆ Representative payee
- ◆ Standby guardian

Information on representative payees can be obtained from any Social Security Administrative office. Consult your county attorney for information on less restrictive legal options. Legal options for persons who have an intellectual disability are found in Iowa Code Chapter 222.

Legal Counsel Appointed for Dependent Adult

Legal reference: Iowa Code Section 235B.3(7)"c"

In every case involving dependent adult abuse substantiated by the Department 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, if 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, the court shall require the dependent adult and any person legally responsible for the support of 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 responsible person is able to bear all or a portion of the cost of a legal counsel or guardian ad litem, the court shall so order. When the dependent adult or the responsible person is unable to bear the cost of legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.

Court-Ordered Interventions

Legal reference: Iowa Code Sections 235B.17, 235B.18, and 235B.19

You may petition the court for orders to prohibit the caretaker from interfering with the provision of protective services to a dependent adult who has agreed to protective services. Present your petition to the court in the county where the dependent adult lives. The petition must allege specific facts sufficient to demonstrate that the dependent adult needs protective services and consents to receive them and that the caretaker refuses to allow provision of the services.

The judge must find by clear and convincing evidence that the dependent adult is in need of protective services and consents to receive them and that the caretaker refused to allow the services.

If you determine that a dependent adult is a victim of abuse, and lacks the capacity to consent, you may petition the court for:

- ◆ Protective services for the dependent adult
- ◆ Emergency protective services, including:
 - Removing the dependent adult to safer surroundings.
 - Provision of medical services.

- Provision of other services to remove the conditions creating danger to health or safety of the dependent adult.
- Temporary restraining orders to prevent third persons from specific acts. (See [Emergency Order for Protective Services](#).)
- Suspension of powers granted to a guardian or conservator and subsequent appointment of new temporary guardian or conservator pending a decision by the court on whether the powers of the initial guardian or conservator should be reinstated or whether the initial guardian or conservator be removed.

If a caretaker who is the guardian or conservator of a dependent adult is interfering with the provision of protective services to the dependent adult, the need for the protective services takes precedence over the guardian or conservator's legal ability to prevent the services from being provided. Therefore, even though there is a legal guardian or conservator for the dependent adult, proceed with the petition if it has been determined the dependent adult is in need of protective services.

Before you request the assistance of your county attorney, acquire the facts for the petition. The petition shall state the following information as far as is known:

- ◆ Specific verified information sufficient to demonstrate that the dependent adult:
 - Is in need of protective services.
 - Lacks capacity to consent to the receipt of services (except when the request is for a court order to prohibit the caretaker from interfering with the dependent adult who has agreed to receiving services).
- ◆ The name, date of birth, and address of the dependent adult who needs services.
- ◆ The nature of the dependent adult abuse.
- ◆ The protective services required.
- ◆ The name and address of the caretaker if the caretaker is refusing to allow the provision of services.

After you petition the court for an order authorizing the provision of protective services for an abused dependent adult who lacks capacity to consent, the court shall:

- ◆ Set the case for hearing within 14 days of the filing of the petition.
- ◆ Send notice to the dependent adult at least five days before the hearing.
- ◆ If the judge determines that the dependent adult lacks capacity to waive the right of counsel, the court may appoint a guardian ad litem for the dependent adult.
- ◆ If the petition is to prevent the caretaker from interfering with the provision of services, send notice to the caretaker at least five days before the hearing.

At the hearing, if the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of protective services, the judge may issue an order authorizing the provision of protective services.

The order may include the designation of a person to be responsible for performing or obtaining protective services on behalf of the dependent adult or otherwise consenting to the receipt of protective services on behalf of the dependent adult.

Within 60 days of the appointment of a person to be responsible for performing or obtaining protective services, the court shall conduct a review to determine if a petition for guardianship should be initiated for good cause shown, in accordance with Iowa Code Section 633.552. The court may extend the 60-day period for an additional 60 days. At the end of the period, the court shall conduct a review to determine if a petition for guardianship shall be initiated.

A dependent adult may not be committed to a mental health facility using a petition for protective services. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of services does not affect incompetency proceedings for guardianship or any other proceedings. Incompetency proceedings for any other actions, such as guardianship, do not have a conclusive effect on the question of capacity to consent to the receipt of protective services.

NOTE: An abused dependent adult who lacks capacity to consent may receive court-ordered protective services only if that person is eligible for already existing or available services.

Emergency Order for Protective Services

Legal reference: Iowa Code Section 235B.19 as amended by 2011 Iowa Acts, House File 649, section 91

When you petition the court for an emergency order authorizing protective services, the court may order emergency services. More than likely, the court will set a date for a hearing within 14 days of the filing of the petition for the court order.

To obtain an emergency order without a hearing, you must be able to verify the information contained in the request for the emergency order. The most expedient method is an affidavit describing the emergency, signed by you, and notarized by a notary public.

If that is not possible, you may use witness statements. Try to get statements from persons who are at the scene of the abuse with you, such as the law enforcement officer, public health nurse, relative of the dependent adult, or neighbor.

If a notary public is not available and no witnesses are willing to sign a statement, you can explain the situation to the judge. The judge may be willing to issue an emergency order without witnesses or an affidavit signed by a notary public. It is in your best interests to have the affidavit signed by a notary public and to have witnesses sign statements.

If that is not possible, you may use witness statements. Try to get statements from persons who are at the scene of the abuse with you, such as the law enforcement officer, public health nurse, relative of the dependent adult, or neighbor.

If a notary public is not available and no witnesses are willing to sign a statement, you can explain the situation to the judge. The judge may be willing to issue an emergency order without witnesses or an affidavit signed by a notary public. It is in your best interests to have the affidavit signed by a notary public and to have witnesses sign statements.

Follow directions outlined in [Court-Ordered Interventions](#):

- ◆ Before you provide information to the county attorney to petition the court for you, or
- ◆ If you are petitioning the court without the assistance of the county attorney.

When requesting an emergency order for protective services, you must determine if the dependent adult has a guardian or a durable power-of-attorney for health care. If so, the name and address of that person must be added to the petition for the purpose of mailing this person a copy of the court order.

If the dependent adult does not have someone legally making decisions on the adult's behalf, determine the name and address of the dependent adult's spouse, a child, grandchild, sibling, aunt, uncle, niece, nephew or cousin (in that order of priority) for the purpose of mailing this person a copy of the court order.

You are responsible for notifying this person even if this person is suspected of being the caretaker responsible for the abuse. (See [Emergency Services Petition Served on Dependent Adult.](#))

The court may find probable cause to believe that:

- ◆ The abuse presents an immediate threat to the dependent adult's health or safety or results in irreparable harm to the dependent adult's physical or financial resources or property, and
- ◆ The dependent adult lacks the capacity to consent to the receipt of services.

If so, the court may issue an emergency court order to:

- ◆ Remove the dependent adult to safer surroundings.
- ◆ Provide medical services.
- ◆ Provide other available services necessary to remove conditions creating the danger to health or safety. This includes the services of law enforcement officers or emergency services personnel.
- ◆ Suspend powers granted to a guardian or conservator and subsequent appointment of new temporary guardian or conservator pending a decision by the court on whether the powers of the initial guardian or conservator should be reinstated or whether the initial guardian or conservator be removed.

The court may find probable cause to believe that:

- ◆ Dependent adult abuse has occurred and is either ongoing or is likely to reoccur,
- ◆ The abuse presents an immediate threat to the dependent adult's health or safety of or results in irreparable harm to the dependent adult's physical or financial resources or property, and
- ◆ The dependent adult lacks the capacity to consent to the receipt of services.

In those circumstances, the court may issue an emergency order enjoining the caretaker from any of the following:

- ◆ Removing the dependent adult from the care or custody of another.
- ◆ Committing dependent adult abuse on the dependent adult living at the dependent adult's residence.
- ◆ Contacting the dependent adult in person or by phone.
- ◆ Selling, removing, or otherwise disposing of the dependent adult's personal property.
- ◆ Withdrawing funds from any bank, savings and loan association, credit union, or other financial institution, or from a stock account in which the dependent adult has an interest.
- ◆ Negotiating any instruments payable to the dependent adult.
- ◆ Selling, mortgaging, or otherwise encumbering any interest that the dependent adult has in real property.
- ◆ Exercising any powers on behalf of the dependent adult through representatives of the department, any court-appointed guardian or guardian ad litem, or any official acting on the dependent adult's behalf.
- ◆ Engaging in any other specified act which, based upon the facts alleged, would constitute harm or a threat of imminent harm to the dependent adult or would cause damage to or the loss of the dependent adult's property.

