

June 29, 2020

Dear Council Member:

The following amendments to the administrative rules are presented for adoption at the July Council on Human Services meeting.

R-1. Amendments to Chapter 176 “Dependent Adult Abuse.” 2019 Iowa Acts, House File 569, added personal degradation as a category of dependent adult abuse. 2019 Iowa Acts, House File 323, changed the definition of exploitation within the definition of dependent adult abuse. These amendments update the definition of exploitation and define personal degradation within the definition of adult abuse and set criteria for outcome determinations for dependent adult abuse evaluations conducted by DHS to include references to personal degradation.

There are no Notice rules for review this month.

Sincerely,

Nancy Freudenberg

Nancy Freudenberg
Bureau Chief
Policy Coordination

Enclosure

TELECONFERENCE MINUTES: COUNCIL ON HUMAN SERVICES: June 10th, 2020

EXECUTIVE COMMITTEE MEMBERS	DEPARTMENT OF HUMAN SERVICES
Mark Anderson, Chair – present via phone	Director Kelly Garcia – absent
Kimberly Kudej – present via phone	Faith Sandberg – present via phone
Sam Wallace – present via phone	Matt Highland – present via phone
Carol Forristall – present via phone	Mike Randol – present via phone
Rebecca Peterson – absent	Annie Lukens – present via phone
Skylar Mayberry-Mayes – present via phone	Janee Harvey – present via phone
	Cory Turner – present via phone

EX-OFFICIO LEGISLATIVE MEMBERS
Representative Joel Fry – absent
Senator Mariannette Miller-Meeks – absent
Senator Amanda Ragan – absent
Representative Timi Brown-Powers – absent
GUESTS
Des Moines Register Iowa Total Care

CALL TO ORDER

Mark Anderson, Council Chair, called the Council meeting to order at 10:00 a.m. via conference call on Wednesday, June 10th, 2020.

ROLL CALL

Annie Lukens, held roll call of the Council of Human Services. Attendance details listed above. Mark Anderson read aloud: “This meeting of the Iowa Council on Human Services is being held in accord with Section 21.8 of the Code of Iowa entitled, “electronic meeting.” The Code states that a governmental body may conduct a meeting by electronic means if circumstances are such that a meeting in person is impossible or impractical, or if the governmental body complies with the rules. The rules essentially state that access must be provided to the public. The meeting is being held on a speaker phone in the First Floor Conference Room of the Hoover State Office Building. An agenda was sent to interested groups as well as the press advising that the meeting will be held via conference call. Minutes will be kept of the meeting.”

APPROVAL OF MINUTES

Approval of Minutes for Council meetings held on 4/8/2020 & 5/13/2020

MOTION TO VOTE: SAM WALLACE AND SKYLAR MAYBERRY-MAYES

VOTE CARRIED UNANIMOUSLY CARRIED

RULES

Presented by Nancy Freudenberg; Bureau Chief Policy Coordination

The following amendments to the administrative rules are presented for adoption at the June 10, 2020, Council on Human Services meeting.

R-1. Amendments to Chapter 113, "Family Foster Homes". The President signed the Bipartisan Budget Act of 2018, Public Law (P.L.) 115-123 into law on February 9, 2018. P.L. 115-123 includes the Families First Prevention Services Act (FFPSA) in Division E, Title VII. Section 50731 of the FFPSA directs the federal Department of Health and Human Services (HHS) to "identify reputable model licensing standards with respect to the licensing of foster family homes" (as defined in section 472(c)(1) of the Social Security Act). In response to this directive, the Children's Bureau of HHS issued the National Model Foster Family Home Licensing Standards.

The proposed amendments pertain to the licensing and regulation of foster family homes and are required to align with the federal model licensing standards. The Model Licensing Standards were to be in effect April 1, 2019. The Department requested additional time from the federal Department of Health and Human Services (HHS) to implement the standards through administrative rules. Additional time was approved by HHS. We are moving forward with this rulemaking as Iowa is out of compliance in several areas. Failure to meet the Model Family Home Foster Licensing Standards could result in the loss of Iowa's IV-E federal funding.