The emergency order expires at the end of 72 hours from the time of the order, unless the 72-hour period ends on a Saturday, Sunday or legal holiday. In that case, the order is automatically extended to four p.m. on the first succeeding business day. An order may be renewed for not more than 14 additional days.

The court may modify or terminate the emergency order on the petition of the Department, the dependent adult, or any person interested in the dependent adult's welfare.

If a judge is not available to obtain an emergency order, you may:

- ◆ Contact law enforcement to remove the dependent adult to safer surroundings.
- ◆ Arrange for the provision of medical examination, treatment if indicated.
- ◆ Arrange for the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult or which results in irreparable harm to the physical or financial resources or property of the dependent adult.

When it has been necessary to arrange for emergency protective services without a court order, you must obtain an order not later than 4:00 p.m. on the first succeeding business day after the date on which protective or other services are provided.

If you do not obtain an emergency order within the prescribed period, you must cease providing protective services and, if necessary, arrange for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place.

A person, agency, or institution acting in good faith in removing a dependent adult or in providing services, and an employer of or person under the direction of such a person, agency, or institution, has immunity from any civil or criminal liability that might otherwise be incurred as the result of the removal or provision of services.

You do not have the authority to arrange for the provision of services to persons who are not otherwise eligible for the services or for using services that do not currently exist or are otherwise available.

"Arranging for provision of services" **does not** mean authorizing specific services to be provided. Your responsibility is to make referrals to local provider agencies (usually through phone calls). These agencies will determine if the dependent adult is eligible for the services and specifically what services are needed to remove the conditions creating the immediate danger to the dependent adult's health or safety.

“Arranging for the provision of medical treatment” **does not** mean giving or denying consent to any specific treatment. Your responsibility is arranging for the dependent adult to get to medical personnel or getting medical personnel to the dependent adult (in most circumstances by a phone call to local law enforcement or to 911). Professional medical personnel will authorize specific treatment.

Emergency Services Petition Served on Dependent Adult

Legal reference: Iowa Code section 235B.19 as amended by 2011 Iowa Acts, House File 649, section 91

If a judge issues an order for emergency services, you must serve a copy of the petition and the order authorizing protective services:

- ◆ In person to the dependent adult. Leave a copy of the petition and order authorizing protective services with the dependent adult.
- ◆ By mail to one of the following competent adults in the following priority:
 - An attorney in fact named by the dependent adult as a durable power of attorney power for health care pursuant to Iowa Code chapter 144B.
 - The dependent adult’s spouse.
 - The dependent adult’s children.
 - The dependent adult’s grandchildren.
 - The dependent adult’s siblings.
 - The dependent adult’s aunts or uncles.
 - The dependent adult’s nieces or nephews.
 - The dependent adult’s cousins.

Deliver other copies of the petition and orders in the following manner:

- ◆ In a sealed envelope,
- ◆ Addressed to the person being served at the person’s last known post office address,
- ◆ Deposited in a mail receptacle provided by the United States Postal Service,
- ◆ Within three days after filing the petition and receiving the orders.

When the top-priority person available listed above has been served a copy of the petition and any order authorizing protective services, it is not necessary to serve a copy to any of the others listed.

Complete form 470-5067, *Record of Emergency Protective Court Orders Served*, after you have served the petition and court order to the dependent adult in person and to the person's power-of-attorney for health care or relative by mail. Add to the form if further orders are issued by the court. File the form in the dependent adult's case file.

After the emergency petition for protective services has been filed, the Department and all persons served notices of the petition are prohibited from all of the following actions without prior court approval:

- ◆ Selling, removing, or otherwise disposing of the dependent adult's personal property.
- ◆ Withdrawing funds from any bank, savings and loan association, credit union, or other financial institution, or from an account containing securities in which the dependent adult has an interest.

Appointment of Temporary Guardian

Legal reference: Iowa Code section 235B.19(4)

If, after consulting with your supervisor, you believe the best interests of the dependent adult can be served by requesting a temporary guardian, contact your county attorney. The county attorney makes the request for a court order to the appropriate court.

If during an evaluation you discover evidence that leads you to believe the dependent adult's health or safety is in danger and the dependent adult lacks capacity to consent to services, the court may order the appointment of a temporary guardian without notice to the dependent adult or the dependent adult's attorney. The following conditions must be met:

- ◆ It clearly appears from the specific facts shown in the affidavit or the by the verified petition that:
 - The dependent adult's decision making capacity is so impaired that the person is unable to care for personal safety or to attend to or provide for basic necessities; or
 - Immediate and irreparable injury, loss, or damage will result to the dependent adult before the dependent adult or the dependent adult's attorney can be heard in opposition.

- ◆ The Department certifies to the court in writing any efforts made to give notice or the reasons supporting that notice not be required.
- ◆ The Department files with the court a request for a hearing on the petition for the appointment of a temporary guardian.
- ◆ The Department certifies the notice of petition, order, and all filed reports and affidavits will be sent to the dependent adult by personal service within the time period the court directs but not more than 72 hours after entry of the order of appointment.

A hearing on the petition for the appointment of a temporary guardian will be held within the time period prescribed by the court. If the Department does not proceed with a hearing on the petition, the court on the motion of any party or on its own motion may dismiss the petition.

All of the information needed for a verified petition of an involuntary guardian must be in the petition for a temporary guardian. See [Involuntary Guardianship](#). The county attorney will assist you with any questions you have regarding the process to request a court order and obtain the information needed.

The order of appointment of the temporary guardian will expire as prescribed by the court, within 30 days unless extended by the court for good cause.

Appointment of Temporary Conservator

Legal reference: Iowa Code section 235B.19(4)

During an evaluation, you discover evidence that leads you to believe the dependent adult's resources are in danger of being exploited due to the dependent adult's lack of capacity to consent or incompetency. If so, consider petitioning the court for a temporary conservatorship. A temporary conservator can freeze the assets of the dependent adult to prevent further exploitation of the resources, if that is found to have been occurring.

If there is probable cause to believe that a dependent adult who lacks capacity to consent is causing irreparable harm to that person's physical or financial resources or property, the county attorney may request a temporary conservatorship without notice to the dependent adult or the dependent adult's attorney.

If, after consulting with your supervisor, you believe the best interests of the dependent adult can be served by requesting a temporary conservator, contact your county attorney.

The following conditions must be met:

- ◆ It clearly appears from specific facts shown by affidavit or by the verified petition that immediate and irreparable injury, loss, or damage will result to the physical, financial resources, or property of the dependent adult before the dependent adult or the dependent adult's attorney can be heard in opposition.
- ◆ The Department certifies to the court in writing any efforts made to give notice or the reasons supporting that notice not be required.
- ◆ The Department files with the court a request for a hearing on the petition for the appointment of a temporary conservator.
- ◆ The Department certifies the notice of petition, order, and all filed reports and affidavits will be sent to the dependent adult by personal service within the time period the court directs but not more than 72 hours after entry of the order of appointment.

A hearing on the petition for the appointment of a temporary conservator will be held within the time period prescribed by the court. If the Department does not proceed with a hearing on the petition, the court on the motion of any party or on its own motion, may dismiss the petition.

All of the information needed for a verified petition of an involuntary conservatorship must be in the petition for a temporary conservator. See [Involuntary Conservatorship](#). The county attorney will assist you with any questions you have regarding the process to request a court order and obtain the information needed.

The order of appointment of the temporary conservator will expire as prescribed by the court, within 30 days unless extended by the court for good cause.

Voluntary Guardianship or Conservatorship

Legal reference: Iowa Code Sections 633.552 to 633.667

A dependent adult who is competent to make decisions regarding personal affairs or financial affairs, or both, may petition the court for voluntary guardianship or conservatorship. The same procedures apply as for involuntary guardianships and conservatorships, except that a written document from a qualified professional attesting to the incompetency of the adult is not necessary.

Involuntary Guardianship

Legal reference: Iowa Code Sections 633.552 to 633.565; 441 IAC 176.6(8), 176.6(10)

When your concern is for the dependent adult's life, rather than the adult's property, someone outside the Department may seek guardianship appointment to provide for the legal authority of moving the adult or protecting the adult.

Since the Department assumes no responsibility for the payment of attorney fees or court costs, you may explore the client's own financial resources and community resources that may be available to be used for this purpose.

Any person may file with the clerk of court a verified petition for the appointment of a guardian. The petition shall state the following information as far as is known to the petitioner:

- ◆ The name, age, and post office address of the proposed ward.
- ◆ The social security number and date of birth of the proposed ward, if known.
- ◆ The name and post office address of the proposed guardian, and that the person is qualified to serve in that capacity.
- ◆ That the proposed ward is a resident of the state of Iowa or is present in the state, and that the ward's best interests require the appointment of a guardian in this state.
- ◆ The name and address of the person or institution, if any, having the care, custody, or control of the proposed ward.

- ◆ A brief summary of the precipitating events that led to the proposed ward's need for an involuntary guardianship and a clear statement, quoting from an attached document written by a physician, psychiatrist, psychologist, or other qualified professional, that the proposed ward is incompetent to make or carry out important decisions concerning the ward's person.

The court may appoint a guardian if the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of the guardian are proved.

Try to locate a member of the family, a friend, or volunteer to act as a petitioner. The following conditions must be verified before the filing of the 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.
- ◆ That a qualified person has agreed to act as the guardian if appointed.

Involuntary Conservatorship

Legal reference: Iowa Code Sections 633.566 to 633.667

Any person may file with the clerk a verified petition for the appointment of a conservator. The petition shall state the following information, so far as is known to the petitioner:

- ◆ The name, age, and post office address of the proposed ward.
- ◆ The social security number and date of birth of the proposed ward, if known.
- ◆ The name and post office address of the proposed conservator, and that the person is qualified to serve in that capacity.
- ◆ The estimated present value of the real estate, the estimated value of the personal property, and the estimated gross annual income of the estate. If any money is payable, or to become payable, to the proposed ward by the United States through Veteran's Administration, the petition shall so state.

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- ◆ The name and address of the person or institution, if any, having the care, custody, or control of the proposed ward.
 - ◆ Whether the proposed ward resides in the state of Iowa, is a nonresident, or the proposed ward's residence is unknown.
 - ◆ A statement that the proposed ward's best interests require the appointment of a conservator in the state of Iowa.
 - ◆ A brief summary of the precipitating events that led to the proposed ward's need for an involuntary conservatorship.
 - ◆ A clear statement, quoting from an attached document written by a physician, psychiatrist, psychologist, or other professional, that the proposed ward is incompetent to make or carry out important decisions concerning financial affairs.

If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a conservator are proved, the court may appoint a conservator.

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 immediate danger to that person's property. In the absence of such action or other legal action, no person has the right to manage the property of an adult contrary to the adult's consent.

Try to find a member of the family, a friend, or a volunteer to act as a petitioner. The following conditions must be verified before filing the petition:

- ◆ The dependent adult is incompetent to make decisions regarding financial affairs.
- ◆ A qualified professional has written a document clearly stating the dependent adult is incompetent to make decisions regarding financial affairs.
- ◆ A qualified person has agreed to act as conservator.

Involuntary Commitment for Substance Abuse Treatment

Legal reference: Iowa Code Section 125.75

Proceedings for the involuntary commitment or treatment of a substance abuser to a facility may be commenced by the county attorney or an interested person.

Try to find a relative, caretaker, friend, or family member to secure the commitment for the dependent adult. If this is not possible, apply to the administrator of a facility providing treatment for emergency commitment for detainment of a dependent adult up to five days for the purpose of treatment.

Apply for emergency commitment and treatment only with the approval of your immediate supervisor, the service area manager, or the service area manager's designee. The following conditions must exist:

- ◆ Facts sufficient to support the grounds for commitment exist in that the dependent adult is a substance abuser who habitually lacks self-control in the use of chemical substances, and either:
 - Has threatened, attempted, inflicted, or is likely to inflict physical harm on self or another unless committed, or
 - Is incapacitated by chemical substances.
- ◆ The dependent adult has refused to seek voluntary treatment.
- ◆ A physician, spouse, caretaker, or relative of the client has refused to file the application.
- ◆ Your immediate supervisor, the service area manager, or the service area manager's designee has approved the worker's filing of the application.

Proceedings are begun by filing a verified application with the clerk of district court of the county where the respondent is presently located or which is the respondent's place of residence. The clerk or the clerk's designee shall assist the applicant in completing the application. The application shall:

- ◆ State the applicant's belief that the respondent is a substance abuser.
- ◆ State any other pertinent facts.
- ◆ Be accompanied by one of more of the following:

- A written statement of a licensed physician in support of the application.
- One or more supporting affidavits corroborating the application.
- Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement the information above.

As soon as practical after the filing of an application for involuntary commitment or treatment, the court shall:

- ◆ Determine whether the respondent has an attorney who is able and willing to represent the respondent in the commitment proceeding.
- ◆ Determine whether a respondent who does not have an attorney is financially able to employ an attorney and capable of meaningfully assisting in selecting one.
- ◆ Allow the respondent to select an attorney or assign an attorney to the respondent. If the respondent is financially unable to pay an attorney, the attorney shall be compensated in substantially the same manner as provided for indigent defense. However, if the county has a public defender, the court may assign the public defender or an attorney on the public defender's staff as the respondent's attorney.
- ◆ Appoint an attorney to represent the applicant, if the application includes a request for a court-appointed attorney, and the court is satisfied that a court-appointed attorney is necessary to assist the applicant in a meaningful presentation of the evidence and that the applicant is financially unable to employ an attorney. The attorney shall be compensated in substantially the same manner as provided for indigent defense.
- ◆ Issue a written order:
 - Scheduling a tentative time and place for a hearing, subject to the findings of the report required under Iowa Code Section 125.80, Subsections 3 and 4. The hearing shall be at least 48 hours after notice to the respondent, unless the respondent waives the 48-hour notice requirement.
 - Requiring an examination of the respondent before the hearing by one or more licensed physicians, who shall submit a written report of the examination to the court as required by Iowa Code Section 125.80.

Involuntary Hospitalization of a Mentally Ill Person

Legal reference: Iowa Code Section 229

Proceedings for the involuntary hospitalization of a person may be commenced by any interested person.

Try to find a member of the family, caretaker, relative, or friend of the dependent adult to act as the applicant. If that is not possible, file the application with the approval of your immediate supervisor and the service area manager or the service area manager's designee. The following conditions must exist before the application is filed:

- ◆ Facts sufficient to support the grounds for hospitalization exist, including:
 - Your statement that the dependent adult is seriously mentally impaired.
 - A statement of other pertinent facts.
 - A written statement of a licensed physician in support of the application.
 - One or more supporting affidavits otherwise corroborating the application.
- ◆ The dependent adult has refused to seek treatment voluntarily.
- ◆ The dependent adult's caretaker, family, or relatives have refused to file the application.
- ◆ Your immediate supervisor, the service area manager, or the service area manager's designee has approved the worker's filing of the application.

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 clerk, or the clerk's designee, shall assist the applicant in completing the application. The application shall:

- ◆ State the applicant's belief that the respondent is seriously mentally impaired and lacks sufficient judgment to make responsible decisions.
- ◆ State that if allowed to remain at liberty without treatment, the respondent is likely to physically injure the person's self or others or is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the respondent.
- ◆ State any other pertinent facts.

- ◆ Be accompanied by:
 - A written statement of a licensed physician in support of the application, or
 - One or more supporting affidavits otherwise corroborating the application, or
 - Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it unfeasible to obtain, or when the clerk considers it appropriate to supplement the information supplied.