The following requirements have been added to the administrative rules:

- Applicants must be able to communicate with the licensing agency, health care and other service providers.
- At least one applicant in the home must have functional literacy; a level of reading, writing and calculation skills sufficient to function in the community in which an individual lives. An example for a foster parent would be to have the ability to read labels on medications in order to properly administer the medications to a child.
- Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The agency may require further documentation and/or evaluation to determine the suitability of the home.
- There must be at least one scheduled in-home, individual interview of each household member to observe family functioning and assess the family's capacity to meet the needs of a child in foster care. The contracted agency will determine whether to interview or just observe each household member based on his or her age and development.
- All household members who are caregivers must have up to date whooping cough vaccines unless contrary to the person's health.
- The contracted agency must obtain at least three references, including at least one from a relative and one from a non-relative.
- The applicant's home must meet the following standards concerning swimming pools, hot tubs and spas:
 - Swimming pools must have a barrier on all sides at least four feet high.
 - Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.
 - Swimming pools must be equipped with a life saving device, such as a ring buoy.
 - If the swimming pool cannot be emptied after each use, the pool must have a working pump and filter system.
 - Hot tubs and spas must have safety covers that are locked when not in use.
- The applicants' home must meet the following standards concerning hazardous materials and first aid supplies:
 - Applicants must prevent the child's access, as appropriate for his or her age and other development, to all medications, poisonous materials, cleaning supplies, other

hazardous materials and alcoholic beverages. All medications should be kept in a locked cabinet.

- Applicants must maintain first aid supplies as recommended by the American Red Cross.
- Assurances from applicants must be agreed upon including:
 - They will not use any corporal or degrading punishment on any child in the home.
 - They will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary as indicated.

Weapons and ammunition must be separately store, locked, unloaded and inaccessible to children. Previously the rules listed that weapons and firearms shall be maintained in a locked place such as a gun case. Federal requirements now specify the type of place and a listing of weapons and ammunition which must be identified in the rule.

MOTION TO VOTE: CAROL FORRISTALL AND KIM KUDEJ
VOTE CARRIED UNANIMOUSLY CARRIED

N-1. Amendments to Chapter 75, “Conditions of Eligibility. The proposed rule is amended to adjust the federal poverty levels increments used to assess premiums for applicants and recipients with income over 150% of the federal poverty level under the Medicaid for Employed People with Disabilities (MEPD) program.

NO PUBLIC COMMENTS

MOTION TO VOTE: CAROL FORRISTALL AND SAM WALLACE
VOTE CARRIED UNANIMOUSLY CARRIED

FACILITIES COVID UPDATE

Presented by: Cory Turner; Division Administrator for Adult Children and Family Services

COVID-19 EFFORTS

- Policy development at all facilities
- PPE review, monitor, and now daily counts
- Limited then ceased visitation
- Added technology (e.g. Skype) for visitation options
- Began daily screening (including temps) of patients
- Stopped out of state travel (including contractors in/out)
- Began daily task force(s) at each facility
- Began twice daily leadership calls on issues/efforts
- Developed COVID-19 sick wards/cottages, as well as, suspected and step-down options to mitigate risk
- Began testing all residents and staff (WRC & GRC complete). Working on long term strategy

QUESTIONS:

What are the cost differences between having people in the institution vs community?

Response from Cory Turner: Will need to get the numbers and get back to the Council.

FISCAL COVID UPDATE

Presented by: Jean Slaughbaugh; Division Administrator for Division of Fiscal Management

FEDERAL FUNDING SOURCES:

- Normal: Federal funding allowed under normal program expenditures
- New: New federal funding (for example, enhanced FMAP, additional CCDBG funding)
- FEMA: FEMA Public Assistance Program
- Last resort source

- Appears to be broad in terms of coverage

PURPOSE:

- Some clearly defined purposes (TEFAP; commodities)
- Some broader purposes (for example, enhanced FMAP, additional CCDBG funding)

TRACKING EXPENSES:

- Have established centers to track COVID expenditures
- All affected programs/appropriations
- May need multiple cost centers
- Expenditures are covered by different funding sources (i.e., Normal, New, FEMA)
- Tracking various types of expenditures

TO DATE:

- 14 revenue streams; \$220M
- 6.2% FMAP, e.g., \$66M/Qtr

SORTING THROUGH IT ALL:

- For each New funding source (by program):
 - Consistent template:
 - Brief description of New funding source
 - Anticipated amount
 - Allowable uses
 - Method for claiming
 - Definition of cost tracking Reporting requirements
 - Working to maximize our ability to use new resources
 - Working to ensure clear audit trail for future

BUDGET / SESSION UPDATE

- Omnibus bill
 - Largely status quo

QUESTIONS:

“Do you anticipate any issues with the Budget Bill passing?”

Response from Jean Slaybaugh: “I do not think that there will be any issues.”

DIRECTORS REPORT

Presented by Matt Highland on behalf of Kelly Garcia

TOWN HALLS

- We continue to conduct virtual town halls with the Glenwood and Woodward families and loved ones
- These continue to be a great way to have ongoing dialog.
 - Beginning in June we’ll join the Glenwood and Woodward families together.
- This is a key part of our communications effort related to our community integration plan.

COMMUNITY INTEGRATION

- You’ll recall at our last meeting we discussed our Community Integration Plan approach at a high level.
- Last week we published that plan to our website, put out a press release and now the real work begins.
- So, I encourage you to take a look at that and feel free to ask any questions.
 - If you already have and have questions I’m happy to answer, or if you want to look after this meeting, we can do that at our next council meeting.

COVID-19

- Recently we also issued our plan to ease restrictions at the facilities, which includes the criteria for that.
- It relies on three phases, with very clear guidelines.
- This is also posted to our website.
- As for reporting positive cases at our facilities, we have updated the way we publish that information to include the numbers of recovered and more granular detail.

- Woodward is still the only facility with resident or client positives.
 - 11 have recovered and 2 currently are positive for COVID.

AGENCY DASHBOARDS AND KEY METRICS

- One of my goals when I first started was to identify key priorities and to track them by looking closely at data and measuring our progress.
- Right now each DA is working to identify what they think some of those areas of focus should be, and we'll begin meeting with stakeholders to get their input.
- Which leads me to the current larger discussion in our society around race and systemic inequity.
- As families continue to be torn apart by social injustice, like the death of George Floyd, my heart breaks.
 - Governor Reynolds shared in her press conference last week, the need to implement systemic change.
 - So, I am challenging Team DHS to think about our role in this process and platform for change.
- Since I began as DHS director, a primary focus of mine has been setting goals and measurements of key areas within our agency.
- This plan always included a focus on the racial disparities in our own system.
 - This includes the disproportionate removals of indigenous youth and children of color, the disproportionate number of youth of color at our Boys State Training School and significant disparities in access to healthcare and maternal health outcomes.
 - To tackle these inequities, we must name them, measure them, highlight them and make meaningful improvements.
 - We owe it to the people of Iowa, and most especially to those who experience these inequities.
- Along with all of the other challenges we face as an agency, this is one we must address.
- And, if the last 7 months at DHS has taught me anything, our team is up to the challenge.
- So expect to hear more about this as we move forward.

LEGISLATIVE SESSION

- As you're aware, the legislature is currently in session, which is expected to be brief, although I'm not sure anyone knows entirely what to expect.
- It appears there is a bill moving with a status quo budget, which includes some increases for our facilities.
- Carrie, our legislative liaison is tracking on everything very closely, though this session is new terrain for us all, so we're trying to be responsive and prepared.
- We had done a lot of work building relationships with members and getting information gathered, which I think has served us well.

BRIGHT SPOT

- I've really been trying to work on cross connections between agencies and other partners in the state because our work intersects so much with the work of others.
- One relationship that I'm proud to highlight is a new partnership we're forging with Broadlawns.
- We are finalizing an agreement to have a residency rotation at Woodward Resource Center, which provides Broadlawns residents with a great opportunity to work with individuals with complex needs and provides the individuals we serve at Woodward additional medical staff.
- This will be a mutually beneficial relationship and is the kind of thing we need to be doing more of to help build out the pipeline of healthcare professionals and bring new talent into our workforce at DHS.
- I'm very excited about this opportunity and will be happy to provide updates as we progress.
- Their first rotation will begin this summer.

NEXT MEETING

The next meeting of the Council on Human Services is Wednesday, July, 8th 2020 and will be a teleconference.

ADJOURN

Council on Human Services teleconference meeting held on June 10th, 2020 adjourned at 10:42am CST.

Submitted by: Annie Lukens

HUMAN SERVICES DEPARTMENT [441]

Adopted and Filed

Rule making related to Dependent Adult Abuse

The Human Services Department hereby amends Chapter 176, "Dependent Adult Abuse," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 235B.

State or Federal Law Implemented This

rule making implements, in whole or in part, Iowa Code chapter 235B.