As soon as practical after the filing of an application for involuntary hospitalization, the court shall:

- ◆ Determine whether the respondent has an attorney who is able and willing to represent the respondent in the hospitalization proceeding.
- ◆ Determine whether the respondent without an attorney is financially able to employ an attorney and capable of meaningfully assisting in selecting one.
- ◆ Allow the respondent to select, or shall assign an attorney to the respondent. If the respondent is financially unable to pay an attorney, the attorney shall be compensated in substantially the same manner as provided for indigent defense. However, if the county has a public defender, the court may designate the public defender or an attorney on the public defender's staff to act as the respondent's attorney.
- ◆ Cause copies of the application and supporting documentation to be sent to the county attorney or the county attorney's attorney-designate for review.
- ◆ Issue a written order that:
 - Sets a time and place for a hospitalization hearing, if not previously done. The hearing shall be at the earliest practical time, not less than 48 hours after notice to the respondent, unless the respondent waives this minimum prior notice requirement.
 - Orders an examination of the respondent before the hearing by one or more licensed physicians, who shall submit a written report on the examination to the court as required by Iowa Code Section 229.10.

Periodic Visits

Legal reference: 2009 Iowa Acts, Senate File 484, Section 9

After completing the evaluation or assessment on a dependent adult whom you determined to be "at risk," you will need to determine if the adult requires periodic visits. During the assessment, you:

- ◆ Tried to ensure the adult was safe,
- ◆ Determined if the adult has the capacity to make decisions,
- ◆ Determined if the adult is physically functional,
- ◆ Determined if the adult was dependent or at risk,
- ◆ Completed a Safety Plan if you determined the adult's health or safety was at risk.

All of this information should be incorporated into your evaluation or assessment report.

Even if you have determined in your report the "at-risk" adult is a dependent adult and found that abuse has occurred, the dependent adult could still be an "at-risk" adult if interventions to remove the circumstances that have caused the abuse continue to exist.

An at-risk adult who lacks the capacity to consent is dependent and is at far greater risk than an at-risk adult who is competent, but is just refusing assistance. If you are unable to obtain a court order for emergency services, consider seeking assistance with other local resources, including clergy, neighbors, or leaders in the community who might volunteer to monitor the at-risk dependent adult or assist with securing other local resources.

To determine if the at-risk adult meets the requirements to initiate periodic visits, consult the completed form 470-4841, [Dependent Adult Assessment Tool](#). If the results show the adult is at moderate to high risk for health or safety, periodic visits are required for the adult if you are unable to:

- ◆ Arrange for protective services through a court order,
- ◆ Arrange for a legal guardian,
- ◆ Persuade the at-risk adult to accept services, or
- ◆ Participate in preparing a safety plan.

Discuss with your supervisor the individual's situation and determine if the at-risk adult meets the qualifications to require periodic visits.

If you determine the at-risk adult does meet those qualifications, incorporate that information into your report conclusions and discuss with your supervisor when to schedule the first visit to the individual to monitor the continued risk.

Schedule the first visit within 30 calendar days of the date the report is completed. You are required by law to maintain periodic visits with the at-risk adult.

Conducting Periodic Visits

Legal reference: 2009 Iowa Acts, Senate File 484

The purpose of periodic visits is to determine if the individual's risk of safety or health has increased or decreased. Assess the following:

- ◆ Any increase or decrease in risk
- ◆ Increase or decrease in impairments
- ◆ Individual goals, feelings and concerns

To assist in determining any changes since your initial visit during the evaluation or assessment process, you may use form 470-4841, [Dependent Adult Assessment Tool](#). (See 16-G-Appendix.) Offer services and support to maintain or sustain independence. Attempt to write a safety plan with the individual.

Document your findings on form 470-4833, *Periodic Visit*, in Documents in the Dependent Adult Abuse report in SODA.

Continue periodic visits in the following situations:

- ◆ If you determine the at-risk adult's situation has deteriorated somewhat but not to the point that requesting a court order is necessary, attempt to interest the at-risk adult in services and preparing a safety plan.

If the at-risk adult refuses services or refuses to engage in preparing a safety plan, consult with your supervisor and consider when to schedule another visit.

- ◆ If you determine the at-risk adult's situation has remained the same and the at-risk adult continues to refuse services or attempts to prepare a safety plan, discuss with your supervisor the benefits of scheduling another visit or suspending future scheduled visits.

Consider the at-risk adult's abilities, risks, and the possibility of engaging in the preparation of a safety plan or agreeing to services. If you believe there is any possibility the at-risk adult will in time agree to services and a safety plan, consider scheduling a future visit.

Criteria to Terminate Periodic Visits

Legal reference: 2009 Iowa Acts, Senate File 484

Terminate periodic visits if the following exists:

- ◆ The at-risk adult agrees to services, ensure the services are provided.
- ◆ You determine the at-risk adult's situation has deteriorated to the point that the at-risk adult has become a dependent adult, make an abuse report to your Central Abuse Intake Unit.
- ◆ You determine the at-risk adult's situation has deteriorated and there is a new or different allegation from the one in the original Dependent Adult Abuse report, make an abuse report to the Central Abuse Intake Unit.
- ◆ If you determine the situation has not changed after six months, and you believe there is no possibility the at-risk adult will ever agree to services or participate in preparing a safety plan, and the at-risk adult is competent to make decisions, consult with your supervisor and terminate the periodic visits.
- ◆ If you obtain information from a periodic visit that pertains to the dependent adult abuse report that changes the outcome of the report, complete an addendum to the report.

In every case, document your findings on Form 470-4833, *Periodic Visit*, in documents in the Dependent Adult Abuse report in SODA.

Case Records

This section includes policies on:

- ◆ [Evaluation and assessment case records](#)
- ◆ [Sealing and expungement of reports](#)

Evaluation and Assessment Case Records

Legal reference: Iowa Code Sections 235B.3 and 235B.9; 441 IAC 176.6(235B)

Evaluation and assessment case records may contain the following documents and information, depending on how many are available in SODA and how many you have on hard copies:

- ◆ *Suspected Dependent Adult Abuse Report, 470-2441*, or other written report from a mandatory reporter.
- ◆ *Dependent Adult Abuse Services Intake, 470-0657*.
- ◆ *Dependent Adult Abuse Evaluation or Assessment Report, 470-0688*.
- ◆ *Dependent Adult Abuse Report Request for Extension, 470-0627*, if applicable.
- ◆ *Adult Protective Notification, 470-2444*.
- ◆ *Request for Dependent Adult Abuse Registry Information, 470-0612*, if applicable.
- ◆ Any other correspondence and other materials relating to the evaluation or assessment.

Every document attached to the report becomes part of the report and must be included when the report is disseminated to people who have access to that report. Attach documents to the report only when the entire document includes information directly related to the abuse allegation.

Include information from physicians, psychiatrists, psychologists, and law enforcement agencies only if necessary to support the findings of the report. Do not include information that is not related to the abuse allegation.

When you want to include information from a document that includes information not related to the abuse allegation, do the following:

- ◆ Review the document.
- ◆ Summarize the information related to the abuse allegation.
- ◆ Add the summarized information to your written report.
- ◆ Clearly, identify the source of the information in the report.
- ◆ Destroy the document or return it to the person who provided it.

Information contained in the document that becomes necessary for legal actions can be obtained from the person who wrote the report by subpoena from the court.

Sealing and Expungement of Reports

Legal reference: Iowa Code Section 235B.9

When you complete the report, destroy any notes you created during the course of the assessment. Retain assessment and evaluation case records according to the conclusions in the report:

- ◆ **Founded evaluation reports.** The Central Abuse Registry seals founded dependent adult abuse evaluation reports when ten years have elapsed since the last founded evaluation report on the dependent adult or the perpetrator.

The Registry notifies the local office of the expungement of founded information on form 470-0688, *Dependent Adult Abuse Evaluation or Assessment Report*. When you receive the notice of expungement, take action to destroy local office copies of the record as directed.
- ◆ **Founded assessment reports**, which include self-denial of critical care (no caretaker) and confirmed, not registered reports of physical abuse or denial of critical care by a caretaker: Founded assessment reports are kept in local office case records. They become part of service cases. Service cases are kept five years from the date the case is closed and then destroyed.
 - The local office destroys **self-denial of critical care** reports that are founded five years from the date the abuse was founded or the case is closed, according to state retention policies. (*RECORDS MANAGEMENT MANUAL*, Records Retention and Disposition Schedule series SOC 23, P/w/RM 7/Soc23)

- The local office destroys **confirmed, not registered** reports of physical abuse or denial of critical care by a caretaker that are five years from the date the abuse was confirmed, unless there is a subsequent report with the same person responsible for abuse within the five years.