Purpose and Summary

Two pieces of legislation recently passed which resulted in these rule changes. 2019 Iowa Acts, House File 569, added personal degradation as a category of dependent adult abuse. 2019 Iowa Acts, House File 323, changed the definition of exploitation within the definition of dependent adult abuse. The proposed amendments update the definition of exploitation and define personal degradation within the definition of adult abuse and set criteria for outcome determinations for dependent adult abuse evaluations conducted by the Department of Human Services to include references to personal degradation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4911C**.

No public comments were received.

No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on July 8, 2020.

Fiscal Impact

Both legislative changes will result in DHS computer system updates and the new category of abuse will increase case counts and result in the need for additional DHS staff.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rules 441-1.8(17A, 217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 1, 2020.

The following rule-making action is adopted:

ITEM 1. Amend rule **441—176.1(235B)**, definition of “Adult abuse,” as follows: “*Adult abuse*” means either:

1. 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 under Iowa Code chapter 709 or Iowa Code section 726.2 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 adult’s physical or financial resources ~~for one’s own personal or pecuniary profit~~, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
 - 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.
 - Sexual exploitation of a dependent adult by a caretaker. “Sexual exploitation” means any consensual or nonconsensual sexual contact 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 Iowa Code section 702.17. “Sexual exploitation” 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 between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
 - Personal degradation of a dependent adult, which means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.
2. 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.

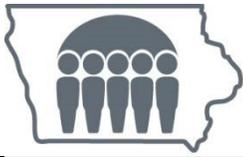
ITEM 2. Amend subrule 176.3(1) as follows:

176.3(1) Dependent adult abuse reports shall be evaluated when all of the following criteria are alleged to be met:

- a. The person is a dependent adult.
- b. Dependent adult abuse exists as defined in Iowa Code section 235B.2.
- c. A caretaker exists in reports of physical injury to or unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; personal degradation; and deprivation by another person of food, shelter, clothing, supervision, physical and mental health care and other care necessary to maintain life or health.

ITEM 3. Amend subrule 176.3(4) as follows:

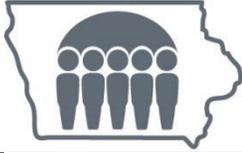
176.3(4) Confirmed, not registered. Reports of physical abuse, ~~or~~ denial of critical care by a caretaker, or personal degradation that would otherwise be founded reports shall be considered confirmed, not registered reports if the abuse is determined to be minor, isolated, and unlikely to reoccur. These reports shall be assessments and shall not be included on the central abuse registry. The assessment shall be maintained in the local office as directed in subrule 176.13(4).



Iowa Department of Human Services **Information on
Proposed Rules**

Name of Program Specialist Gloriana Fisher	Telephone Number 515-281-5392	Email Address gfisher@dhs.state.ia.us
---	----------------------------------	--

1. Give a brief purpose and summary of the rulemaking:
This change to administrative rules is designed to align recently legislative changes to 235B.
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):
The dependent adult abuse administrative rules are authorized by Iowa Code Chapter 235B.
3. Describe who this rulemaking will positively or adversely impact.
IDHS practice will be aligned with recently passed legislation HF 323 and HF 569 which changed Iowa Code 235B.
4. Does this rule contain a waiver provision? If not, why? No. Not applicable.
5. What are the likely areas of public comment?
Commentary on legislative changes which resulted in the necessity to change the administrative rule.
6. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee.) No such impact is anticipated.



Administrative Rule Fiscal Impact Statement

Date: August 7, 2019

Agency: Human Services
IAC citation: 441 IAC 176
Agency contact: Gloriana Fisher, Social Worker 6

Summary of the rule:

The rule defines dependent adult abuse and criteria for outcome determinations for dependent adult abuse evaluations conducted by the Iowa Department of Human Services.

Fill in this box if the impact meets these criteria:

- No fiscal impact to the state.
- Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- Fiscal impact cannot be determined.

Brief explanation:

[Budget Analysts must complete this section for ALL fiscal impact statements.](#)

There were two pieces of recently passed legislation which resulted in proposed rule changes, HF 323 and HF 569. HF 323 changed the definition of exploitation for dependent adult abuse and HF 569 added personal degradation as a category of dependent adult abuse for DHS. Both legislative changes will result in DHS computer system updates and the new category of abuse will increase case counts and result in the need for additional DHS staff.

Fill in the form below if the impact does not fit the criteria above:
Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

The following assumptions are based upon information provided in the Fiscal Note completed by the Fiscal Services Division filed with HF 569 legislation.