If there is a subsequent report **within the five years**, the report is kept in the local office for **ten years** from the date of the subsequent report and then sealed. Follow local procedure for sealing case records.

File sealed reports in a separate file, marked "Sealed Dependent Adult Abuse Reports." (Sealed reports can be accessed only by court order.)

- ◆ **Unfounded evaluation and assessment reports.** Destroy unfounded dependent adult abuse evaluation or assessment reports five years after it is determined that the report is unfounded. Follow local procedure for destroying unfounded case records.

The Registry maintains statistics on the number of unfounded evaluation reports and expunges the identifying information five years from the date it is determined that the report is unfounded.

- ◆ **Rejected intakes.** Intake reports that are reject for evaluation or assessment for failing to meet the definition of dependent adult abuse shall be kept in the Centralized Service Intake Unit for three years and then expunged.

Central Abuse Registry

Legal reference: Iowa Code Section 235B.5(2)

The Central Abuse Registry can provide copies of reports that were completed before July 1, 2009, to persons who have legal access to that information.

SODA, the System on Dependent Adults, stores dependent adult abuse reports and other information related to the report. The Central Abuse Registry has access to SODA and can retrieve information stored there.

Reviews and Administrative Appeals

Legal reference: Iowa Code Section 235B.10

Any subject of a report may request correction of the report. The subject has six months from the date of the *Adult Protective Notification*, form 470-2444, to request review, correction, or expungement.

If a subject disagrees with or has concerns about the report finding, you or your supervisor may meet with the subject to discuss the report and any changes or corrections the subject wishes to submit.

If you or your supervisor does not think a meeting is appropriate, or decide after the meeting that the report should not be changed, advise the subject to request an appeal of the report.

Do not advise subjects about their chances of obtaining the correction or expungement they seek or discourage them from requesting an appeal, even if it seems likely the request will be denied due to timeliness or some other factor.

This instruction also applies to people who are not subjects of the report but who think they have a right to request an appeal. (Examples are mandatory reporters, other family members, or others who may have a connection to the report but are not named as subjects.) If such people request to file an appeal, explain the appeal process and tell them how to request an appeal.

If you or your supervisor wishes to complete a review of the report, advise the subject you have decided to review the report. Review the information submitted. The information may or may not affect your conclusions.

The information submitted may be included in an addendum. If you decide to change anything in the report, complete an addendum on the *Dependent Adult Abuse Evaluation or Assessment Report*, form 470-0688 in SODA. (See [Addenda](#).)

Appeal Process

If the subject does not agree with the changes you have made or if you are not willing to make any changes, send the appeal request to: DHS Appeals, 1305 E. Walnut Street, 5th Floor, Hoover Bldg., Des Moines, Iowa 50319. Keep a copy in the evaluation or assessment file.

Administrative appeals for dependent adult abuse issues are conducted by the Department of Inspections and Appeals, which provides administrative law judges to hear appeals and issue decisions. An appeal may be settled without a hearing if you, your supervisor, and the appellant or the appellant's attorney are able to reach a mutually agreeable compromise.

You and your supervisor may provide testimony at the appeal hearing, which may be held at the local office or by telephone. It is more than likely an assistant attorney general will not represent you or your supervisor.

If you think a particular case is complicated enough that you need legal assistance in preparing for the appeals hearing, you may, with the approval of your supervisor, request representation from the Attorney General's Office through the Field Operations Support Unit. The process for requesting representation is as follows:

1. Write a request as soon as possible after receiving notice of the appeal and give it to your supervisor.
2. Your supervisor must review the request. If your supervisor agrees that there is a need for an assistant attorney general, the supervisor will write a brief request and give it to the service area manager.
3. The service area manager will review the request. If the service area manager agrees there is a need for an Assistant Attorney General, the service area manager will send the request to the Field Operations Support Unit.
4. The Field Operations Support Unit will review the request and then forward it to the Attorney General's Office.

If you are assigned an assistant attorney general, provide that person with all prior documentation accumulated during the evaluation or assessment process.

You and your supervisor must decide whether testimony from an expert witness is necessary during any stage of an appeal. With your supervisor's approval, you may request the administrative law judge to issue subpoenas to other witnesses who you want to provide testimony. Payment for expenses of witnesses subpoenaed for appeals is provided through service area administrative funds.

If you have a conflict with the date the appeal hearing is scheduled, you may request a different date for the hearing by calling the Department of Inspections and Appeals, at 515-281-6350.

NOTE: If neither you nor your supervisor appears at an appeal hearing, the administrative law judge will most likely vacate the appeal and find in favor of the person who requested the appeal. In most cases, this means your "founded" report will be ordered amended to "unfounded." Therefore, always plan to attend the hearing and notify the administrative law judge if you are unable to attend for some reason.

Response to Appeal Decision

After the appeal hearing, the administrative law judge issues a proposed decision. You and your supervisor will receive a copy of the proposed decision. This decision becomes final within ten days, unless the appellant or the appeals advisory committee acting on behalf of the Department requests that the director of the Department, who is the final authority in all appeals, review the decision.

If you disagree with the proposed decision, contact the Division of Adult, Children, and Family Services' representative on the appeals advisory committee. This committee meets weekly to make recommendations to the Department director regarding proposed decisions issued during that week.

If you are in doubt as to the identity of the appeals advisory representative, call the program manager for more information.

If the appeals advisory committee approves the request, the Director's office will review the proposed decision and issue a final decision. You and your supervisor will receive a copy of the final decision.

If the final administrative appeal decision changes the final finding or directs that the contents of the report be changed, you and your supervisor will receive notice from the Registry. This is your signal to take the same steps outlined for review decisions described above.

Revise the report within seven days of the date on the decision letter. When you have carried out the final decision, inform the DHS Appeals Unit, 1305 E Walnut St., 5th Floor, Hoover Bldg., Des Moines, Iowa 50319-0114.

District and Higher Courts

Legal reference: Iowa Code Section 171.19

If the subject is still dissatisfied after the administrative appeal process, the subject has the option of taking the appeal to the district court and pursuing the case through the court system.

If the subject seeks judicial review, contact the Attorney General's Office to arrange for representation. Usually, you and your supervisor are not required to present testimony or provide information at this stage of the process. However, you will be notified of the outcome of the court case.

If a court order is issued that changes the report, the Registry will notify you and your supervisor, instructing you to take the same steps outlined above for Registry review decisions within 60 days of the date you were notified of the court order.

Release of Dependent Adult Abuse Information

Legal reference: Iowa Code Section 235B.6

All information relative to persons receiving dependent adult protective services is confidential. This includes:

- ◆ The names and addresses of the persons.
- ◆ Information concerning their social or economic conditions.
- ◆ Agency evaluations or assessments of information about them.
- ◆ Medical or psychiatric data concerning them.

Information contained in **assessments** (reports of dependent adult abuse resulting from acts or omissions of the dependent adult or when abuse caused by a caretaker is "confirmed, not registered" because the physical abuse or denial of critical care was minor, isolated, and unlikely to reoccur) is subject to the same confidentiality policies as all other service case files. See [1-C](#) for confidentiality policies.

Withholding Social Security Numbers

Legal reference: Public Law 106-433, Social Security Number Confidentiality Act of 2000 (H.R. 3218)

Always delete the social security numbers from any documents you release to someone who has access to dependent adult abuse information under Iowa Code Section 235B.6.

- ◆ The social security numbers of the dependent adult and the person suspected of being responsible for the abuse are recorded on form 470-0657, *Dependent Adult Abuse Intake*. Release this form only when ordered to do so by the court.
- ◆ The social security number of the person named as being responsible for the abuse is on form 470-0688, *Dependent Adult Abuse Evaluation or Assessment Report*. When releasing this form, always delete the social security number.