DHS Computer System Updates:

- Changing factor 5 for determining exploitation for dependent adult abuse will require an update to the Child Welfare Information System.
- Adding a new category for dependent adult abuse will require one-time updates to the Child Welfare Information System. The DHS will need to add a new allegation category to the allegation screen and adult subject screen, adding additional factors and updating assessment reports, statistical reports, and federal reports with the new abuse category.
- The updates to the Child Welfare Information System will take 200 contract staff hours to complete at an average hourly rate of \$105 per hour.
- The match rate is 50.0% federal and 50.0% State, with all costs occurring in FY 2020.

Additional DHS Staff:

- The current annual number of intakes by the DHS is 8,476 and the number of accepted dependent adult abuse cases is 3,856. It is estimated that this Bill would increase intakes by 10.0% in FY 2020 and an additional 10.0% in FY 2021.
- There will be 847 new intakes and 386 new accepted cases in FY 2020 and 932 additional new intakes with 419 of those accepted in FY 2021.
- To maintain current staffing levels, the DHS would require 2.0 full-time equivalent (FTE) Social Worker 3 positions in FY 2020 and 4.0 FTE Social Worker 3 positions in FY 2021.

- The salary for a Social Worker 3 position is \$62,952. That cost is based on the minimum pay for the classification, adjusted to include benefits, FICA, and IPERS. This estimate does not reflect any changes or impact for potential salary adjustments.
- The match rate is 10.62% federal and 89.38% State.

Describe how estimates were derived:

Child Welfare System: Contract staff of 1 resource spending equivalent of 200 hours' time to develop a solution at \$105 per hour yielding \$21,000 (Total); 10,500 (General Fund). Would entail the DARES modules in JARVIS needing to have this new category of abuse added to the intake form, assessment form, and notices. All costs will occur in FY2020. This work would be a one-time cost for implementation.

Field Operations – Current count of intakes is 8,476 and accepted dependant abuse cases are 3,856. Between FY17 and FY18 there was a 10.7% increase in intakes, so for this estimate DHS is assuming a 10% increase in intakes the first year (FY20) and an additional 10% increase the 2nd year (FY21) For first year of implementation we would have: 847 new intakes, 386 accepted/ 15.5 cases per worker (186 cases per year) =2.1 FTE (rounded to 2 new FTE's SW3's) \$62,952 times 2 FTEs = \$125,904 total dollars, \$112,533 state share.

For the second year of implementation we would have: 932 additional new intakes, 419 accepted intakes/ 15.5 (186 cases per year= 2.25 FTE's (rounded to 2 new FTE's SW3's) an additional \$125,904 total dollars \$112,533 state share, for a total of 4 FTEs at \$251,808 total dollars, \$225,066 state share

FTE cost estimates presented in this document are based on the schedule 10 salaries for vacant positions in the job class. The schedule 10 salary estimates for vacant positions are based on the minimum pay for each classification, adjusted to include benefits, FICA and IPERS. This estimate does not reflect any changes or impact for potential salary adjustments.

Estimated Impact to the State by Fiscal Year

				<u>Year 1 (FY 2020)</u>	<u>Year 2 (FY</u>
2021)					
Revenue by each source:		General fund			Federal funds
23,871.00	26,742.00	Other (specify):	_____	_____	_____
			_____	_____	_____
		TOTAL REVENUE	<u>23,871.00</u>	<u>26,742.00</u>	<u>26,742.00</u>
Expenditures:		General fund	123,033.00	225,066.00	Federal funds
23,871.00	26,742.00	Other (specify):	_____	_____	_____
			_____	_____	_____
		TOTAL EXPENDITURES	<u>146,904.00</u>	<u>251,808.00</u>	<u>251,808.00</u>
NET IMPACT			-123,033.00	-225,066.00	
<input checked="" type="checkbox"/> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Identify provided change fiscal persons: 2019 HF 323 and HF 569 which changed Iowa Code 235B.					
<input type="checkbox"/> Funding has been provided for the rule change. <i>Please identify the amount provided and the funding source:</i>					
<input checked="" type="checkbox"/> Funding has not been provided for the rule. <i>Please explain how the agency will pay for the rule change:</i> Costs will be absorbed by existing appropriations.					
Fiscal impact to persons affected by the rule: None anticipated.					
Fiscal impact to counties or other local governments (required by Iowa Code 25B.6): None anticipated.					
Agency representative preparing estimate: Rob Beran					
Telephone number: 515-281-6188					