Withholding the Name of the Informant

Legal reference: Iowa Code Section 235B.6, 441 IAC 176.10(3)

When releasing dependent adult abuse information to someone who has access under Iowa Code section 235.6, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person's identity would be detrimental to the person who made the report.

Court Testimony in Dependent Adult Abuse Cases

Legal reference: Iowa Code Sections 235B.6(2)"d"(1) and (2); 235B.11; and 235B.12

If you receive a subpoena to provide testimony or records in any court proceeding or deposition, first contact the attorneys involved in the case, unless the subpoena is from a county attorney.

Inform the attorneys of the provisions of the Iowa Code regarding confidentiality. If the attorney who desires the testimony persists with the subpoena, appear as commanded. When first questioned about matters relating to the dependent adult abuse information, make a statement that is essentially equivalent to the following:

It is my belief that providing the requested information may be in violation of Iowa Code section 235B.6, unless the information is necessary to resolve an issue that is related to dependent adult abuse. If I provide the information without proper authorization, I may be liable for civil remedies or criminal penalties as provided in Iowa Code sections 235B.11 and 12.

I will provide the requested information only if specifically directed to do so by the court. I request the that the court make a finding that the information is necessary to resolve an issue arising in a dependent adult abuse case and enter a written order to that effect.

If the court directs you to provide the testimony on the records, then the only further restrictions on the testimony are those that arise from the judicial process itself and the need to withhold the name of the informant unless specifically ordered by the court to state the name. Consult with your supervisor in preparing for any testimony.

An opinion by the Iowa Supreme Court holds that Iowa Code section 235B.6 does not prevent the county attorney from using dependent adult abuse information in a criminal prosecution. Therefore, you do not need to use the procedure above when you are subpoenaed by the county attorney in a criminal matter. If an attorney other than the county attorney subpoenas you to a deposition, a court order directing you to provide testimony is required.

Send a copy of the court's written order to the Registry as soon as available, together with an explanation from the worker specifying the case and Registry numbers of reports about which information was disseminated. If the court refuses to file a written order, submit a memo to the Registry explaining the facts of the dissemination.

Media Contacts

In responding to calls from the media about a particular case, remember that according to law, you may not divulge details about a particular case nor even verify whether an evaluation or assessment is being or has been conducted.

You may provide general information about dependent adult abuse evaluations or assessments. For example, you may define who mandatory reporters are, how people can contact the Department, how an evaluation or assessment is conducted, what happens to the information gathered during an evaluation or assessment, etc.

As with other requests from the media or legislature, complete a contact notation immediately using electronic mail. Send the message to the following:

- ◆ Your supervisor.
- ◆ The service area manager.
- ◆ The Field Operations Support Unit.
- ◆ The deputy director for field operations.
- ◆ The program manager.
- ◆ The administrator of the Division of Adult, Children, and Family Services.
- ◆ The Department public information officer.
- ◆ The Department director.

Indicate the distribution as you normally would and type "Contact Notation" for the subject. Remember to include the name of the caller, the caller's phone number, what the caller's relationship is to the Department, and a summary of the discussion. Include specific questions and your responses.

When a reporter asks questions you believe are best answered by central office staff, ask the reporter to call the DHS public information officer (515-281-4848) to locate the person most appropriate to answer the questions.

The information officer will make sure the reporter is called by the appropriate person, saving you time in tracking down people. Examples of calls you might refer are:

- ◆ Questions about historical background on policy.
- ◆ Details of legislative actions in particular areas.
- ◆ The "ins and outs" of the rulemaking process.
- ◆ Requests for statewide data.

Requests for Dependent Adult Abuse Information

Legal reference: Iowa Code Section 235B.7; 441 IAC 176.10(235B)

Any person may request dependent adult abuse information. Only specific persons have authorized access to this information. (See [Authorized Access](#).)

Written requests for dependent adult abuse information are submitted to the local office of the Department and the Central Abuse Registry on form 470-0612, *Request for Dependent Adult Abuse Registry Information*. Furnish a copy of form 470-0612 to the requester. Assist the requester in completing the form.

Verify the identity of the person making the request. Upon verification of the identity, transmit form 470-0612 to the Central Abuse Registry, unless the service area staff have authority to grant or deny the request. See [Requests for Information from Local Office](#) for a description of local office authority.

Requests may be made by telephone to the Central Abuse Registry when the person making the request believes that information is needed immediately and can provide information sufficient to demonstrate authorized access. Oral requests must be followed within 72 hours by a written request to the Central Abuse Registry on form 470-0612.

The Registry will approve the request if authorized access is demonstrated and will specify the information that may be released. See [Authorized Access](#) for policies governing the Registry's decision. The Registry returns form 470-0612 to the local office. Access is limited to the information authorized.

When releasing dependent adult abuse information to someone who has access under Iowa Code section 235.6, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person's identity would be detrimental to the person who made the report.

Method of Release

Legal reference: Iowa Code Section 235B.7(3); 441 IAC 176.10(4)

The Central Abuse Registry will notify you of the decision made on a request. Inform the person making the request of the decision. If the request was approved, release to the person the information specified on form 470-0612, *Request for Dependent Adult Abuse Registry Information*.

File the completed form 470-0612 with the Registry when the dependent adult abuse information is released, except when the release is to:

- ◆ An employee of the Department as necessary to the performance of the employee's official duties.
- ◆ The county attorney.
- ◆ The attorney representing the Department.
- ◆ Someone requesting information included in form 470-0688, *Dependent Adult Abuse Evaluation or Assessment Report*, for an assessment (reports of confirmed, not registered abuse and abuse resulting from the dependent adult's acts or omissions). The Registry does not have access to this information.

In these cases, the service area manager or designee has authority to determine access. Complete form 470-0612, *Request for Dependent Adult Abuse Registry Information*, and file it with the local office where the dependent adult's case file is maintained.

Requests for Information from Local Office

The service area manager or designee shall approve dissemination of dependent adult abuse evaluation information (reports when there is a person other than the dependent adult responsible for the abuse) to:

- ◆ Subjects of a dependent adult abuse evaluation report, which include the dependent adult, an attorney, or guardian for the dependent adult, the guardian's attorney, the person responsible for the abuse, and the person responsible for the abuse's attorney.
- ◆ Persons involved in an evaluation, which may include health practitioners, mental health professionals, DHS, or DIA evaluators, law enforcement officials assisting in the evaluation, a multidisciplinary team, and the mandatory reporter in a specific case.
- ◆ Judicial and administrative proceedings, including county attorneys, the district court (with finding that information is necessary), court or administrative hearings for an appeal to correct or expunge information, a court or administrative agency making an unemployment compensation determination for a person who is a subject of a dependent adult abuse report, and expert witnesses in a trial.
- ◆ Providers of care, including persons or agencies responsible for care or supervision, DHS employees who need the information to carry out their duties, and health care facility administrators or designees.

Dependent adult abuse information released by service area manager or designee approval may be limited to necessary information only (disposition data). "Necessary information" may be expanded to include the entire dependent adult abuse report.

When releasing dependent adult abuse information to someone who has access under Iowa Code section 235B.6, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person's identity would be detrimental to the person who made the report of abuse.

For requests of information:

- ◆ Furnish a copy of form 470-0612 to the requester.
- ◆ Assist the requester in completing the form.
- ◆ Record your verification of the identity of the requester on the form.

NOTE: Department employees are not required to complete form 470-0612 to receive dependent adult abuse information.

If authorized access is demonstrated, the service area manager or designee shall approve the request and specify the information that may be released. If the manager or designee approves the request, the manager or designee submits form 470-0612 to the Registry and arranges to provide the specified information to the requester.

Assessment Reports

Legal reference: Iowa Code section 234B.3(1)

Access to assessment report information is limited to the following persons:

- ◆ Subject and their attorneys.
- ◆ Persons involved in the assessment, with the exception of a health practitioner or mental health professional and licensing authority for a facility.
- ◆ Department or contract personnel for performance of official duties.
- ◆ Justice Department for restitution and compensation claims.
- ◆ Attorney representing the Department.
- ◆ Employee or agent of the Department responsible for certifying, licensing or approving a facility, agency, program or individual providing care to a dependent adult.

Assessment reports include reports where the abuse is the result of actions of the dependent adult and reports that are confirmed, not registered. Assessments are not placed on the Central Abuse Registry. See [Sealing and Expungement of Reports](#).

Because these records are kept in the local office, all requests for information on assessment reports are forwarded to the local office where the assessment report was completed.

Information contained in assessment reports is handled in the same manner as information in a service case record. Additional release of any assessment report information is contingent on the authorization of release of information by the dependent adult or the dependent adult's guardian. For additional information, see 1-C, [RELEASE WITH SUBJECT'S AUTHORIZATION](#).

Authorized Access

Legal reference: Iowa Code Section 235B.6(2)(a) and 441 IAC 176.10(3)"a" and 176.10(6)

The local office shall approve release of dependent adult abuse information from reports to the following people:

	Founded	Assessments	Unfounded
◆ Subjects of a report			
Dependent adult	Yes	Yes	Yes
Attorney for dependent adult	Yes	Yes	Yes
Legal guardian	Yes	Yes	Yes
Guardian's attorney	Yes	Yes	Yes
Person responsible for abuse	Yes	Yes	Yes
Person responsible for abuse's attorney	Yes	Yes	Yes
◆ Persons involved in an evaluation or assessment			
Health practitioner	Yes	No	No
Mental health professional	Yes	No	No
DHS or DIA abuse evaluator	Yes	Yes	Yes
DHS staff involved in certification or accreditation of agency or program providing services	Yes	No	No
Law enforcement assisting evaluation	Yes	No	No
Multidisciplinary team	Yes	Yes	Yes
Mandatory reporter in specific case	Yes	Disposition data only	Yes
Boards that license, certify, and discipline health care professionals	Yes	No	No

	Founded	Assessments	Unfounded
♦ Judicial and administrative proceedings County attorney District court (with finding that information is necessary) Court or administrative hearing for an appeal to correct or expunge information Court or administrative agency making an unemployment compensation determination. Expert witness or a witness who testifies in a trial	Yes Yes Yes Yes Yes	Yes Yes Yes No No	Yes If ordered by the court Yes No No
♦ Providers of care Person or agency responsible for care, treatment, or supervision of adult Person or agency responsible for care, treatment, or supervision of perpetrator DHS registration or licensing employee when necessary in duty Licensing authority for facility providing care to dependent adult Iowa Protection and Advocacy Agency if victim has a developmental disability or mental illness	Necessary information Necessary information Yes Yes Yes	Necessary information No No No No	No No No No No

“Necessary information” consists at a minimum of disposition data. “Necessary information” may be expanded to include the entire dependent adult abuse report.

When releasing dependent adult abuse information to someone who has access under Iowa Code section 235.6, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person’s identity would be detrimental to that person.

The Central Abuse Registry will approve release of dependent adult abuse information from reports to the following people:

	Founded	Assessment	Unfounded
◆ Others			
Researcher	Yes	No	No
Registry and Department personnel	Yes	Yes	Yes
Person under contract with Department to carry out the duties of the Registry	Yes	Yes	Yes
Department of Justice for victim assistance	Confirm existence of report & referral date	Confirm existence of report & referral date	No
Another state's adult protection agency evaluating or treating the dependent adult	Necessary information	No	No
Attorney representing the Department	Yes	Yes	Yes
Designated protection and advocacy agency	Yes	No	No
State Ombudsman/Citizen's Aide Office	Yes	Yes	Yes
Long-term care resident's advocate	Yes	Yes	Yes
Substitute decision-making board, guardian, conservator, or service provider	Yes	Yes	No
For employee background checks:	Yes	No	No
Health care facility administrator	Yes	No	No
Administrator of agency providing care to a dependent adult in another state	Yes	No	No
Superintendent of a school district	Yes	No	No
Department of inspections and Appeals	Yes	No	No
Nursing student programs	Yes	No	No
Board of Educational Examiners	Yes	No	No
Department of Aging	Yes	No	No
Iowa Veterans Home (for volunteers)	Yes	No	No
Certified nurse aid program	Yes	No	No
Juvenile detention or shelter program	Yes	No	No

Subjects of a Report

Legal reference: Iowa Code Section 235B.6(2)(a); 441 IAC 176.10(3) "a" and 176.10(6)

The local office approves release of dependent adult abuse evaluation information to:

- ◆ A dependent adult named in a report as a victim of abuse, or the dependent adult's attorney.
- ◆ The legal guardian for the dependent adult or the guardian's attorney.
- ◆ A person named in a report as having abused a dependent adult or the attorney for that person.

The dependent adult or the guardian of the dependent adult shall have access to the entire report.

When releasing dependent adult abuse information to a subject of the report, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person's identity would be detrimental to the person who made the report.

Persons Involved in an Evaluation

Legal reference: Iowa Code Section 235B.6(2)(b); 441 IAC 176.10(3) "b" and 176.10(6)

The local office approves release of founded dependent adult abuse evaluation information to:

- ◆ A health practitioner or mental health professional who is examining, attending or treating a dependent adult whom the practitioner or professional believes or has reason to believe has been the victim of abuse.
- ◆ A health practitioner or mental health professional who has provided consultation with respect to a dependent adult believed to have been the victim of abuse at the Department's request.

- ◆ An employee of the Department or an agent of the Department who is responsible for the evaluation of a dependent adult abuse report, or for the purpose of performing record checks as required under Iowa Code section 135.33.
- ◆ A representative of the Department who is involved in the certification or accreditation of an agency or program providing services or care to an alleged victim.
- ◆ A law enforcement officer who is responsible for assisting in an evaluation of a dependent adult abuse allegation.
- ◆ A multidisciplinary team, as specified under [Multidisciplinary Teams](#), at the beginning of this chapter.
- ◆ The mandatory reporter who reported the dependent adult abuse.
- ◆ Boards that license, certify, and discipline health care professionals.

If, after reviewing the information, the reporter remains concerned about the protection of the dependent adult involved, advise the reporter to contact the service area manager or designee to review these concerns.

Persons involved in an evaluation who also have access to **unfounded** information are:

- ◆ Employees or agents of the Department that are responsible for the evaluation or assessment of a dependent adult abuse report,
- ◆ Multidisciplinary teams, and
- ◆ The mandatory reporter who reported the dependent adult abuse.

Access to dependent adult abuse information is authorized to a multidisciplinary team if the Department:

- ◆ Approves the composition of the team (through form 470-2328).
- ◆ Determines that access to the team is necessary to assist the Department in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.

Judicial and Administrative Proceedings

Legal reference: Iowa Code Section 235B.6(2)(d) and 441 IAC 176.10(3)

The local office approves release of **founded** dependent adult abuse evaluation information to:

- ◆ The county attorney. (Form 470-0612, *Request for Dependent Adult Abuse Registry Information*, is not required.)
- ◆ The district court, upon a finding by the court that the information is necessary for resolution of an issue arising in any phase of a case involving dependent adult abuse or a district court involved in an adjudication or disposition of a dependent adult named in a report.
- ◆ To a court or administrative agency hearing an appeal for correction of dependent adult abuse information. (Form 470-0612, *Request for Dependent Adult Abuse Registry Information*, is not required.)
- ◆ To an expert witness or a witness who testifies at any stage of an appeal necessary for correction of dependent adult abuse information.
- ◆ To a court or administrative agency making an unemployment compensation determination.

County attorneys also have access to **unfounded** dependent adult abuse information. County attorneys do not need authorization for access. In all court proceedings, dependent adult abuse information must be released only upon an order of the court or when the county attorney issues a subpoena.

If you are subpoenaed to provide information in a district court proceeding, you must provide the information only when specifically directed by the court to do so. Notify the Central Abuse Registry of any release of dependent adult abuse information directed by a district court.

You, your supervisor, and the attorney representing the Department must decide whether testimony from an expert witness is necessary during any stage of an appeal. When it is decided to call an expert witness, follow the local office request procedure.

Providers of Care

Legal reference: Iowa Code Section 235B.6(2)(c) (1995 Supplement) and 441 IAC 176.10(3)"c"

The local office approves the release of **founded** dependent adult abuse evaluation information to:

- ◆ A licensing authority for a facility providing care to an adult named in the report.
- ◆ An authorized person or agency responsible for the care, treatment, or supervision of a dependent adult named in a report as a victim of abuse, if the local office deems access to the information to be necessary.
- ◆ An authorized person or agency responsible for the care or supervision of a person named in a report as having abused a dependent adult, if the local office deems access to the information to be necessary.
- ◆ A Department employee or agent responsible for registering or licensing or approving the registration or licensing of a person when it is necessary in the performance of employee's duty.
- ◆ Home- and community-based services (HCBS) certification specialists, who have access to founded dependent adult abuse information, may be evaluating agency policies while you are evaluating an allegation of abuse. If an HCBS specialist discovers that a person who the specialist believes has a founded report on the Registry is employed in an agency, the specialist may inform the agency.
- ◆ The Iowa Protection and Advocacy Services, Inc., if a person identified in the information as a victim or a person responsible for abuse of abuse resided in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

Limit the information released to a person, agency, or facility that is providing care, treatment, or supervision to a person named in a report as having abused a dependent adult to the information that is necessary to treat or monitor the abuse-related problems of the person (generally disposition data only).

"Necessary information" consists at a minimum of "disposition data" as defined in this chapter. Based on the provider's need, "necessary information" may be expanded to include the entire dependent adult abuse report.

When releasing dependent adult abuse information to a provider of care, you may withhold the name of the person who reported the abuse if you believe the disclosure of the person's identity would be detrimental to the person who made the report.

If the information is requested for entry into criminal court proceedings (parole or probation revocation, or criminal court), release the information only under a district court order or a county attorney subpoena.

Others

Legal reference: Iowa Code Section 235B.6(2)(e) and 441 IAC 176.10(3)"e"

The Central Abuse Registry **approves** (the local office may actually release the information) the release of founded dependent adult abuse evaluation information to:

- ◆ A person conducting bona fide research on dependent adult abuse.
- ◆ Registry or Department personnel as necessary to the performance of their official duties, including a person or agency under contract with the Department to carry out official duties and functions of the Registry.
- ◆ The Department of Justice for the purpose of filing a claim for victim assistance.
- ◆ A legally constituted dependent adult protection agency of another state that is evaluating or treating a dependent adult named in a report as having been abused.
- ◆ The attorney representing the Department.
- ◆ A health care facility administrator or the administrator's designee for the purpose of hiring staff or continued employment of staff.
- ◆ The administrator of an agency providing care to a dependent adult in another state, for the purpose of performing an employment background check.

- ◆ The superintendent, or the superintendent's designee, of a school district or to the authorities in charge of an accredited nonpublic school for the purposes of a volunteer or employment record check.
- ◆ The Department of Inspections and Appeals for the purposes or record checks of applicants for employment with the Department of Inspections and Appeals.
- ◆ An administrator of a licensed hospital, if the data concerns a person employed or being considered for employment by the hospital.
- ◆ The long-term care resident's advocate, if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility. The advocate also has access to unfounded information if it has been demonstrated the unfounded information is necessary for the protection of a dependent adult.
- ◆ An employee of the state or local Office of Substitute Decision Maker who has been appointed by the court as a guardian or conservator of the dependent adult victim or the person designated responsible for performing or obtaining protective services on behalf of a dependent adult.
- ◆ An employee of a nursing student program for the purpose of completing an abuse background check on prospective students.
- ◆ The Board of Education Examiners for the purpose of determining whether a license, certificate, or authorization should be issued, denied, or revoked to employees, including teachers and coaches, of the Board of Education.
- ◆ The Iowa Veterans Home for the purpose of conducting a background check on volunteers or potential volunteers at the Iowa Veterans Home.
- ◆ The administrator of a certified nurse aide program if the data relates to a record check of a student of the program performed pursuant to Iowa Code section 135C.33.
- ◆ The administrator of a juvenile detention or shelter care home if the data relates to a record check of an existing or prospective employee, resident, or volunteer for or in the home.

"Necessary information" consists of a minimum of disposition data as defined in this chapter. It may be expanded to include the entire dependent adult abuse report.

When releasing dependent adult abuse information to someone who has access under Iowa Code section 235.6, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person's identity would be detrimental to the person who made the report.

Registry and other Department personnel and the long-term care resident's advocate also have access to **unfounded** dependent adult abuse information when necessary in the performance of their duties. Department personnel do not need to complete form 470-0612, *Request for Dependent Adult Abuse Registry Information*, to access dependent adult abuse information.

Researchers receive only that information necessary to implement the research design. No details identifying any subject of an evaluation or assessment are released to a researcher unless they are essential to the research. All individually identified information must be removed from any intermediate or final research report.

Information released to the Department of Justice for purposes of establishing eligibility for payment of victim's assistance shall be limited to the existence of a report and the referral date of the report.

When you receive requests for information from another state, send the requester form 470-0612. Upon return of the completed form, verify the requester's identity by telephone contact and then forward the request to the Central Registry.

When necessary, this process can be expedited by referring the requester directly to the Central Abuse Registry. The Central Registry will verify the requester's identity by telephone contact and will release necessary information to the other state by telephone. Written dependent adult abuse information may be forwarded to the requesting state with a form 470-0612 attached for return to the Central Registry.

Background Checks in Facilities and Waiver Agencies

Legal reference: Iowa Code Section 235B.6(2)(c) and 235B.6(2)(e)

The administrator or the administrator's designee in a health care facility or a medical assistance home- and community-based services waiver agency may request dependent adult abuse information directly from the Central Registry for the purpose of hiring staff or continued employment of staff. The Registry will disseminate the information to the administrator or the administrator's designee.

“Necessary information” consists of a minimum of disposition data. “Necessary information” may be expanded to include the entire dependent adult abuse report.

When releasing dependent adult abuse information to a health care facility or waiver agency, you may withhold the name of the person who reported the abuse if you believe the disclosure of that person’s identity would be detrimental to the person who made the report.

For health care facility checks, the Registry will notify the person requesting the information whether the report is still within the time period that an appeal request can be accepted, whether the report is under appeal, or whether the period for appeal has passed (i.e., the report is final).

The hiring authority of a Department-operated health care facility that provides direct care requests dependent adult abuse information directly from the Central Registry for the purpose of determining continued employability of a person employed, with or without compensation.

The Registry disseminates the information to the personnel office of the Department. The personnel office will redisseminate the information to the hiring authority only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, it will notify the hiring authority that no job-related dependent adult abuse information is available. If the Central Registry and local office files contain no information, the hiring authority will be so informed.

Background Checks for Employers Without Other Access

| **Legal reference:** Iowa Code section 235B.6(2)

Agencies that don’t otherwise have access to dependent adult abuse information that request background checks on prospective employees may request a background check from the Central Abuse Registry by following the instructions below.

The administrator of the agency requesting the background check and the prospective employee must complete and sign form 470-4531, *Authorization for Release of Dependent Adult Abuse Information*. The employer then mails or faxes the form to the Central Abuse Registry, which completes the form and mails or faxes it back to the employer.

The only information the employer will receive is whether or not the Central Abuse Registry contains dependent adult abuse information concerning the prospective employee.

Record Check Evaluations

Legal reference: Iowa Code sections 135C.33 and 249A.29; 441 Iowa Administrative Code 119

Persons named as being responsible for abuse in a founded dependent adult abuse report may be evaluated to determine suitability for continued employment as an employee for any agency providing care to an adult or child.

For health care facilities, agencies, and programs for adults, it is up to the employer to determine if the person named as being responsible for dependent adult abuse would be suitable for the position. The employer may request a record check evaluation from the Department to determine employability. Central Abuse Registry personnel conduct the record check evaluations.

Redissemination

Legal reference: Iowa Code Section 235B.8

Redissemination of dependent adult abuse information is prohibited and is cause for civil and criminal penalties. **Exception:** Redissemination is permitted when:

- ◆ 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 such information is redisseminated would have independent access to the same information as outlined in [Authorized Access](#).

Make a written record of the redissemination, including the name of the recipient and the date and purpose of the redissemination. Forward the written record, in memo form, to the Registry within 30 days of the redissemination.